# Access to Energy and Water in Victoria - A research report

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# Nicole Rich and May Mauseth, Access to Energy and Water in Victoria – A research report

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The Consumer Law Centre Victoria is Australia's second largest and fastest growing consumer organisation. The Centre undertakes research, policy development, advocacy and education. The Centre also operates a large consumer legal practice assisting over a thousand low-income consumers each year with free legal advice and representation. The Centre's work is focussed on advancing the interests of low-income and vulnerable consumers.

The Consumer Utilities Advocacy Centre is an independent consumer advocacy organisation, established to ensure the interests of Victorian electricity, gas and water consumers, particularly low-income, disadvantaged and rural consumers, are effectively represented in the policy and regulatory debate.

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Nicole Rich and May Mauseth November 2004

# List of Abbreviations

The following abbreviations are used throughout this Report:

ABS	Australian Bureau of Statistics
CLCV	Consumer Law Centre Victoria
СРІ	Consumer Price Index
CUAC	Consumer Utilities Advocacy Centre
DHS	Department of Human Services, Victoria
DSE	Department of Sustainability and Environment, Victoria
ESC	Essential Services Commission, Victoria
EWOV	Energy and Water Ombudsman (Victoria)
FCRC	Financial and Consumer Rights Council
FRC	Full Retail Competition
GFCV	Gas and Fuel Corporation of Victoria
IPART	Independent Regulatory and Pricing Tribunal of New South Wales
LPG	Liquefied Petroleum Gas
NAO	National Audit Office, United Kingdom
NATSEM	National Centre for Social and Economic Modelling
Non-Mains WEC	Non-Mains Winter Energy Concession
Ofgem	The Office of Gas and Electricity Markets, United Kingdom
RUWA	Regional Urban Water Authority
RWA	Rural Water Authority
SEAV	Sustainable Energy Authority Victoria
SECV	State Electricity Commission of Victoria
URG	Utility Relief Grant
VCOSS	Victorian Council of Social Service
WEC	Winter Energy Concession
WIRO	Water Industry Regulatory Order 2003

# Access to Energy and Water in Victoria Preface

#### Background

This Report examines the impact on Victorian households of disconnection or restriction from electricity, gas or water services.

The Report comprises the findings of a project undertaken by CLCV and CUAC during late 2003 and early 2004 (the **Project**). Under the Project, we undertook a review of current research regarding disconnection and restriction from electricity, gas or water services. We also conducted a survey involving Victorian households that had been disconnected or restricted from energy or water in the 12 months prior to the survey. For ease of reference, we often refer to both disconnection and restriction as "disconnection" throughout the Report.<sup>1</sup>

From the outset, we must state that we believe no Victorian should be denied access to essential services on the basis of incapacity to pay alone.

Unfortunately, little has been reported regarding the effect of disconnection from essential services on the lives of Victorian families. The ESC does report levels of disconnections, but only as a raw number (and percentage) of consumers. This reporting takes no account of the effect that disconnection has on households and families - the partners, parents and children of the person in whose name the bill is sent.

We believe that it is important to hear and report the stories of consumers who have been disconnected from essential services. This provides a 'human face' to policy discussion that otherwise simply analyses numbers of people disconnected.

However, we do know that disconnections are again increasing. Due to the rising number of disconnections, work is currently being done on 'solving' the problem of disconnections. Unfortunately, these solutions are being devised without a solid base of independent, rigorous research into understanding the extent and effect of disconnections and the reasons for disconnections. Moreover, effectively only one solution to the problem of disconnections has been suggested, namely, pre-payment metering. However, pre-payment meters are opposed by many in the consumer movement and have been criticised for the potential to create significant disadvantage for low-income households.

The Project was designed to lead to more considered policy responses to the problem of disconnections.

#### **Structure of the Report**

Chapter 1 examines the current literature regarding disconnection and restriction from electricity, gas and water services. The chapter places the discussion of disconnection within the context of the Victorian electricity, gas and water industries and within the broader context of examining issues surrounding the affordability of electricity, gas and water services.

<sup>&</sup>lt;sup>1</sup> While Victorian electricity and gas businesses may disconnect supply for non-payment of an account, Victorian water businesses do not disconnect supply entirely for non-payment, instead restricting supply to a very limited flow of water each day.

Chapter 2 discusses the methodology for the survey of disconnected households that we conducted.

Chapter 3 presents the experiences of disconnection for the Victorian households involved in our survey.

Chapter 4 presents the findings of our survey as to the causes of disconnection for the Victorian households involved in our survey. The chapter analyses the findings in line with the discussion of disconnection in chapter 1.

Chapter 5 examines various existing or proposed measures to address the affordability of electricity, gas and water services and to prevent disconnections, particularly in light of our analysis of the experiences of the Victorian households we surveyed.

Finally, we present our recommendations for specific measures to prevent disconnections based on incapacity to pay alone in chapter 5.

#### **Recent developments**

Since the commencement of the Project some positive developments have emerged which we would like to commend. First, the ESC has decided to establish a process to assess whether there is a need for more effective regulatory responses to deal with energy consumers in financial hardship. We hope that the Report will inform this process, particularly with regard to the importance of transparent and standardised hardship policies to outcomes for low-income energy consumers. Secondly, a collaborative process between utility companies, government and community groups seeking to address the problem of debt spiralling is being convened by the Committee for Melbourne. Both CUAC and CLCV have been active participants in this process and we are optimistic that many of the recommendations made in the Report will be accepted and implemented through further collaboration and mutual agreement between all stakeholders.

# **Executive Summary** Access to Energy and Water in Victoria Report

#### Introduction

The economic regulator of the Victorian electricity, gas and water industries, the ESC, collects and publishes data regarding the number of Victorian customers disconnected or restricted from energy or water services for non-payment. An examination of disconnection trends in Victoria demonstrates that disconnection rates for non-payment compare favourably to the high rates experienced in Victoria in the mid-1990s. However, recent trends indicate that the number of electricity and gas disconnections are beginning to rise. Further, EWOV has also reported an increasing number of complaints to it regarding disconnection for every six month reporting period since 2001, the majority of which involved households with capacity to pay problems. Given that the impact on every person affected by disconnection of an essential service is significant, the problem of disconnection of Victorian households unable to afford to pay for an essential service deserves immediate attention from the Victorian government, the ESC and industry.

#### Living without an essential service

It was awful. It was freezing so we all sat in one room but that was too cold so we had to sit in the car because it was warmer. I couldn't cook because there were no lights and I had no money for takeaway so we just sat in the driveway until it was reconnected. I was using all the money I had to call the company from the phone box because the phone was off. My son cried – he was asking why they turned it off. My daughter had a really bad flu.

We interviewed 14 disconnected gas customers, 17 disconnected electricity customers and 1 restricted water customer for this Report. As we sourced the respondents through EWOV, all of the respondents had contacted the EWOV scheme after being disconnected. Amongst those interviewed, 80% of the disconnected households identified themselves as having been disconnected for non-payment due to financial hardship.

Their stories, characterised by physical and emotional distress, vividly illustrate why energy and water are essential services. Furthermore, the experiences of these households reinforce the position that nobody should be disconnected from an essential service solely due to an inability to pay.

In addition to the physical and emotional impact of disconnection, these households' distress was in many cases aggravated by the manner in which they were treated by their energy or water supplier. In our opinion, this aspect of the disconnection experience is completely unnecessary and avoidable, and we look to suppliers to improve their conduct in this regard.

68% of the disconnected households we interviewed included children. This figure demonstrates not only that more people are affected by disconnection than the account holder, but that the number of children affected by disconnection may be significant. This finding further strengthens the argument that it is unacceptable to disconnect a household from energy or water due to an inability to pay.

From the stories we were told, two further serious ramifications of disconnection are highlighted in this Report. The first of these is the ability of electricity retailers to disconnect supply to households not connected to the reticulated water system and dependent on electricity to power a water pump. This effectively allows an electricity retailer to disconnect a household from water, a practice which (due to obvious health reasons) water suppliers themselves are unable to perform. This practice is clearly unacceptable and therefore requires immediate prohibition. The second issue to emerge was that of households borrowing money in order to pay their bill and get reconnected. Due to the severe implications of living without energy or water, utility suppliers are in a strong bargaining position due to their ability to disconnect supply and households may be pressured into agreeing to pay more than they can afford in order to secure reconnection. Borrowing money to pay for energy or water services only exacerbates a household's financial hardship and may contribute to a debt spiral.

### Why are households disconnected from energy or water?

Previous research has revealed that disconnection for non-payment is often a manifestation of a household's inability to afford its energy or water service. However, disconnection is not the only manifestation of an inability to afford energy or water services. A household that cannot afford its electricity, gas or water service may divert spending from other expenses to pay for its energy or water usage, use less energy or water than is required to maintain a reasonable standard of living or accumulate large amounts of debt.

If our goal is to prevent disconnection on the basis of incapacity to pay alone, it is apparent that we cannot simply look at the event of disconnection. In these cases, disconnection is merely the end-result of a household's inability to afford its energy or water service. Therefore, we must also examine the affordability of the energy or water service for that household.

Our literature review identified that the principal causes of a lack of affordability of energy and water services are: inadequate income; prices and tariff structures; and high consumption levels which may be caused by life cycle needs or poor quality housing and inefficient appliances.

Our interviews demonstrated that there are numerous factors that contribute to a household being disconnected from an essential service, including the causes identified in our literature review. However, supplier conduct also had a significant impact on the affordability of energy or water. For example, a supplier's inflexibility in agreeing to an affordable instalment payment plan renders a service unaffordable, when it might be affordable for the household if an instalment plan consisting of smaller payment amounts was permitted. The experiences of some of the households we interviewed also suggested that the supplier concerned may have acted in breach of their legal obligations regarding dealing with customers with payment difficulties.

## Preventing disconnection due to incapacity to pay

Various measures have been proposed or implemented to address affordability problems and/or prevent disconnection due to incapacity to pay. The Report analyses several assistance measures and concludes that a range of measures should be implemented. Some measures should aim to target most or all residential consumers and take effect sufficiently early to preempt affordability and access problems. Examples of such measures may include industry codes of practice and price or tariff regulation. At the same time, measures that are of a more targeted character should be in place to assist customers more likely to experience affordability problems, for example concessions or Centrepay arrangements. Finally, later measures specifically focussed on preventing disconnection remain crucial to avoid the experiences of the households we interviewed. Examples of this type of measure include payment plans, emergency relief grants and debt waiver.

The ESC must recognise that it has a role to play in improving affordability levels and continuous access to supply of essential services for all Victorian households. The Report demonstrates that measures to improve affordability are not limited to greater income support

or even price regulation, as energy and water services can also be made more affordable through measures such as appropriate payment arrangements and improved supplier conduct. Empirical evidence suggests that suppliers do not always offer affordable payment options to customers in hardship or deal with such customers appropriately. We therefore argue that the ESC must take responsibility for mandating requirements to ensure that acceptable practices are implemented.

Victorian energy and water suppliers should also accept responsibility for improving the affordability of energy and water services. Late and targeted assistance measures, that is measures that prevent actual disconnection, should be delivered primarily by suppliers given that their contact with customers places them in the best position to identify those households in financial hardship. Further, supplier conduct itself has a significant impact on the affordability of energy and water, therefore affordability cannot be addressed by simply leaving problems to government and welfare agencies to handle via emergency grants or vouchers. However, it is inevitable that suppliers will continue to implement assistance on an arbitrary or inconsistent basis in the absence of clear minimum mandatory standards for their conduct in relation to dealing with customers in hardship.

Government must support these efforts through the development of policies and programs aimed at improving energy and water affordability on a long term basis, such as retrofitting programs. In order for this to occur, various government departments and agencies must be involved and they must also engage both industry participants and customer representatives.

#### Recommendations

The Report presents 20 recommendations to improve the affordability of energy and water services in Victoria and prevent disconnection on the basis of incapacity to pay alone. The recommendations include:

• That the ESC impose an obligation on Victorian energy retailers and water suppliers to adopt hardship policies based on mandated minimum standards set out in a *Hardship Policy Guideline*. Such minimum standards should address: a) Methods of identification by suppliers of customers who are in financial hardship and who should therefore be dealt with under the supplier's hardship policy; b) Minimisation of billing errors; c) Provision of targeted assistance to customers in financial hardship; d) Provision of flexible payment options; e) Links to energy and water efficiency programs; and f) Monitoring and review of hardship policies.

The most obvious manner in which to implement better regulation of supplier conduct with regard to customers facing affordability problems is to impose an obligation on suppliers to introduce more sophisticated hardship policies, based on a standardised set of minimum obligations that reduce the scope for arbitrariness or inappropriately low standards. Imposing such an obligation would also allow the ESC to monitor the actual implementation of policies by suppliers.

• That the ESC be given the power to impose financial penalties directly on energy retailers (and water suppliers) that breach retail obligations, possibly through the power to issue infringement notices.

It is clear that suppliers continue to breach their obligations in relation to dealing with customers with payment difficulties. The ESC's current powers to deal with such breaches are cumbersome. The ESC requires more flexible powers to act against systemic breaches and discourage such conduct.

• That consideration be given to implementing a Basic Energy Account and Basic Water Account, quarantined from additional fees and charges, that guarantee Victorian households in financial hardship energy or water services at an regulated, affordable price, even if this price is subsidised by the rest of the market or by taxpayers generally.

Any pricing or tariff structures may have potentially unwanted effects on the affordability of energy and water for some groups of low-income households. It may be that a special type of energy or water tariff will need to be developed, under which households in financial hardship can be guaranteed energy or water services at an regulated, affordable price. In order to ensure that energy and water services remained affordable under these Basic Accounts, they would need to be quarantined from additional fees and charges, such as late payment fees and, in some cases, reconnection fees, given the negative impact that such fees have on the ability of low-income households to pay their bills.

• That considered debt waiver, but not vouchers, be utilised by energy and water suppliers as appropriate, particularly under a *Hardship Policy Guideline*.

We do not expect suppliers to waive energy or water debts automatically in every case. However, the use of debt waiver may be appropriate in some instances, particularly where the supplier has played some part in the accumulation of an unusually high bill by a household. For cases in which it is unlikely that the customer's financial situation will improve, debt waiver arrangements may be sensible as it is difficult to see how a customer in severe financial hardship, who has already demonstrated that they cannot afford to pay for their energy or water consumption, is supposed to successfully make any debt repayments in addition to ongoing energy or water costs without facing new acute payment difficulties. Vouchers, on the other hand, encourage suppliers to remain disengaged from the issues faced by customers in financial hardship, as the supplier abrogates its responsibility for dealing with customers in hardship by shifting responsibility onto community agencies (and customers themselves) to identify who is in need.

• That more comprehensive and state-wide retrofitting programs be implemented by the Victorian government. Retrofitting programs are both good investments in the long term and well-directed at one of the principal causes of low-income households' inability to afford energy and water services.

Low-income households cannot afford to make energy and water efficiency improvements in their own interests, even if they know exactly what they need to do and want to make the improvements. Retrofitting programs specifically address this issue and have a direct impact on efficiency levels and, therefore, affordability levels, for low-income households. There is a certain urgency to the implementation of retrofitting policies, as it is likely that energy and water efficiency improvements will increase rapidly in the residential sector and, unless the inability of low-income households to share in the benefits of these efficiency improvements is addressed, the inefficiency gap between different customer groups will expand further and result in increased disadvantage.

• That legislation be implemented requiring all residential leases to provide information about the likely costs of heating and cooling of the rental property and of running the appliances installed and to translate this information into an easily understood rating system that allows comparisons between properties.

Tenants attempting to make a decision about which of available rental properties is the most affordable for them do not currently obtain all the information necessary to allow them to make an informed decision. This information asymmetry allows some landlords to compete unfairly with other landlords who offer more affordable overall housing, given that rent is often the sole consideration tenants are able to take into account. In addition, it prevents demand-side signals regarding the quality of available housing from being sent to landlords, resulting in little incentive for landlords to improve the efficiency of their rental properties.

• That government strongly consider implementing mandated minimum energy and water efficiency standards for private rental stock.

Information alone will not solve the entire problem of low-income households living in poor quality, inefficient private rental stock. If market-based incentives to improve energy and water efficiency of private rental stock do not work, mandatory energy and water efficiency standards would ensure that all low-income households in the private housing market have access to minimum acceptable quality housing. There are various fiscal policy tools that government could consider to alleviate the financial burden of such a scheme, including rebates or tax breaks. In effect, this would constitute a private retrofitting scheme.

• That the Victorian government and/or the ESC preclude the use of prepayment meters in Victoria. Rather, suppliers should ensure they offer a range of alternative payment plans, billing cycles and payment methods to assist households to manage expenditure on energy and water services.

We cannot see what positive contribution prepayment meters would deliver to low-income households facing problems of affordability or disconnection in relation to energy or water services. Prepayment meters would not help households in financial hardship any more than affordable instalment payment plans or Centrepay. On the other hand, prepayment meters would assist suppliers to avoid the need to deal directly with customers in financial hardship. Given the central role played by the supplier's conduct in the affordability of energy and water services for many of the households we interviewed, limiting their customer contact in this way would be highly undesirable.

• That government, regulators and other policy makers remain open to introducing industry specific consumer protection regulation into the Victorian energy (and water) market wherever the need for such measures is demonstrated.

The Victorian electricity and gas markets are competitive and effective competition should lead to efficient, and presumably lower, prices. However, to achieve effective competition it is necessary that consumers are empowered and exercise market power, because competition does not work without the full participation of both suppliers and consumers. Consumer protection should not, therefore, be seen as an impediment to competition has a role to play in increasing the affordability of energy services for Victorian households, we consider that there must be robust consumer protection in place to ensure that competition in the Victorian energy market achieves the desired outcome of lower prices and better quality service.

## Chapter 1 Disconnection and affordability

#### 1.1 Introduction

This Report examines the impact on Victorian households of disconnection from electricity, gas or water services.

The Report focuses specifically on Victorian households that have been disconnected due to an inability to pay their energy or water bills. We have not undertaken a comprehensive study of the reasons why Victorian households may be disconnected from electricity, gas or water services. To do so would involve a survey of a larger number of households than we were able to undertake in the Project. It may also entail following up the households who are reported as numbers of disconnected by the electricity, gas and water businesses to the ESC<sup>2</sup> (discussed below).<sup>3</sup> The survey that we conducted and its purposes are discussed further in chapter 2.

The Report also concentrates specifically on Victorian households that have actually been disconnected or restricted from supply. We have not examined the experiences of Victorian households that have difficulties paying their energy or water bills and/or have been threatened with disconnection but that have not ultimately been disconnected or restricted. The relationship between disconnection and difficulties affording energy or water services generally is, however, important and is discussed further below.

We have chosen to examine the disconnection of Victorian households from energy and water services because we wish to highlight exactly why it is unacceptable for a household to be disconnected from energy or water solely because of their incapacity to pay for the service. Further, we wish to analyse what factors contribute to making energy or water unaffordable for some households and how we may address or counterbalance these factors.

The remainder of chapter 1 discusses current research regarding disconnection from electricity, gas and water services. Section 1.2 explains why we consider this issue to be important. Section 1.3 places the discussion within the context of the Victorian electricity, gas and water industries. Section 1.4 examines current data regarding disconnections in Victoria. Section 1.5 discusses general issues surrounding the affordability of electricity, gas and water services and the manner in which disconnection relates to affordability. Sections 1.6 and 1.7 further explore the reasons why electricity, gas and water services may become unaffordable for some households and how we determine whether this is the case.

#### **1.2** Electricity, gas and water – essential services

Why have we chosen to examine the impact on Victorian households of disconnection from electricity, gas or water services?

Victorians have access to an enormous range of goods and services, running the entire gamut from household services such as gardening or plumbing to broadband Internet service or

<sup>&</sup>lt;sup>2</sup> Formerly the Victorian Office of the Regulator-General.

<sup>&</sup>lt;sup>3</sup> See also The Allen Consulting Group, *Disconnection and financial hardship: Performance indicators*, Draft Report to the Essential Services Commission (Victoria), 11 November 2003 (the **Allen Consulting Report**) at 39-45.

financial advice. Electricity, gas and water supply is included in the wide range of goods and services available to Victorian households.<sup>4</sup>

Given the range of goods and services that we may potentially consume, it follows that people are constantly "disconnected" from a large number of the goods and services potentially available to them. For example, if a person does not retain an accountant to assist them with their tax planning for the coming financial year, they will be disconnected from tax planning services. It is, of course, impossible to expect that all Victorian households will be able to afford access or "connection" to all goods and services available all of the time.

However, it is reasonable to expect that all Victorian households will have access to *essential* services on a fair, safe, equitable and affordable basis at all times. Essential services are those services essential to a person's survival, health (both physical and mental) and ability to participate in Australian society, all of which are necessary to support a basic standard of living.

Electricity, gas and water services are all essential services for Victorian households. Energy is required for lighting, heating, cooking and refrigeration. Water is required for drinking in order to sustain life and is also required for cooking, washing, cleaning, and the removal of sewerage waste.<sup>5</sup>

Due to the essential nature of energy and water services, we consider that is unacceptable for a household to be disconnected from electricity, gas or water on the basis solely that they could not pay for the service. Incapacity to pay alone should not mean that a Victorian household must sit in the cold and dark at night or be unable to take a bath or shower.<sup>6</sup>

#### **1.3** The Victorian energy and water industries

Before examining current research regarding the affordability of energy and water services, it is important to provide the context for our examination through a description of the Victorian electricity, gas and water industries.

Described briefly below is the structure and regulation of the Victorian electricity, gas and water industries, with a focus on regulatory measures designed to provide consumer protection. The discussion in this section is brief given that information regarding the structure of the industries, their regulation and consumer "safety net" measures is readily available in many documents produced by the ESC and on the ESC's website.<sup>7</sup>

<sup>5</sup> See, for example, Senate Community Affairs References Committee, *A hand up not a hand out: Renewing the fight against poverty*, March 2004 at 191; D Walker, *Regulation of Victoria's Energy and Water Utilities*, Consumer Law Centre Victoria Ltd, May 1995 at 13; *International Covenant on Economic, Social and Cultural Rights*, opened for signature 16 December 1966, 993 UNTS 3, UN document A/6316 (1966), art 11 (entered into force 3 January 1976; Committee on Economic, Social and Cultural Rights, *General Comment 4, The Right to Adequate Housing (Art 11(1))*, (Sixth session, 1991), Annex Item III, 114, UN Doc E/1992/23 (1991), particularly clauses 7 and 8(b), available at www.unhchr.ch/tbs/doc.nsf/(symbol)/CESCR+General+comment+4.En?OpenDocument.

<sup>&</sup>lt;sup>4</sup> The means of obtaining electricity, gas or water supply may differ, for example many Victorian households in rural or regional areas do not have access to the reticulated gas or water system and may instead use LPG or water tanks respectively.

<sup>&</sup>lt;sup>6</sup> See also Senate Community Affairs References Committee, *A hand up not a hand out: Renewing the fight against poverty*, above n 5.

<sup>&</sup>lt;sup>7</sup> www.esc.vic.gov.au.

#### 1.3.1 The Victorian electricity and gas industries

#### Structure of the Victorian electricity industry

In Victoria there are currently three principal retail electricity businesses.<sup>8</sup> Retail competition was introduced in stages, with FRC for residential electricity consumers commencing in January 2002. This means that all Victorian households now have a choice of electricity retailer.

Prior to the 1990s, electricity in Victoria was supplied by the state-owned and operated SECV. In the early 1990s the Victorian government initiated a process of corporatisation and eventual privatisation of the Victorian electricity industry. During this process the SECV was vertically disaggregated into its generation, transmission, distribution and retail functions. At each of these levels, horizontal disaggregation was also effected in order to create a number of generation, transmission, distribution and retail businesses. These businesses were then sold to private interests.<sup>9</sup>

#### Structure of the Victorian gas industry

In Victoria there are currently three principal retail gas businesses.<sup>10</sup> Retail competition was introduced in stages, with FRC for residential gas consumers commencing in October 2002. This means that all Victorian households with access to the reticulated gas system now have a choice of gas retailer.<sup>11</sup>

Prior to the 1990s, gas in Victoria was supplied by the state-owned and operated GFCV. As with the electricity industry, in the 1990s the Victorian government initiated a process of corporatisation and eventual privatisation of the Victorian gas industry. The GFCV became GASCOR and GASCOR was vertically disaggregated into three gas distribution businesses and three gas retail businesses in 1997. These businesses were then sold to private interests.<sup>12</sup>

#### Regulation of the electricity and gas industries

Although FRC has been introduced into the Victorian retail electricity and gas markets, the Victorian electricity and gas industries remain subject to a variety of regulatory measures. The ESC, formerly the Office of the Regulator-General, is responsible for the economic regulation of the retail and distribution aspects of both the electricity and gas markets.<sup>13</sup>

<sup>&</sup>lt;sup>8</sup> These are TXU, Origin Energy (including the former Citipower) and AGL (including AGL Electricity and AGL Victoria (formerly Pulse). There were originally five local electricity retailers, however Origin Energy purchased Citipower and AGL purchased Pulse in 2002. See ESC, *Electricity Retail* Businesses – Comparative Performance Report for the calendar year 2002, June 2003 (Electricity **Report**) at 5. There are also several other electricity retailers who have now entered the Victorian

electricity retail market, including Country Energy, EnergyAustralia, Power Direct and Red Energy. <sup>9</sup> For a more detailed description of the current structure of the Victorian electricity industry, see www.esc.vic.gov.au/electricity135.html.

<sup>&</sup>lt;sup>10</sup> These are TXU Retail, Origin Energy and AGL Victoria (formerly Pulse Energy). See ESC, Gas Industry Comparative Performance Report 2002, June 2003 (Gas Report) at 5 and 12.

EnergyAustralia and ENERGEX Retail have also now entered the Victorian gas retail market. <sup>11</sup> For a map of the reticulated gas retail areas see the Gas Report, above n 10 at 13 or www.esc.vic.gov.au/gas75.html for a link to the map.

<sup>&</sup>lt;sup>12</sup> For a more detailed description of the current structure of the Victorian gas industry, see www.esc.vic.gov.au/gas75.html.

<sup>&</sup>lt;sup>13</sup> See www.esc.vic.gov.au/electricity136.html and www.esc.vic.gov.au/gas32.html for overviews of the regulation of the Victorian electricity and gas markets respectively.

There are several regulatory measures in place that are intended to protect Victorian energy consumers, including:

• Obligation to supply

Each of the three principal electricity retail businesses and three principal gas retail businesses is a "host" retailer for a particular geographical area of Victoria.<sup>14</sup> Prior to the introduction of FRC, Victorian consumers had no choice but to obtain their electricity and gas supply from their host retailer. All Victorians are now able to obtain their electricity and gas supply from any of the retail businesses under a market contract, provided that the retail business is also willing to supply the consumer.

It is, of course, conceivable that retailers many choose not to supply a consumer, for example because the consumer does not consume enough energy to make supply profitable or because the consumer has a poor payment history. However, section 35 of the *Electricity Industry Act* 2000 (Vic) and sections 44 and 46 of the *Gas Industry Act* 2001 (Vic) currently provide that the electricity and gas retailers respectively *must* connect consumers in their host area to electricity or gas supply under either the **deemed offer**, a transitional tariff for those consumers who have not entered the market since the introduction of FRC, or under the **standing offer**, a tariff for consumers who move into the retailer's host area but do not enter into a market contract for the supply of electricity or gas.

The deemed and standing offer tariffs do not, however, oblige a retailer to continue to supply electricity or gas to a customer who does not pay their bills or does not pay a refundable advance legally requested by the retailer.

• Retail price regulation

Prior to 1 January 2001, the ESC regulated retail electricity prices to residential consumers under the *Victorian Electricity Supply Industry Tariff Order*.<sup>15</sup> The electricity and gas retailers now have the responsibility for determining the prices that will be charged under the deemed and standing offer tariffs. However, the Victorian government has retained the power to regulate these prices and has used these powers to review and limit (with a price cap) the prices currently charged by the electricity and gas retailers to consumers who do not have a market contract.<sup>16</sup>

• Retail Codes

Under section 16 of the *Electricity Industry Act* and section 22 of the *Gas Industry Act*, a person is required to obtain a licence in order to engage in the retail sale of electricity or gas respectively.<sup>17</sup> As a condition of their licences, the electricity and gas retailers must abide by the *Electricity Retail Code* and the *Gas Retail Code* respectively.<sup>18</sup> The *Retail Codes* contain consumer protection measures intended to provide minimum standards and obligations in relation to matters such as meter reading and billing, payment difficulties and disconnection

<sup>&</sup>lt;sup>14</sup> Note that the original electricity retail host areas do not correspond with the original gas retail host areas – see the Electricity Report, above n 8 at 2 and the Gas Report, above n 10 at 13 for maps of the original electricity and gas retail host areas.

 <sup>&</sup>lt;sup>15</sup> For further information or to view of copy of the Order, see www.esc.vic.gov.au/electricity281.html.
 <sup>16</sup> The ESC also regulates electricity and gas distribution pricing.

<sup>&</sup>lt;sup>17</sup> There are some exemptions from the requirement to hold a licence – for electricity, see section 17 of the *Electricity Industry Act* and www.esc.vic.gov.au/electricity406.html; for gas, see section 24 of the

*Gas Industry Act* and www.esc.vic.gov.au/gas44.html. <sup>18</sup> Copies of the *Electricity* and *Gas Retail Codes* may be obtained from the ESC website at

www.esc.vic.gov.au/electricity196.html and www.esc.vic.gov.au/gas334.html.

for non-payment of a bill. The *Electricity* and *Gas Retail Codes* were recently reviewed and the ESC proposes to replace them with a single *Energy Retail Code* that takes effect on 1 January 2005.<sup>19</sup>

• External complaints-handling scheme

Another condition of the licences of the electricity and gas retailers requires them to become a member of an approved external dispute resolution scheme that may investigate and resolve customer complaints and disputes. EWOV is the sole approved external dispute resolution scheme in Victoria and accepts customer complaints regarding a variety of issues, including billing, credit and payment services and disconnections.<sup>20</sup>

• Concessions and grants

The Victorian Government, through the DHS, administers a series of concessions that are applied to reduce the cost of energy bills. Consumers who hold a Commonwealth concession card may be eligible for one or more concessions.<sup>21</sup>

The DHS also administers the URG Scheme and the Capital Grants Scheme. URGs provide once-off financial assistance to consumers unable to pay an energy bill due to a temporary financial crisis. The grant is applied towards payment of the bill. Capital Grants provide once-off assistance to consumers who are in an emergency situation or have a faulty electrical or gas appliance causing high bills and who are unable to afford to repair or replace the appliance due to financial hardship. The grant is applied towards the repair or replacement of the appliance.

The electricity and gas retailers have entered into contractual arrangements with the DHS for the delivery of concessions and grants to Victorian energy consumers.

• Retailer reporting requirements

The ESC requires the electricity and gas retailers to report periodically to the ESC against a range of performance indicators as a condition of the retailers' licences. The ESC uses the information reported to it by the retailers to produce comparative performance reports of the retailers. The ESC states that the purpose of the reports is to promote competition by comparison, provide the retailers with the incentive to improve their performance relative to one another and provide comprehensive information to customers about the services they are receiving.<sup>22</sup>

A number of indicators designed to monitor the affordability of energy services are included in the set of indicators that retailers are required to report on. These include the number of disconnections for non-payment, the number of reconnections in the same name and the number of budget instalment plans provided.<sup>23</sup>

www.dhs.vic.gov.au/concessions/concessions.htm.

<sup>&</sup>lt;sup>19</sup> For more information and a copy of the draft *Energy Retail Code*, see www.esc.vic.gov.au/electricity587.html.

<sup>&</sup>lt;sup>20</sup> See EWOV's website at www.ewov.com.au. Licenses can be viewed on the ESC website at www.esc.vic.gov.au/electricity193.html and www.esc.vic.gov.au/gas37.html.

<sup>&</sup>lt;sup>21</sup> For further information, see the DHS, *A Guide to Concessions in Victoria - Assistance for People on Low Incomes*, Concessions Unit, available from the DHS website at

<sup>&</sup>lt;sup>22</sup> See www.esc.vic.gov.au/electricity141.html and www.esc.vic.gov.au/gas54.html; see also the Electricity Report, above n 8 and the Gas Report, above n 10.

<sup>&</sup>lt;sup>23</sup> Lists of the current performance indicators for the Victorian electricity and gas retailers are available at www.esc.vic.gov.au/electricity309.html (via a link) and www.esc.vic.gov.au/docs/gas/gasinspec.pdf.

#### 1.3.2 Water

#### Structure of the water industry

There are currently four Melbourne metropolitan water businesses. Three metropolitan water retailers<sup>24</sup> supply water and sewerage services to consumers in the Melbourne metropolitan area, while Melbourne Water is the wholesaler of Melbourne's water and is also responsible for sewerage treatment and drainage. Prior to 1995, these functions were undertaken by a single government authority. All four businesses remain Victorian government-owned, although the three metropolitan water retailers have been corporatised and operate under licences monitored by the ESC,<sup>25</sup> whereas Melbourne Water remains a statutory corporation. The three retailers each have an allocated geographical area in which they supply water and sewerage services to consumers through the reticulated water distribution system - consumers are not able to choose which retailer they wish to supply them with water.<sup>26</sup>

Outside the Melbourne metropolitan area, Victoria has thirteen RUWAs and five RWAs.<sup>27</sup> The RUWAs supply water and sewerage services to consumers connected to the reticulated water distribution system in regional urban cities and towns within the regional areas allocated to them by statute. Each RUWA is also responsible for the treatment and disposal of sewerage and wastewater in its geographical area. The RWAs provide water directly to irrigators and domestic consumers (farms) in geographical areas allocated to them by statute and provide wholesale water to the RUWAs. The geographical areas serviced by the RUWAs and RWAs overlap each other.<sup>28</sup> In addition, ten Catchment Management Authorities across Victoria manage Victoria's water catchment areas. All of these water authorities are Victorian government-owned statutory bodies under the *Water Act 1989* (Vic).<sup>29</sup>

#### Regulation of the water industry

As with the gas and electricity industries, the Victorian water industry is subject to a number of regulatory measures. From 1 January 2004, the ESC became responsible for the economic regulation of prices, service standards and market conduct in relation to the metropolitan water retailers, Melbourne Water Corporation, the RUWAs and the RWAs (together the **Water Businesses**). However, the Victorian Government, through the DSE, will continue to regulate prices until the ESC's first price determination, expected to take effect on 1 July 2005. Prior to this, the ESC's role in relation to the Victorian water industry was limited to

<sup>&</sup>lt;sup>24</sup> These are City West Water, South East Water and Yarra Valley Water.

<sup>&</sup>lt;sup>25</sup> See the *Water Industry Act 1994* (Vic) Part 2. To view the licences, see www.esc.vic.gov.au/water102.html

<sup>&</sup>lt;sup>26</sup> For a map of the geographical areas serviced by the metropolitan water retailers, see ESC, *Melbourne's Retail Water and Sewerage Companies July 2002 – June 2003 – Performance Report*, December 2003 (**Water Report**) at 5 or the Victorian Water Industry Association website at www.vicwater.org.au/default.php3?sectionid=5.

<sup>&</sup>lt;sup>27</sup> Four rural water authorities and one irrigation trust in the Mildura area.

<sup>&</sup>lt;sup>28</sup> For maps of the geographical areas covered by the RUWAs and the RWAs, see the DSE, *Securing Our Water Future*, Green Paper for Discussion, August 2003 at 134, available from the DSE website at www.dse.vic.gov.au, or see www.vicwater.org.au/default.php3?sectionid=3 and www.vicwater.org.au/default.php3?sectionid=4 respectively.

<sup>&</sup>lt;sup>29</sup> For a more detailed description of the current structure of the Victorian water industry, see ESC, *Economic Regulation of the Victorian Water Sector*, Consultation Paper No. 1, February 2004 (Water Consultation Paper) at 7-10; see also www.esc.vic.gov.au/water100.html; www.vicwater.org.au/default.php3?sectionid=2 and linked pages.

monitoring and enforcing non-pricing matters such as service standards in relation to the three metropolitan water retailers only.<sup>30</sup>

There are several regulatory measures in place that are intended to protect Victorian water consumers, including:

• Obligation to supply

As mentioned above, the metropolitan water retailers are required to obtain a licence in order to engage in the supply of water and the collection of sewerage. Their licences require that the water retailers must provide water supply and sewerage services to every owner or occupier of a serviced property<sup>31</sup> within their geographical area.

The RUWAs and RWAs are obliged by the *Water Act* to provide water and sewerage services.<sup>32</sup> However, the *Water Act* does not explicitly require the RUWAs and RWAs to supply water and sewerage services to *every* serviced property within their geographical area.

The ESC is currently developing a *Customer Service Code* to apply to the metropolitan water retailers and to the RUWAs. It is proposed that this Code include requirements to supply water and sewerage services to all consumers connected to the reticulated water supply system and sewerage system. However, similar to electricity and gas supply, the requirement to supply water will not apply to restricted or disconnected customers.<sup>33</sup>

• Price regulation

As stated above, the ESC is now responsible for the economic regulation of prices for certain services provided by the Water Businesses, including retail water supply and retail sewerage services. The WIRO<sup>34</sup> made under the *Water Industry Act 1994* (Vic), requires the ESC to decide on pricing arrangements to apply from 1 July 2005 for a 3 year period.<sup>35</sup>

The DSE will continue to regulate prices for services provided by the water industry until 1 July 2005. The DSE sets the prices charged by the metropolitan water retailers and Melbourne Water. The RUWAs and RWAs are responsible for setting their own prices, however these are then subject to approval by the DSE and the relevant Minister (currently the Minister for Water).<sup>36</sup>

The Water Businesses are responsible for proposing the prices or pricing arrangements that will apply to their services from 1 July 2005. The ESC, however, has the power to approve these proposals or specify other prices or pricing arrangements to apply. The ESC is currently undertaking consultation regarding the manner in which it will regulate prices for water and sewerage services. The implementation of price controls, for example price caps or formulas to calculate prices, is under consideration.<sup>37</sup>

<sup>&</sup>lt;sup>30</sup> See www.esc.vic.gov.au/water101.html for an overview of the regulation of the Victorian water industry; see also the Water Consultation Paper, above n 29.

 $<sup>^{31}</sup>$  A property connected to the water distribution system.

<sup>&</sup>lt;sup>32</sup> Sections 163, 173 and 199.

<sup>&</sup>lt;sup>33</sup> See ESC, *Customer Service Arrangements*, Workshop Discussion Paper, Economic Regulation of the Victorian Water Sector, March 2004 and Attachment A to that document, available from the ESC website at www.esc.vic.gov.au/water755.html.

<sup>&</sup>lt;sup>34</sup> For a copy of the *Water Industry Regulatory Order 2003*, see the ESC's website at www.esc.vic.gov.au/water101.html.

<sup>&</sup>lt;sup>35</sup> See the Water Consultation Paper, above n 29 at 16-17.

<sup>&</sup>lt;sup>36</sup> As above at 13-15.

<sup>&</sup>lt;sup>37</sup> For further information about the ESC's review of pricing for the Victorian water sector , see above at 16-39; see also ESC, *Approach to Pricing*, Workshop Discussion Paper, Economic Regulation of

• The Benchmark Customer Contract / Customer Service Code

As a condition of their licences, the three metropolitan water retailers must each develop a customer contract, which is deemed by section 19 of the *Water Industry Act* to have been entered into by the retailer and each of its customers. The ESC is responsible for approving these customer contracts and has developed a *Benchmark Customer Contract*, with which the retailers' contracts must be consistent. The *Benchmark Customer Contract* (and its summary, the *Benchmark Customer Charter*) contain minimum standards and obligations in relation to matters such as the right to supply, payment terms, disconnection for non-payment and complaints handling.<sup>38</sup>

Most of the RUWAs have developed customer charters based to some degree on the *Benchmark Customer Charter*, however there is no requirement on the RUWAs to do so. The RWAs set their own customer service arrangements.<sup>39</sup>

As discussed above, however, the ESC is currently developing a *Customer Service Code* to apply to the metropolitan water retailers and to the RUWAs. The *Customer Service Code* will impose binding obligations on these water businesses in relation to their dealings with consumers, with the ESC responsible for monitoring and enforcing compliance with the Code.<sup>40</sup> It is proposed that the *Customer Service Code* include minimum standards and obligations in relation to matters such as charges and billing, payment difficulties, restriction for non-payment, minimum flow rates during restriction and complaints handling.<sup>41</sup> Separate customer service arrangements may be developed in relation to the RWAs.<sup>42</sup>

• External complaints-handling scheme

The Water Businesses, like the electricity and gas retailers, are required to become members of EWOV. This requirement is imposed on the metropolitan water retailers as a licence condition, on Melbourne Water under section 16A of the *Melbourne Water Corporation Act 1992* (Vic) and on the RUWAs and the RWAs under section 110A of the *Water Act*.

• Concessions and grants

The DHS administers a series of concessions that are applied to reduce the cost of water bills, similar to those in relation to electricity and gas services. Consumers who hold a Commonwealth concession card may be eligible for one or more concessions.<sup>43</sup> The URG and Capital Grants Schemes are also available in relation to water bills and water appliances.

The metropolitan water retailers are required to deliver concessions under section 26 of the *Water Industry Act* and the *Water Industry Act 1994: Concessions for Water and Sewerage Charges Order 2002.*<sup>44</sup> Similar provisions apply to the RUWAs and RWAs under section

www.esc.vic.gov.au/water755.html.

the Victorian Water Sector, April 2004, available from the ESC website at

<sup>&</sup>lt;sup>38</sup> See the ESC website at www.esc.vic.gov.au/water103.html for information and a link to the *Benchmark Customer Contract* and *Benchmark Customer Charter*.

<sup>&</sup>lt;sup>39</sup> See the Water Consultation Paper, above n 29 at 46-47.

<sup>&</sup>lt;sup>40</sup> As above at 46-52.

<sup>&</sup>lt;sup>41</sup> See ESC, *Customer Service Arrangements*, above n 33.

 $<sup>^{42}</sup>$  As above at 1.

<sup>&</sup>lt;sup>43</sup> See DHS, A Guide to Concessions in Victoria - Assistance for People on Low Incomes, above n 21.

<sup>&</sup>lt;sup>44</sup> Available from the DHS website at www.dhs.vic.gov.au/concessions/concessions.htm.

283 of the Water Act and the Water Act 1989: Waiver of Water and Sewerage Charges Order 2002.<sup>45</sup>

• Retailer reporting requirements

The ESC has required the metropolitan water retailers to report periodically to the ESC against a range of performance indicators as a condition of their licences since 1995. The ESC uses the information reported to it by the retailers to produce comparative performance reports of the retailers. The ESC states that the purpose of the reports is to stimulate competition by comparison and inform customers about the service levels they receive.<sup>46</sup>

The set of indicators that the retailers are required to report on includes a small number of indicators designed to monitor the affordability of water and sewerage services. These include the number of restrictions for non-payment, the number of instalment plans provided and the number of affordability complaints received.<sup>47</sup>

The RUWAs and the RWAs have not previously been required to report on their performance to the ESC. However, the WIRO provides that the ESC has the function of monitoring and reporting publicly on the performance of the Water Businesses.<sup>48</sup> The ESC is currently developing a performance monitoring framework to apply to the Water Businesses in consultation with interested stakeholders.<sup>49</sup> It is proposed that indicators relating to the affordability of water and sewerage services be included in the new framework, similar to those that currently apply to the metropolitan water retailers.<sup>50</sup> The metropolitan water retailers will continue to report to the ESC according to their existing reporting obligations until the new framework is established.<sup>51</sup>

#### **1.4** Rates of disconnection in Victoria

As stated above, the Victorian electricity, gas and metropolitan water retailers report to the ESC on several performance indicators relating to the affordability of energy and water services, including the number of disconnections or restrictions for non-payment. The ESC uses this data to produce public comparative performance reports of the electricity, gas and metropolitan water retailers.

This means that we are able to track rates of disconnection for non-payment from electricity and gas services and rates of restriction from water services for non-payment by the metropolitan water retailers.

We believe that it is useful to examine what has been occurring in Victoria over the last two decades in relation to disconnections. This timeframe covers the periods prior to and after privatisation and the introduction of FRC into the Victorian electricity and gas markets, and prior to and after the corporatisation of the Victorian metropolitan water industry.

<sup>&</sup>lt;sup>45</sup> As above.

<sup>&</sup>lt;sup>46</sup> See www.esc.vic.gov.au/water105.html; see also the Water Report, above n 26 at 4.

<sup>&</sup>lt;sup>47</sup> The list of the current performance indicators for the metropolitan water retailers is available at www.esc.vic.gov.au/water105.html (via a link).

<sup>&</sup>lt;sup>48</sup> WIRO, above n 34 at clause 16.

<sup>&</sup>lt;sup>49</sup> See the Water Consultation Paper, above n 29 at 53-62.

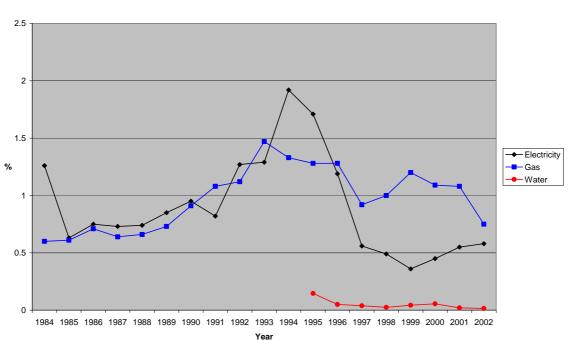
<sup>&</sup>lt;sup>50</sup> See ESC, *Performance Monitoring and Reporting*, Workshop Discussion Paper, Economic Regulation of the Victorian Water Sector, March 2004 and Attachment A to that document, available

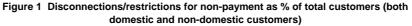
from the ESC website at www.esc.vic.gov.au/water755.html.

<sup>&</sup>lt;sup>51</sup> See the Water Consultation Paper, above n 29 at 62.

#### 1.4.1 Rates of disconnection\*

The comparative performance reports in relation to the energy and metropolitan water retailers provide information as to the number of disconnections and restrictions for non-payment that have occurred over the past two decades.





Source: Essential Services Commission<sup>52</sup>

It is evident that the number of disconnections for non-payment of electricity or gas bills increased significantly in the years immediately prior to the sale of the Victorian electricity and gas businesses to the private sector. Since then, the number of electricity disconnections for non-payment has decreased substantially. Gas disconnections for non-payment, however, although at a lower level than those in the mid-1990s, remain more common than in the days of the GFCV and are now more frequent, proportionately, than electricity disconnections for non-payment.

In contrast, the number of Victorian households being placed on water restrictions for nonpayment of their water bills has remained low, particularly in comparison with the number of electricity and gas disconnections for non-payment. There is some indication that the number of restrictions for non-payment may have been higher in the years immediately prior to corporatisation of the metropolitan water industry, however the historical data is not

<sup>\*</sup> The disconnection rates discussed below have been taken from the comparative performance reports published by the ESC in 2003, which contain data about disconnection rates up to the end of 2002. At the time of writing, the retail comparative performance reports for 2004, containing data about disconnection rates in 2003, had not yet been published. However, on 7 October 2004, the ESC

released a report entitled Disconnections and Capacity to Pay: Report On Energy Retailers'

*Performance*, which contains data about disconnection rates from 2003 and much of 2004. This report was not available at the time of writing the Report, however some data from this report is referred to in notes (marked with a \*) below.

<sup>&</sup>lt;sup>52</sup> See the Electricity Report, above n 8; the Gas Report, above n 10; the Water Report, above n 26.

available.<sup>53</sup> In any case, water restrictions for non-payment are now at their lowest level since the ESC began monitoring the performance of the metropolitan water retailers.

1.4.2 Electricity disconnection trends

Since 1999, the number of electricity disconnections for non-payment has been increasing once again, albeit at a slower rate than the decrease in disconnections for non-payment following privatisation of the electricity businesses.

The ESC describes the trend in electricity disconnections for non-payment as follows:

'During the 1990s, both industries [electricity and gas] increased the use of disconnections. Since then, electricity disconnections have declined significantly overall...Since 1999...[e]lectricity rates have increased marginally...contrasting the overall decreasing trend.'54

There is some debate as to what the electricity disconnection trends reveal, reflected by the Allen Consulting Group's comment, in its recent report to the ESC on disconnections and performance indicators, that:

'There has been some increase in electricity disconnections since 1999, and there are different views as to whether this reflects data gathering 'noise' or a changing trend.<sup>55</sup>

For example, the ESC has emphasised the low level of disconnections for non-payment, despite the small increase in recent years.<sup>56</sup> This view was recently supported by Origin Energy, which wrote to the ESC in February that:

"[P]rivate-sector retailers have...cut the number of electricity disconnections by over 300%. Consequently, the Comparative Performance Reports now tend to highlight marginal changes around baseline results which are in fact equal to historical lows.<sup>57</sup>

However, Romeril has pointed out that the number of electricity disconnections for nonpayment increased substantially during the period of corporatisation and commercialisation of the Victorian electricity businesses.<sup>58</sup> Electricity disconnections for non-payment are only now back at similar levels to those of the mid-1980s. It is, therefore, disingenuous to celebrate the decrease in the number of disconnections in comparison with the number of disconnections occurring in the early to mid-1990s, as these numbers were the worst levels on record.59

Romeril suggests that the high levels of electricity disconnections for non-payment that occurred in the early 1990s were the result of increasingly inflexible debt collection practices and procedures for dealing with customers in financial hardship, caused by the Victorian Government's push to commercialise the electricity businesses.<sup>60</sup> This suggestion is

<sup>&</sup>lt;sup>53</sup> See Office of the Regulator-General, Victoria, Melbourne Metropolitan Water and Sewerage Companies: Customer Service Indicators 1995, May 1996, Part 12.

The Gas Report, above n 10, at 30.

<sup>&</sup>lt;sup>55</sup> The Allen Consulting Report, above n 3, at 6.

<sup>&</sup>lt;sup>56</sup> See the Electricity Report, above n 8 at 26.

<sup>&</sup>lt;sup>57</sup> Origin Energy, Draft Report – Disconnection and financial hardship performance indicators, Letter to the ESC, 27 February 2004, available on the ESC website at

www.esc.vic.gov.au/electricity309.html.

<sup>&</sup>lt;sup>58</sup> B Romeril, Powerless in a Privatised State: the impact of privatisation on domestic electricity disconnections, Victoria, 1985-1997, Financial and Consumer Rights Council, 1998.

<sup>&</sup>lt;sup>59</sup> As above: see also B Romeril, 'Cut off: the losers in utility privatisation', *Consumer Rights Journal* Vol. 1 No. 5. July-August 1997 at 7.

<sup>&</sup>lt;sup>60</sup> Romeril, Powerless in a Privatised State: the impact of privatisation on domestic electricity disconnections, above, n 58 at 56-58.

supported by other studies based on case studies of consumers in financial hardship collected during this period<sup>61</sup> and the experiences of Victorian emergency relief agencies in dealing with increased demand for assistance in relation to utility debt in December 1994.<sup>62</sup>

It is interesting to note that the electricity and gas retailers also report the number of disconnections of domestic or residential customers for non-payment separately to the number of disconnections of non-domestic or business customers for non-payment.

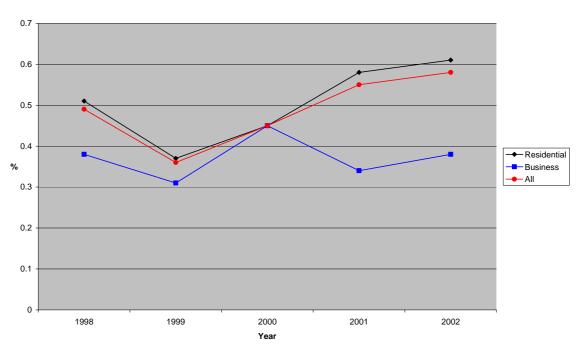


Figure 2 Electricity disconnections for non-payment as % of total customers 1998-2002 (segmented)

Source: Essential Services Commission<sup>63</sup>

Figure 2 reveals that the rate of electricity disconnections of residential customers for non-payment follows the same trend as for disconnections for non-payment in total. That is, since 1999, the number of residential customers disconnected from electricity for non-payment has been rising.

The rate of disconnection of residential customers for non-payment is higher than the general disconnection rate. This is because residential customers experience disconnection for non-payment more commonly than business customers. In fact, the number of business customers disconnected from electricity for non-payment actually fell, rather than increased, from 2000 to 2001. In 2002 this number rose again but has not yet reached the level experienced in 2000, unlike the number of disconnections of residential customers for non-payment, which has continued to rise.

<sup>&</sup>lt;sup>61</sup> J Benvenuti and D Walker, *Switched off: Case Studies of consumers' experiences with energy and water utilities*, Consumer Advocacy and Financial Counselling Association of Victoria Inc, June 1995 (**Switched Off**); see also B Kliger, *An Unfair Deal: A consumer audit of the electricity, gas and water industry reforms*, Financial and Consumer Rights Council Inc, 1998 (**Unfair Deal**).

<sup>&</sup>lt;sup>62</sup> VCOSS, "Unplugged": Utility demand on Victorian Emergency Relief Agencies, June 1995.

<sup>&</sup>lt;sup>63</sup> See the Electricity Report, above n 8.

Over the last 3 to 4 years, as the number of electricity disconnections of residential customers for non-payment has continued to increase, EWOV has reported an increasing number of complaints regarding electricity disconnection.<sup>64</sup> This is discussed further below.

Although the electricity comparative performance report for 2003 has not yet been released, the ESC has released a comparative performance report for the local Victorian electricity and gas retailers for the period 1 January 2003 to 30 June 2003.<sup>65</sup> Preliminary indications suggest that electricity disconnections of residential customers for non-payment may have increased again, albeit slightly, in 2003<sup>66</sup> suggesting that the continuing rise in disconnections is indeed a trend and not merely "marginal changes around baseline results" or "noise".<sup>\*</sup>

#### 1.4.3 Gas disconnection trends

The number of gas disconnections for non-payment has fallen since 1999. However, as stated above, they remain at a higher level than in the 1980s and are now more widespread, proportionately, than electricity disconnections for non-payment.

The ESC describes the trend in gas disconnections for non-payment as follows:

'During the 1990s, both industries [electricity and gas] increased the use of disconnections. Since then...gas disconnections have shown a marginal decline. This has resulted in the use of disconnections for non-payment being more prevalent for gas than for electricity in recent years. ...Since 1999, gas and electricity disconnection rates have progressively drawn closer together. ...Gas disconnection rates have continued to decline and...are presently at their lowest levels since the late 1980s.<sup>67</sup>

The ESC emphasises that gas disconnections for non-payment are at their lowest levels in comparison with levels seen in the late 1980s, although it is clear that they are still more prevalent than in the years prior to that. It will, therefore, be important to observe whether, similar to electricity disconnections, gas disconnections will continue to fall until they do reach lower levels than those achieved by the GFCV in the early 1980s, particularly as the Victorian gas businesses were privatised later than the electricity businesses. The comparative performance report for the local Victorian electricity and gas retailers for the period 1 January 2003 to 30 June 2003<sup>68</sup> does indicate that gas disconnections of residential customers for non-payment may have dropped substantially again in 2003.<sup>69\*</sup>

The ESC also expects electricity and gas disconnection rates to converge because the same companies are now the principal retailers of both electricity and gas services in Victoria and, it is presumed, their disconnection policies will therefore develop to become similar across

<sup>&</sup>lt;sup>64</sup> See EWOV, *Resolution 18: 1 January 2004 – 30 June 2004*, Bi-annual newsletter (**Resolution 18**), available from the EWOV website at www.ewov.com.au/html/publications.html.

<sup>&</sup>lt;sup>65</sup> ESC, *Energy Retail Businesses Comparative Performance Report 1 January – 30 June 2003*, December 2003 (**Energy Report**).

<sup>&</sup>lt;sup>66</sup> As above at 8, 12.

<sup>\*</sup> Electricity disconnections for non-payment increased in 2003 to above the lowest rate recorded by the SECV (in 1985). In 2004, the rate of electricity disconnection for non-payment, particularly for residential customers, is again increasing noticeably: ESC, *Disconnections and Capacity to Pay: Report On Energy Retailers' Performance*, October 2004 at 51.

<sup>&</sup>lt;sup>67</sup> The Gas Report, above n 10 at 30.

<sup>&</sup>lt;sup>68</sup> The Energy Report, above n 65.

<sup>&</sup>lt;sup>69</sup> As above at 8, 14.

<sup>\*</sup> Gas disconnections for non-payment did drop substantially in 2003. However, they are rising even more substantially in 2004 and it appears that, by the end of 2004, they may return to levels closer to the mid-1990s than to levels achieved by the GFCV in the early 1980s: ESC, *Disconnections and Capacity to Pay: Report On Energy Retailers' Performance*, October 2004 at 53.

both their electricity and gas businesses.<sup>70</sup> Again, it will be important to observe whether this does, in fact, occur.

High levels of gas disconnections for non-payment may also, like electricity disconnections, be a hangover from the implementation of hardened debt collection practices during the commercialisation of the Victorian gas businesses.<sup>71</sup>

As stated above, the electricity and gas retailers also report the number of disconnections of domestic or residential customers for non-payment separately to the number of disconnections of non-domestic or business customers for non-payment.

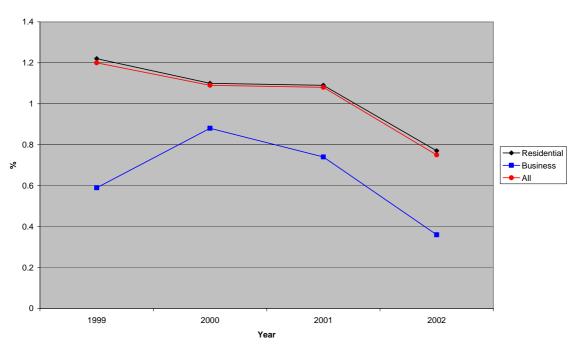


Figure 3 Gas disconnections for non-payment as % of total customers 1999-2002 (segmented)

Source: Essential Services Commission<sup>72</sup>

Figure 3 reveals that, as with electricity disconnections, the rate of gas disconnections of residential customers for non-payment follows the same trend as for disconnections for non-payment in total. That is, since 1999, the number of residential customers disconnected from gas for non-payment has been falling.<sup>\*</sup>

However, the rate of disconnection of residential customers for non-payment is higher than the general disconnection rate, as it is in relation to electricity disconnections. This is because residential customers experience disconnection for non-payment more commonly than business customers. The difference between residential and business customers is quite marked in relation to gas disconnections.

<sup>&</sup>lt;sup>70</sup> The Electricity Report, above n 8 at 26.

<sup>&</sup>lt;sup>71</sup> Cf Switched Off, above n 61; Unfair Deal, above n 61; VCOSS, "Unplugged": Utility demand on Victorian Emergency Relief Agencies, above n 62.

<sup>&</sup>lt;sup>72</sup> See the Gas Report, above n 10.

<sup>\*</sup> Although it is rising again in 2004: ESC, *Disconnections and Capacity to Pay: Report On Energy Retailers' Performance*, October 2004 at 53.

The EWOV has reported an increased numbers of complaints regarding gas disconnection over its last two reporting periods (July 2003 – June 2004). Complaints about gas disconnection remain less common than complaints about electricity disconnection.<sup>73</sup> Again, this is discussed further below.

#### 1.4.4 Water restriction trends

The number of water restrictions for non-payment has fallen since 1995 and is now at a very low level.

In addition to the number of restrictions for non-payment, the ESC reports on possible reasons for the increase or decrease in the rate of restrictions for non-payment by the three metropolitan water retailers. It appears that the implementation by the three businesses of hardship policies and early intervention strategies to manage customers in financial hardship has had a significant effect in terms of reducing the number of restrictions for non-payment. It is interesting that the three metropolitan retailers also report a large decrease since 1995 in the use of legal action against customers for non-payment of bills.<sup>74</sup>

#### 1.4.5 Complaints to EWOV regarding disconnection/restriction

EWOV's latest public report, *Resolution 18*,<sup>75</sup> covers the period from January 2004 to June 2004 and contains information about the number of complaints EWOV has received in relation to disconnection from electricity or gas services or restriction from water services.

EWOV has reported an increased number of complaints regarding disconnection/restriction for every 6 month reporting period since 2001. In 2001, EWOV received 799 complaints involving disconnection or restriction from electricity, gas or water services. In 2002 that number was 1367 and in 2003 it was 1483.<sup>76</sup> The majority of these cases involve residential customers.<sup>77</sup> In the first half of 2004, EWOV has already received 1,378 disconnection/restriction cases, well above the number of such cases received by EWOV in the first half of 2003.<sup>78</sup>

EWOV has reported an increased number of cases regarding electricity disconnection for every reporting period since the second half of 2000.<sup>79</sup> Gas disconnection cases also increased in the last reporting period and are at a notably higher level than in any previous reporting period.<sup>80</sup> The number of cases that EWOV has received in relation to water restrictions is low in comparison with electricity and gas disconnection cases. However, EWOV points out that the electricity and gas retailers are required to place EWOV's contact details on disconnection notices, whereas the water businesses are not required to do so on their restriction and disconnection notices.<sup>81</sup> It may also be that an increased awareness of the existence of the EWOV scheme has contributed to the increase in cases received by EWOV.<sup>82</sup>

<sup>&</sup>lt;sup>73</sup> Resolution 18, above n 64.

<sup>&</sup>lt;sup>74</sup> See, for example, the Water Report, above n 26; ESC, *Melbourne's Retail Water and Sewerage Companies Performance Report July 2001 – June 2002*, February 2003, available from the ESC website at www.esc.vic.gov.au/water106.html.

<sup>&</sup>lt;sup>75</sup> Resolution 18, above n 64.

<sup>&</sup>lt;sup>76</sup> As above at 13-14.

<sup>&</sup>lt;sup>77</sup> EWOV, *Resolution 17: 1 July 2003 – 31 December 2003* (**Resolution 17**) at 13-14; available from the EWOV website at www.ewov.com.au/html/publications.html.

<sup>&</sup>lt;sup>78</sup> Resolution 18, above n 64 at 13.

<sup>&</sup>lt;sup>79</sup> As above.

 $<sup>^{80}</sup>$  As above at 14.

<sup>&</sup>lt;sup>81</sup> As above.

<sup>&</sup>lt;sup>82</sup> See EWOV, *Research into Disconnection and Restriction cases (Residential Customers) received by the EWOV from January – September 2002*, Report to the ESC, November 2002 at 4.

EWOV also separates disconnection and restriction cases into those that involve imminent disconnection and those that involve actual disconnection of the customer by the time they contact EWOV. EWOV received a significantly greater number of cases involving actual disconnection in the electricity and gas sectors in the last reporting period (although actual water restriction cases had decreased by two).<sup>83</sup>

EWOV has reported its concerns in relation to the increase in disconnection cases in previous *Resolution* newsletters.<sup>84</sup> In 2002, EWOV also undertook a more detailed analysis of its disconnection cases from January to September 2002 and found that the majority of cases EWOV received for investigation during this period clearly concerned capacity to pay issues.<sup>85</sup> That is, customers were disconnected or threatened with disconnection even after informing their retailer that they could not afford to pay their energy or water bill.<sup>86</sup>

In *Resolution 18*, EWOV again raised the issue of disconnection or restriction of customers, particularly customers with capacity to pay issues, and reported the results of a detailed analysis of its disconnection cases from July to December 2003. Again, EWOV found that the majority of complaints clearly involved capacity to pay issues, including some water restriction cases, and stated that its review of cases 'strongly suggested that the hardship programmes implemented (or being implemented) by a number of electricity and gas retailers were not yet sufficiently accessible to customers, or comprehensive enough in detail, to pro-actively address capacity to pay issues'.<sup>87</sup>

1.4.6 Energy and water bills

The latest comparative performance reports produced by the ESC in relation to the electricity and gas retailers and the metropolitan water retailers contain data on both the number of disconnections for non-payment and the average annual amounts of household energy and water bills.

There does not seem to be any direct correlation between the rise or fall in the average amount of a household's gas or water bill and rates of gas disconnection or water restriction. However, the correlation between the average annual electricity bill of Victorian households and the number of electricity disconnections for non-payment is more noticeable.

<sup>&</sup>lt;sup>83</sup> Resolution 18, above n 64 at 13-14.

<sup>&</sup>lt;sup>84</sup> See Resolution 17, above n 77; *Resolution 16: 1 January 03 – 30 June 03*; see also, for example, *Resolution 12: 1 January July 01 – 30 June 01*; *Resolution 15: 1 July 2002 – 31 December 2002*; available from the EWOV website at www.ewov.com.au/html/publications.html.

<sup>&</sup>lt;sup>85</sup> EWOV, Research into Disconnection and Restriction cases (Residential Customers) received by the EWOV from January – September 2002, above n 82, at 7; see also EWOV, Resolution 16, above n 84 at 2, 6-9.

<sup>&</sup>lt;sup>86</sup> This does not mean that the majority of all disconnections concern capacity to pay issues. As discussed above and below, this Report is not an examination of all the reasons why Victorian households may be disconnected from electricity, gas or water services.

<sup>&</sup>lt;sup>87</sup> Resolution 18, above n 64 at 11-12.

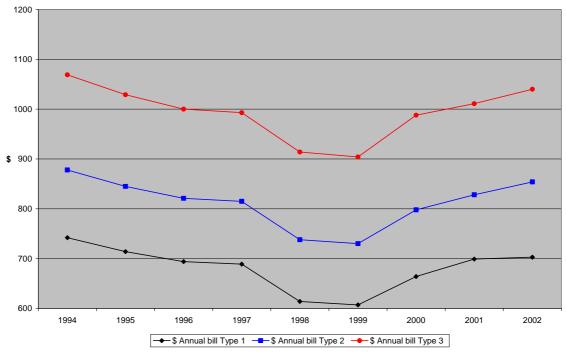
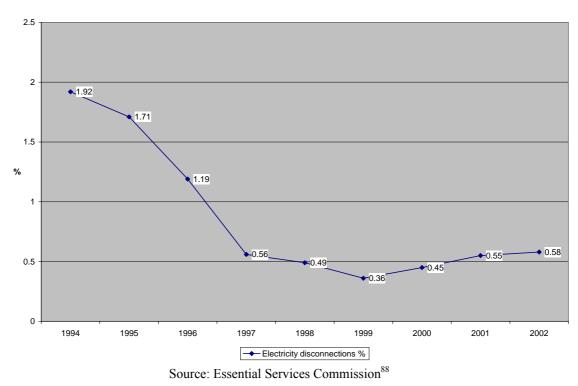


Figure 4 Average annual household electricity bills 1994-2002

Type 1 = Victorian household consuming 4,000 kWh of peak energy on retail tariff GD/GR

Type 2 = Victorian household consuming 4,000 kWh of peak energy on retail tariff GD/GR and 2,500 kWh of off peak energy on retail tariff Y8

Type 3 = Victorian household consuming 3,000 kWh of peak energy and 6,000 kWh of off peak energy on retail tariff 'WINNER'



#### Figure 5 Electricity disconnections for non-payment as % of total customers 1994-2002

<sup>&</sup>lt;sup>88</sup> See the Electricity Report, above n 8.

There does not seem to be a direct correlation between the actual amount of the average electricity bill in any one year and the number of disconnections for non-payment in that year. However, it is clear that as electricity bills fell after 1994, so too did the number of electricity disconnections for non-payment. Average annual electricity bills were at their lowest in 1999-2000, just as the number of electricity disconnections for non-payment also reached their lowest level. Average annual electricity bills for Victorian households have risen again since 2000 and so has the number of electricity disconnections for non-payment.

In terms of prices, as opposed to bills, a recent report by the Society of St Vincent de Paul noticed similar trends, with electricity (and gas) prices for metropolitan Melbourne wage and salary earners falling after 1994 relative to the underlying inflation rate (after having risen sharply from 1990 to 1994).<sup>89</sup> However, these prices have increased again at a much higher rate than the underlying inflation rate since 2001.<sup>90</sup>

The average annual electricity bill for Victorian households is now trending upwards. In fact, the bills are closer to the amounts paid in 1994-1995 than to the lowest amounts paid in 1999-2000. The ESC, however, in its last comparative performance report described average annual bills only in terms of having decreased since 1994-1995, ignoring the rising trend of the last few years.

It is also noteworthy that bills (and disconnections for non-payment) were at their lowest at the end of the period in which the ESC regulated electricity tariffs under the *Victorian Electricity Supply Industry Tariff Order*.<sup>91</sup> Since the electricity retailers became responsible for determining the default tariff prices for electricity on 1 January 2001 (albeit subject to government review), it appears that electricity bills have increased. This phenomenon was also remarked upon in relation to electricity (and gas) prices in the report by the Society of St Vincent de Paul mentioned above.<sup>92</sup>

The fact that electricity bills have been increasing in real terms may be one factor contributing to the inability of some Victorian households to pay for their electricity service.<sup>93</sup> The affordability of energy and water services is discussed below.

In summary, Victorian energy and water retailers have performed well to reduce the number of disconnections and restrictions for non-payment from the high levels seen in the early to mid 1990s. The metropolitan water retailers have done particularly well to maintain very low numbers of households restricted from water supply for non-payment.

However, this does not mean that improvement is not needed. Gas disconnection rates remain too high and electricity disconnections are increasing. The earlier discussion also demonstrates how quickly the number of households disconnected for non-payment can escalate to unacceptably high levels as a result, perhaps, of poor company practices. In addition, the fact that EWOV continues to receive an increasing number of complaints regarding disconnection, many of which involve households that cannot afford to pay their energy or water bills, highlights that disconnections are still being carried out in inappropriate cases.

<sup>&</sup>lt;sup>89</sup> G Dufty, *What has energy competition delivered for Victorian households?*, Society of St Vincent de Paul, September 2004 at 1-2.

<sup>&</sup>lt;sup>90</sup> As above at 2.

<sup>&</sup>lt;sup>91</sup> See www.esc.vic.gov.au/electricity281.html, above n 15.

<sup>&</sup>lt;sup>92</sup> G Dufty, What has energy competition delivered for Victorian households?, above n 89 at 2.

<sup>&</sup>lt;sup>93</sup> Cf Romeril, *Powerless in a Privatised State: the impact of privatisation on domestic electricity disconnections*, above n 58 at 51-55.

We must ensure that measures are in place to prevent a re-escalation of disconnections for non-payment. We must also continually improve the measures implemented to prevent disconnection on the basis of incapacity to pay alone.

However, it is also important to remember that, as disconnection may be merely the end-result of a household's incapacity to pay for its energy or water services, the prevention of disconnections alone does not necessarily mean that Victorian households are being assisted to be able to pay for their energy or water services. We must also examine the affordability of the energy or water service for that household. This is discussed further below.

#### 1.5 Affordability of energy and water services

A household that is incapable of paying for its electricity, gas or water service is *unable to afford* that service.

There is extensive literature regarding the inability of households to afford electricity, gas or water services.<sup>94</sup> This phenomenon is also known as fuel (or water) poverty. We consider that the term "fuel poverty" is an apt description of the situation in which a household finds itself if it is unable to afford energy or water services. However, in this Report we refer to this situation as an inability to afford energy or water services or, alternatively, as a lack of affordability of energy or water services. We have done so as we wish to make clear that the Report concentrates specifically on issues surrounding the affordability of energy and water services. The Report does not extend to (or limit itself to) issues relating to the alleviation of poverty generally.<sup>95</sup>

A discussion regarding the affordability of energy and water services is highly relevant to an analysis of disconnection for non-payment. This is the case because disconnection for non-payment may be a manifestation of an inability to afford energy or water.<sup>96</sup> Indeed, arguably, if a household is unable to afford its electricity, gas or water service, disconnection from the service is the most marked manifestation of the lack of affordability of that service for that household. Given that we are concerned to ensure that no Victorian household is disconnected from its electricity, gas or water service on the basis of incapacity to pay alone, we must address disconnection in this situation for what it is – the result of the lack of affordability of the service for that household.

We recognise that disconnection from energy and water services may occur for reasons other than non-payment as a result of incapacity to pay. For example, a consumer may ask for their service to be disconnected if they are moving house. Disconnection for non-payment may

<sup>&</sup>lt;sup>94</sup> See, for example, Unfair Deal, above n 61; Brotherhood of St Laurence, *Electricity, gas and water – Costs and choices for vulnerable households*, Changing Pressures, Bulletin No 5, February 1998 (Changing Pressures); VCOSS, VCOSS Response to Review of the effectiveness of retail competition and the consumer safety net for electricity and gas – Issues Paper, Submissions to the ESC, December 2003 (VCOSS Submission), available at www.esc.vic.gov.au/gas728.html; FCRC, Power, markets & exclusion – assessing the effectiveness of social protections in deregulated markets: An Electricity Case study from Victoria, January 2004 (FCRC Electricity Case Study); see also ESC, Special Investigation: Review of Effectiveness of Retail Competition and the Consumer Safety Net in Gas and Electricity - Background Report, Final Report to Minister, June 2004 at 110-111; cf Roy Morgan Research, Victorian Utility Consumption Survey 2001, Final Report, DHS, June 2002.

<sup>&</sup>lt;sup>95</sup> In addition, we note that Australian regulators have preferred not to use the term "fuel poverty" when discussing energy and water affordability. This can be contrasted with the United Kingdom - the UK Government has implemented a specific Fuel Poverty Strategy and the UK energy regulator, Ofgem, is undertaking work to prevent fuel poverty through its Social Action Plan. See the Ofgem website at www.ofgem.gov.uk for further information.

<sup>&</sup>lt;sup>96</sup> See, for example, the sources listed above, n 94; R Colton, *Methods of Measuring Energy Needs of the Poor*, October 1993.

occur if people in a household simply forget to pay a bill. Further, some households may wilfully choose not to pay their energy or water bill even though they can afford to pay (although given the essential nature of energy and water services, we assume that this would occur only if the household was in a dispute with their supplier regarding some aspect of their service or bill or if the people in the household intended to leave the premises and therefore did not care if the premises were disconnected from energy or water).<sup>97</sup> As stated earlier, however, this Report is not an examination of all the drivers of disconnection. It is, rather, intended to examine the experiences of households that are disconnected due to an inability to afford their energy or water bills.

Disconnection is not the only manifestation of an inability to afford energy or water services. A household that cannot afford its electricity, gas or water service may divert spending from other expenses to pay for its energy or water usage or prioritise its energy or water bills above other bills, for example food, rent, clothing or school fees.<sup>98</sup> The inability of a household to afford energy or water may also manifest itself in under-consumption of the service, that is using less energy or water than is required to maintain a reasonable standard of living.<sup>99</sup> For example, a household may not turn on a heater even though it is unreasonably cold.<sup>100</sup> A household may also accumulate large amounts of debt if it is unable to pay for its energy or water usage, either by continuing to accrue debt on its energy or water account by failing to pay or by accessing credit from other sources to obtain the money to pay for its energy or water usage.<sup>101</sup>

The various manifestations of a lack of affordability of energy or water are interrelated. For example, under-consumption, diversion of expenditure or the accumulation of debt may be a direct result of a household's efforts to avoid disconnection. On the other hand, under-consuming energy or water and, in particular, accumulating debt, may simply postpone rather than avert disconnection.

In any case, as discussed in section 1.2, the nature of energy and water as essential services means that they should not only be available to all Victorian households but that they should be available on an *affordable* basis. In other words, Victorian households must not only remain connected to energy and water services, they must also be able to maintain supply without having to under-consume, divert spending from other essential goods and services or accumulate unserviceable levels of debt.

If our goal is to prevent disconnection on the basis of incapacity to pay alone, it is apparent that we cannot simply look at the event of disconnection. In these cases, disconnection is merely the end-result of the household's inability to afford its energy or water service. We must also examine the affordability of the energy or water service for that household.

<sup>&</sup>lt;sup>97</sup> Note, however, that in this situation the choice not to pay an energy or water bill may, in fact, be the result of an inability to afford the service. A household that cannot afford its energy or water bill may "skip" the premises to avoid payment: see, for example, Unfair Deal, above n 61 at 10.

<sup>&</sup>lt;sup>98</sup> See the sources listed above, n 94; Western Region Energy Action Group (**WREAG**), *Powering Poverty: A report on the impact of the 2003-2004 electricity price rises on 12 low-income households in South Australia*, July 2004 at 8-9.

<sup>&</sup>lt;sup>99</sup> See the sources listed above, n 94; WREAG, *Powering Poverty: A report on the impact of the 2003-2004 electricity price rises on 12 low-income households in South Australia*, above n 98 at 8-9.

<sup>&</sup>lt;sup>100</sup> See, for example, Anglicare Victoria, *Financial Hardship in Victoria: Report by Anglicare Victoria*, May 2004 at 11: 50 percent of the low-income earners surveyed restrict the amount of heating they use within the home.

<sup>&</sup>lt;sup>101</sup> For example, Anglicare Victoria reported in its survey, above n 100, that '14 percent of respondents have a credit or store card. Cards are predominantly used to pay for groceries and utility bills.' See also the sources listed above, n 94; WREAG, *Powering Poverty: A report on the impact of the 2003-2004 electricity price rises on 12 low-income households in South Australia*, above n 98 at 8-9.

#### 1.6 What causes an inability to afford energy or water services?

#### 1.6.1 Principal causes of lack of affordability

The literature examining the inability of households to afford electricity, gas or water services identifies factors that contribute to a lack of affordability of those services. The Victorian Council of Social Service, in its submission to the ESC's Review of Full Retail Competition and the Consumer Safety Net for Gas and Electricity,<sup>102</sup> succinctly summarised the principal identified causes, which we discuss below:

• Inadequate income

Households on low incomes are more likely to have difficulties paying for their energy or water usage. Due to their low income, these households spend proportionately more of their income on energy and water than do more affluent households.<sup>103</sup>

Inadequate income is an issue at the heart of discussion regarding poverty generally. We do not focus on this factor in great detail in the Report, as it is self-evident that a higher income would increase the affordability energy and water services.

• Prices and tariff structures

The price of energy and water services is a major contributor to the affordability (or lack thereof) of these services. Indeed, the Chief Executive Officer of the United Kingdom's electricity and gas markets regulator, Ofgem, has stated that the lowering of energy prices is the single most important factor in reducing fuel poverty.<sup>104</sup>

In Victoria, electricity prices have increased significantly for residential consumers since the electricity industry was first corporatised.<sup>105</sup> As discussed earlier in section 1.4.6, average annual electricity bills for Victorian households have fallen since 1994 but are now trending upwards, just as the number of electricity disconnections fell after 1994 but is now trending upwards. In addition, a recent report based on an analysis of 55 financial counselling cases in Melbourne's outer south-east found that the reason that electricity and gas cases represented the large majority of utility cases they saw, as opposed to water cases, was 'almost certainly that water bills are smaller and more manageable'.<sup>106</sup> However, the size of a bill alone does not directly correlate with whether a household will have difficulties paying the bill.<sup>107</sup>

Pricing regulation and tariff structures impact significantly on the ultimate price that consumers pay for their energy or water usage. For example, pricing caps currently limit the amount that Victorian electricity and gas retailers may charge consumers. Tariff structures

<sup>&</sup>lt;sup>102</sup> VCOSS Submission, above n 94.

<sup>&</sup>lt;sup>103</sup> ABS, *Household Expenditure Survey: Summary of Results, 1989-1989*, Catalogue No. 6530.0, June 2003 - a summary is available from the ABS website at www.abs.gov.au; see also Changing Pressures, above n 94 at 2; FCRC Electricity Case Study, above n 94 at 19.

<sup>&</sup>lt;sup>104</sup> The Office of the South Australian Independent Industry Regulator (now the Essential Services Commission of South Australia), *Elderly and Low Income Earners at Risk of Fuel Poverty – UK Expert*, Press Release, 1 July 2002; see also the Ofgem website at www.ofgem.gov.uk under "Protecting customers".

<sup>&</sup>lt;sup>105</sup> Institute of Public Affairs, *A Brief Analysis of the Benefits of Privatising Victoria's Electricity Industry*, Energy Issues Paper No.20, August 2001 at 7-8; see also G Dufty, *What has energy competition delivered for Victorian households?*, above n 89.

<sup>&</sup>lt;sup>106</sup> Springvale Community Aid and Advice Bureau, CUAC Grants Project, May 2004 at 6.

<sup>&</sup>lt;sup>107</sup> See also Roy Morgan Research, Victorian Utility Consumption Survey 2001, above n 94.

will distribute costs differently across different groups of consumers.<sup>108</sup> Tariff structures are discussed further in chapter 5.

Consumption levels

Greater consumption of energy or water will generally lead to a larger bill and, consequently, may render energy or water unaffordable for some households. Two major causes may increase a household's consumption of energy or water to levels that are unaffordable for the household.

(i) Life cycle stages

A household's need for, and therefore consumption of, energy and water will depend on the household's size and the needs of its occupants.<sup>109</sup> It follows that some households may need to use more energy or water than others, without necessarily receiving a corresponding increase in income or decrease in prices, rendering energy or water less affordable for those households.

Larger households, for example with children, will naturally use more energy and water than a single-person household.<sup>110</sup> This may mean that larger households require either greater income or discounts to the price they pay for energy and water if their energy and water service is to remain at the same level of affordability as for a smaller household. This is recognised by the use of equivalised income estimates by the Australian Bureau of Statistics (income adjusted to reflect household size and composition)<sup>111</sup> and, to some degree, by the administration of the concessions scheme to reduce energy and water bills for certain Victorian households.

Household needs will also vary according to life cycle needs. Households that comprise persons who are at home during the day are more likely to use more energy and water at home and therefore receive larger energy and water bills. For example, the elderly, persons with an illness and the unemployed are all likely to use more energy and water at home.<sup>112</sup> These households are also more likely to be low-income due to lack of employment. In contrast, those who spend their day at work will consume energy and water at their work place and will not, therefore, pay for this consumption themselves.

(ii) Poor quality housing stock and inefficient household appliances

The other major contributor to a lack of affordability of energy and water services due to increased consumption levels is poor quality housing, for example housing that is not wellinsulated against heat or cold, and inefficient appliances that use too much energy or water.<sup>113</sup> Again, this may lead to greater consumption of energy or water and, consequently, larger bills.

<sup>&</sup>lt;sup>108</sup> See, for example, Water Consultation Paper, above n 29 at 37; ESC, Approach to Pricing, above n 37 at 2-8; Changing Pressures, above n 94 at 2; FCRC Electricity Case Study, above n 94 at 20-21. <sup>109</sup> See, for example, VCOSS Submission, above n 94 at 3; FCRC Electricity Case Study, above n 94 at

<sup>20.</sup> <sup>110</sup> See Roy Morgan Research, *Victorian Utility Consumption Survey 2001*, above n 94 at 44, 46, 86. <sup>111</sup> ABS, Household Income and Income Distribution, Australia, 2000-2001, Catalogue No. 6523.0,

July 2003 - a summary is available from the ABS website at www.abs.gov.au; see also the Allen Consulting Report, above n 3 at 16.

<sup>&</sup>lt;sup>112</sup> See, for example, Changing Pressures, above n 94 at 2; Unfair Deal, above n 61 at 9; WREAG, Powering Poverty: A report on the impact of the 2003-2004 electricity price rises on 12 low-income households in South Australia, above n 98 at 9-10.

<sup>&</sup>lt;sup>113</sup> See, for example, VCOSS Submission, above n 94 at 3; Changing Pressures, above n 94 at 2; FCRC Electricity Case Study, above n 94 at 20.

Low income households are less able to afford to pay the higher rent needed to secure better quality housing<sup>114</sup> and as tenants do not have the ability to make improvements to their rental accommodation.<sup>115</sup> Even in their own home, they cannot afford to pay for improvements to insulation that would reduce heating (or air-conditioning) costs, place curtains on windows or repair leaking pipes.<sup>116</sup>

Similarly, poor quality rental accommodation is more likely to have inefficient or faulty appliances such as heaters, hot water heaters and shower heads. Low-income households are not able to pay the up-front costs for repairing or replacing such items even if it is their responsibility.<sup>117</sup>

The causes discussed above may combine in a variety of ways to render energy or water unaffordable for a household. They may also arise on a temporary or long-term basis, meaning that a household may experience a temporary crisis in its ability to afford energy or water or may face long-term financial hardship and inability to afford energy and water services.<sup>118</sup> For example, a household with one main income-earner who finds themselves unemployed or unable to work due to illness may suddenly be unable to afford its next energy or water bill. New employment or a recovery in health may then alleviate this situation. By contrast, a single parent who remains on a pension and is unable to work due to child-rearing obligations may experience constant difficulties in affording energy and water services.

1.6.2 Contributing causes of lack of affordability

Many other factors will impact on the principal causes of lack of affordability identified above.

Assistance schemes, in particular, may impact on a household's ability to afford its energy or water bills. For example, the availability of concessions or financial grants may reduce a household's bills to an amount that is affordable for that household. Billing and payment options may also affect the affordability of energy or water services for some households. A household may not be able to afford to pay a large bill every three months but may be able to afford to pay smaller instalment payments towards the cost of their energy or water usage on a regular basis.<sup>119</sup>

It is important to understand that even a small change in relation to one or more of the contributing factors described above may push a household into a situation in which it is unable to afford energy or water services. This is particularly the case for low-income households, which do not have a "buffer" of resources to manage unexpected problems such as illness, unemployment or an unusually high bill. In his book *The Lowest Rung*, Mark Peel describes this situation as follows:

<sup>&</sup>lt;sup>114</sup> See, for example, VCOSS Submission, above n 94 at 3;

<sup>&</sup>lt;sup>115</sup> WREAG, Powering Poverty: A report on the impact of the 2003-2004 electricity price rises on 12 low-income households in South Australia, above n 98 at 10-11.

<sup>&</sup>lt;sup>116</sup> As above.

<sup>&</sup>lt;sup>117</sup> See, for example, VCOSS Submission, above n 94 at 3; Changing Pressures, above n 94 at 2; WREAG, *Powering Poverty: A report on the impact of the 2003-2004 electricity price rises on 12 low-income households in South Australia*, above n 98 at 10-11.

<sup>&</sup>lt;sup>118</sup> See Switched Off, above n 61; FCRC Electricity Case Study, above n 94 at 19.

<sup>&</sup>lt;sup>119</sup> See, for example, Switched Off, above n 61; Unfair Deal, above n 61; Romeril, *Powerless in a Privatised State: the impact of privatisation on domestic electricity disconnections*, above n 58.

...[T]he best definition of poverty was its persistent insecurity...Pushed into poverty by accumulating misfortune, they did not have the resources to protect themselves from its consequences.

### **1.7** Measuring the affordability of energy and water services

There is basic agreement regarding the causes of a lack of affordability of energy and water services and the manner in which an inability to afford the services will manifest itself. There is less agreement on how we measure whether energy or water services are, or will be, unaffordable for some households.

Colton analysed US literature regarding the measurement of energy need in 1993 and concluded that there were several different ways in which a lack of affordability may be measured.<sup>121</sup> One was to look at the ability of a household to maintain service or, in other words, to avoid disconnection. This approach, however, does not take into account the difficulties that a household may experience in remaining connected – in the terms discussed earlier, it does not account for other manifestations of a lack of affordability.

Another method of measuring affordability was to analyse the burden that the energy bill placed on the household's income as a percentage of income. The problem with such an approach is that it does not reflect the actual expenses that the household may be incurring for other essential goods and services. For example, a member of the household may be ill, requiring unusually high expenditure on medical needs.

The ability of the household to pay after considering other household expenses was a third method of measuring affordability. This approach, however, assumes that the energy bill is not prioritised. Colton concluded that all of the above approaches had shortcomings and, consequently, none were sufficient on their own to measure whether a household could afford its energy needs.

A recent report by the Allen Consulting Group to the ESC makes similar arguments.<sup>122</sup> It points out that measuring affordability as a percentage of income requires an arbitrary judgement as to where that affordability threshold should be set and, further, the threshold may not be appropriate for all income groups. The report also queries whether "take-up rates" (connection to the service) are a clear indicator of affordability where the service is an essential service, as consumers will be more willing to pay for the service even if they cannot afford it.

The report also states that disconnection may not necessarily indicate that a household was unable to pay its bill. As discussed earlier, this Report does not examine all possible drivers of disconnection and we recognise that there are gaps in knowledge in relation to the causes of disconnection as a whole. Disconnections alone cannot, therefore, be a measurement of lack of affordability.

However, in terms of examining disconnection due to incapacity to pay, we do not consider that we must first know whether all disconnections for non-payment are the result of a lack of affordability of the energy or water service. As stated above, our underlying goal is to prevent disconnection for non-payment as a result of incapacity to pay, not to prevent all disconnections. To do this, we need a more sophisticated understanding of why some households may not be able to afford their energy or water service.

<sup>&</sup>lt;sup>120</sup> M Peel, *The Lowest Rung*, 2003 at 8.

<sup>&</sup>lt;sup>121</sup> Colton, Methods of Measuring Energy Needs of the Poor, above n 96.

<sup>&</sup>lt;sup>122</sup> Allen Consulting Report, above n 3 at 13-15.

The relatively small number of Victorian households that participated in our survey prevents us from drawing a conclusion regarding the best methods of measuring the affordability of energy and water services. However, as discussed in chapter 2, our survey does allow us to analyse whether the households that participated in the survey were able to afford their energy or water service, and if not, what contributed to this inability to afford the service. In chapter 4 we analyse the findings of our survey in line with the discussion of affordability of energy and water presented in this current chapter.

Our findings suggest that a better way to measure affordability may be to move to an alternative approach that measures affordability by descriptive, normative means. A descriptive measure of affordability would allow a more sophisticated understanding of when households are unable to afford their energy or water service. It is possible to conceive of measuring energy and water affordability in terms of situations that we do or do not consider acceptable.<sup>123</sup> Disconnection for non-payment may be one such "unacceptable situation" for a household to find itself in, as might be the other manifestations of an inability to afford energy or water. These would be considered amongst a set of other "unacceptable situations" to determine whether, as a whole, the service is unaffordable for the household.

The next chapter discusses our survey of disconnected Victorian households.

<sup>&</sup>lt;sup>123</sup> See CUAC, *Submission to the Review of the Effectiveness of Full Retail Competition Issues Paper*, Submission to the ESC, February 2004 at 6, available from the ESC website at

www.esc.vic.gov.au/gas728.html; Cf the set of financial stress indicators developed by the ABS to help determine whether a household is in financial hardship – see ABS, 'Special Article - Household income, living standards and financial stress', *Year Book Australia 2002*, Catalogue No. 1301.0, January 2002; see also the use of deprivation variables in WREAG, *Powering Poverty: A report on the impact of the 2003-2004 electricity price rises on 12 low-income households in South Australia*, above n 98 at 8.

# **Chapter 2 The survey - research perspective and methodology**

### 2.1 Introduction

CLCV and CUAC conducted a survey of disconnected or restricted Victorian energy and water customers in January and February 2004 (the **Survey**). The Survey consisted of 32 indepth telephone interviews and three face to face interviews conducted by CLCV and CUAC staff.

The material presented in chapters 3 and 4 is based predominantly on the findings of the Survey. Where appropriate, this material is supported by quantitative data and qualitative data collected by external sources.

### 2.2 Research sample

#### 2.2.1 Telephone interviews

The Survey's sample of households was sourced by inviting disconnected or restricted Victorian energy and water customers who had contacted EWOV during the previous 12 months to participate in the Survey. EWOV was able to contact:

- 32 out of a total of 96 disconnected electricity customers, of whom 28 gave consent to participate in the Survey;
- 21 out of a total of 51 disconnected gas customers, of whom 15 gave consent to participate in the Survey; and
- one out of a total of two restricted water customers, who gave consent to participate in the Survey.

All customers who were willing to participate in the Survey received a letter from CLCV and CUAC informing them about the Project and approximate telephone interview dates (the letter is appended at Appendix A). In total, we were able to interview 17 disconnected electricity customers, 13 disconnected gas customers and one restricted water customer by telephone.<sup>124</sup> Some of the respondents had been disconnected from both electricity and gas around the same time period. In those cases, we chose to ask about the most recent disconnection that the customer had experienced.

2.2.2 Face to face interviews

Three of the telephone interview respondents participated in a second, face to face interview. The face to face interviewees were not randomly chosen as we had limited opportunities to undertake travel and many of the telephone interviews were conducted with consumers in rural and regional Victoria (37.5%). Instead, we contacted four respondents whose stories highlighted common issues raised by consumers disconnected due to incapacity to pay. Three of these four respondents were able to meet with us and the face to face interviews ranged from 30 minutes to over an hour. In all three cases we met the respondent in their current

<sup>&</sup>lt;sup>124</sup> We conducted 32 telephone interviews in total, however one of the gas customers we interviewed had not actually been disconnected as EWOV had intervened and negotiated a payment plan. We did proceed with this interview, and the customer was a financial hardship case, but this respondent has not been included in our disconnection statistics. The figures referring to disconnections are therefore based upon 31 interviews only.

home and \$30 was paid to them in compensation for their time.<sup>125</sup> The three case studies are presented in detail in chapter 4.

### 2.2.3 Sample source

We are aware of the impact that the sourcing agency for interview respondents may have on the representative nature of a sample. For example, some workers expressed the view to us that as emergency relief agencies such as the Salvation Army and St Vincent de Paul more often assist the chronic poor, whilst the clientele of financial counsellors are more often individuals in temporary financial crisis, respondents sourced from these different groups may have different experiences of affordability problems and disconnection.

We acknowledge the concern that only fairly well-informed consumers may be aware of the EWOV scheme, and that this particular group may therefore be overly-represented in our sample. On that basis, we initially planned to source respondents from emergency relief agencies and financial counsellors in addition to EWOV. However, as 22% of the respondents sourced from EWOV had been in contact with a financial counsellor prior to contacting EWOV, and 19% of the respondents had been in contact with a welfare agency, this would have involved the risk of sourcing the same respondent twice.

Despite the sole sourcing agency, we consider that our sample is comprised of a good mix of households who were experiencing financial difficulties for the first time and households with ongoing financial problems. 78% of respondents to the Survey said that they had experienced previous difficulties in paying the relevant expense.

# 2.3 The interviews

The principle objective of the Survey was to document customers' experience of disconnection. Questions were asked about the lead up to the disconnection from supply, the reconnection of supply, the aftermath and household demographics. In addition, we asked the respondents to tell us in their own words what it was like to be disconnected. As the aim of the Survey was not to measure retailers' compliance with their customer service obligations nor to benchmark best practice amongst the retailers, the respondents were asked not to name their suppliers and company-specific information was not recorded.

The interviews consisted of a series of both open and closed questions. Open questions were used, in particular, to provide the respondents with the opportunity to relate what was taking place in their lives at the time, what it was like to be disconnected and what they thought could have helped avoid a disconnection in their situation. Closed questions were used to collect demographic data and to provide a framework by which to compare certain information, such as type of utility disconnected, billing arrangements, amount owed and financial assistance obtained (if any). The interview running sheet is appended at Appendix B.

The face to face interviews where used to expand on the information gathered in the telephone interviews. In particular, we focused on obtaining a more detailed understanding of the financial situation the respondent was in by asking whether they had been experiencing difficulties in paying for other essential goods and services at the time of disconnection. The face to face interviews also explored the issue of energy efficiency and quality of housing stock and appliances in more depth than the telephone interviews, both through asking further questions and by making our own observations.

<sup>&</sup>lt;sup>125</sup> The respondents were made aware of the compensation amount at the time we requested a second interview. None of the respondents expressed to us that this payment was necessary, however they told us that it was appreciated that we valued their time and assistance in the Project.

All respondents were informed that the interviews were confidential and that their name and contact details would be removed as soon as the information had been processed.

# 2.4 Analysis

The quantitative data collected by the Survey has been categorised and coded. We have analysed the qualitative information collected by the Survey on the basis of the customers' interpretation of, or perspective on, their situation.

Due to the relatively small sample size of the Survey, our analysis also took into account whether the findings of the Survey diverge from or converge with previous studies, where comparable. Divergence does not mean that we necessarily reject the findings, however we accept that major differences may indicate that further empirical research is needed.

# 2.5 Customer perspective

We acknowledge that the sample size of the Survey is limited and, therefore, our findings do not purport to be representative of all Victorian households disconnected or restricted from energy or water. However, the interviews provided interesting information on the manner in which consumers themselves experience disconnection or restriction and how they perceive the process unfolding.

The customer perspective is usually overlooked in retailer performance assessments. The ESC's *Energy Retail Business Comparative Performance Report* for the first half of 2003, for example, reported that 8249 domestic electricity and gas customers had been disconnected by the local energy retailers from January to June 2003.<sup>126</sup> However, amongst the 31 disconnected households interviewed in the Survey, there were 63 'indirect customers' (comprising 11 adults and 52 children) in addition to the respondents interviewed.<sup>127</sup> This means that there were 92 consumers disconnected or restricted from access to an essential service living in the households involved in the Survey; these households would be counted as only 31 customers for the purposes of ESC retailer performance reports. The above numbers indicate that the ESC retailer performance reports disregard a large number of consumers living without gas or electricity or with a limited water supply, a significant proportion of whom are children.

We have endeavoured to clarify any ambiguities in the stories that were told to us, however we understand that it is difficult for most people to recount their experiences with complete accuracy. That said, the purpose of the Survey was not to uncover the most outrageous customer treatment, but rather to identify recurring themes and to develop an understanding of the contexts in which households lose access to essential services. Mark Peel, in his most recent book about poverty in Australia, observed a preoccupation with the supposedly distinct behaviour of poor people:

'We are encouraged to focus on what is wrong with poor people, and on their bad decisions, rather than what might be wrong with the context in which those decisions have to be made.'<sup>128</sup>

In undertaking the Survey, our aim has therefore been to shed light on the context in which households are disconnected due to an incapacity to pay.

<sup>&</sup>lt;sup>126</sup> ESC, *Energy Retail Businesses Comparative Performance Report 1 January – 30 June 2003*, December 2003 at 12-14.

<sup>&</sup>lt;sup>127</sup> By 'indirect customers' we mean individuals living in a household but not registered as a customer of the relevant energy or water supplier.

<sup>&</sup>lt;sup>128</sup> M Peel, *The Lowest Rung: Voices of Australian Poverty*, 2003 at 23.

As noted in chapter 1, the concept of lack of affordability of essential services is interchangeable with that of 'fuel poverty'. In this Project, however, the intention has not been to measure how many Victorian households would fall into such a category, for example by determining a percentage level of expenditure on energy or water that qualifies as fuel poverty in Victoria.<sup>129</sup> Our starting assumption is that there are a sufficient number of Victorian households facing affordability and access problems for it to cause concern and warrant the implementation of solutions. By using the Survey to examine the experiences of Victorian households and the causes of their inability to afford energy or water, we hope to enable the development of more refined and effective customer assistance and protection measures.

We believe that the Survey increases our understanding of the situation that energy and water customers in financial hardship face, assists in identifying circumstances that separate the "can't pays" from the "won't pays"<sup>130</sup> and demonstrates that relatively small and simple changes may reduce the number of disconnections and restrictions.

<sup>&</sup>lt;sup>129</sup> We do believe that such work has the potential to provide a valuable contribution to the debate regarding fuel poverty, especially if any measures developed were updated over time and the effect on the nature and existence of fuel poverty of changes in the markets and to government policies could be assessed.

<sup>&</sup>lt;sup>130</sup> The ESC distinguishes between customers who "can't pay" and customers who "won't pay". See, for example, ESC, *Project Brief: Disconnection and Financial Hardship Performance Indicators*, June 2003 at 2.

# **Chapter 3 Experiences of Disconnection**

### 3.1 Telling a household's story

This chapter presents the experiences of Victorian households that have been disconnected from electricity, gas or water services, as told by the households that participated in our Survey.

We have chosen a straightforward approach to convey what it was like for our interviewees to be disconnected or restricted from an essential service. This chapter will uncritically recount the responses that we received when we asked participants to describe, in their own words, what disconnection was like. We are aware that this approach may lead to some questioning of the accuracy of the statements we have reproduced. However, poverty researcher Mark Peel has discussed this dilemma articulately:

'We create personal histories that are also stories, because remembering always involves shaping events into tales that can be told to the person who has asked for them. Memory is not the past as it exactly was, but the past as it seems now'.<sup>131</sup>

We agree with the above comment and consider that our approach is therefore the best way to understand how the households we interviewed experienced and were affected by disconnection.

Nevertheless, we also remind the reader that all of the respondents sought assistance from EWOV in order to get reconnected and that talking to us was, consequently, not the first time that they had provided an account of what occurred. As Peel noted:

'Those who rely upon others for help must become very skilled at producing an account of themselves...their autobiographies must be produced on demand and on the run, to the social worker or the police officer or at the emergency relief counter'.<sup>132</sup>

For structural expediency, this chapter will present the responses we collected by focusing on and highlighting the typical kinds of distress or grievance experienced when a household is disconnected from energy or water. We have noted a distinction between the physical, the emotional and the externally aggravated types of distress which the experience of disconnection can produce.

We will also discuss three particular situational factors that featured prominently in the stories we were told. These constitute: disconnected households with children; electricity disconnections of households in rural and regional areas such that it also affects the supply of water from water pumps; and households that borrow money in order to pay to have their energy or water service reconnected. The first of these three situations occurred more frequently than the others in the stories of the households we interviewed. However, all three situations increased the severity of a household's experience of disconnection.

As the reader will note from the stories presented in this chapter, often more than one of these types of distress or situational factors feature when a household is disconnected from an essential service. For example, one single mother touched on issues such as the physical essentialness of gas, the aggravation caused by poor customer service and child welfare in one short statement to us by describing her experience of gas disconnection as:

<sup>&</sup>lt;sup>131</sup> M Peel, *The Lowest Rung – Voices of Australian Poverty*, 2003 at 11.

 $<sup>^{132}</sup>$  As above at 12.

It is very frustrating. The company said they had rang to let me know which was not true. At the same time you need to get it back on because you rely on it. You've got to have it with four children in the house.

We have not attempted to distinguish between types of distress and situational factors in this Chapter because we believe that problems associated with disconnection can be solved if only certain types of distress are addressed or certain situational factors avoided, for example that customer call centres treat all customers with respect or that suppliers be prevented from disconnecting any household with children. Rather, by making these distinctions we hope to draw the reader's attention to what emerged as key aspects of the disconnection experience.

As expected, disconnection caused significant distress or grievance amongst all of the respondents we interviewed, however we also registered an exacerbation of distress correlating to cases of financial hardship or lengthy time off supply. Another common cause of exacerbated distress was concern about the effect that disconnection would have on children or people with an illness.

We believe that the stories presented in this chapter, by demonstrating the significant distress caused by disconnection from electricity, gas or water, highlight not only why these services are essential but also why it is unacceptable to allow Victorian households to be disconnected solely on the basis of incapacity to pay.

Names used in this chapter have been changed to protect privacy.

# 3.2 Physical, emotional and aggravated distress

We would like to point out three distinct types of distress that the respondents to our Survey talked about in their answers to our question regarding what disconnection was like.

The first we term physical distress, which pertains to the physical experience of being without an essential service, such as being unable to cook, shower or heat a residence. The second is the emotional distress which is connected to embarrassment and concerns about the effect of disconnection on the hygiene and health of the customer and other residents in the household. The third is distress caused by being in an urgent situation but being unable to access the assistance or understanding required to solve the problem as quickly as possible. We refer to this condition as 'aggravated distress' because it is characterised by having the distress of being disconnected aggravated by the inability to resolve the situation, generally because of supplier conduct.

This third factor of 'aggravated distress' was heavily emphasised by the households we interviewed and we believe it is an important aspect of the disconnection experience that needs to be highlighted. We do not believe that any household should be disconnected solely due to an inability to pay for energy or water services, however we would have assumed that, in any case, it should at least be a minimum requirement that disconnected customers who contact their supplier are met with a willingness to resolve their situation and are reconnected as quickly as possible.

# 3.2.1 Physical distress

Physical distress associated with being unable to access energy or water arises due to the essentialness of these services. We believe that the physical impact of disconnection is often forgotten when disconnection rates are being reviewed in a policy or regulatory context.

One of our interviewees was a middle aged single woman renting public housing in a regional town, who was disconnected from electricity after a long period in hospital that prevented her

from renewing her pension. This disability pensioner described her two days without electricity supply as follows:

It was minus 2 degrees and I had no heating and I was in bad health as I had just gotten back from hospital. My health problems make me dependent upon good heating and cooling. I need to cook food for my medications so I guess it interfered with my health. I was isolated, not able to travel and I had no telephone. The food in the fridge and the freezer went off – which caused extra financial loss – plus that I had to get hold of new food.

Steven was another disability pensioner who we interviewed. Steven was renting a flat in a Melbourne suburb and had been disconnected from electricity for 21 days. He had recently become a disability pension recipient after an accident left him unable to work. He had also recently suffered a relationship break-up and the disconnection meant that his child could not come and stay with him as had been arranged. Steven said the following about the disconnection:

Had to stay with friends – sleep on their floor. They [the company] left me there in the dark. We talk about third world countries - prisoners get cooked meals - why is it that poor people are treated worse?... I don't have much social life because of my disability. My social life is my DVD and TV – it is my life. I used to be a computer technician, before the accident, I've got electronics. I pride myself on my electronics.

Steven's story is discussed in chapter 4, as is Tom's. Tom told us that being disconnected from electricity was:

Torture. It was hell. Something I don't want to go through ever again. I couldn't get warm...You come home and it has been raining and you are wet...Had to rely on your friends to get warm.

Sue's story also highlighted the physical distress caused by disconnection. We discuss Sue's story in more detail in chapter 4, however, in terms of being disconnected from her electricity supply, Sue told us that:

It was awful. It was freezing so we all sat in one room but that was too cold so we had to sit in the car because it was warmer. I couldn't cook because there were no lights and I had no money for takeaway so we just sat in the driveway until it was reconnected. I was using all the money I had to call the company from the phone box because my phone was off. My son cried – he was asking why they turned it off. My daughter had a really bad flu. We all put on jumpers and other things to keep warm.

Sue and her three children's experience demonstrates just how essential electricity is to the functioning of a Victorian household, as Sue's family could not eat or stay warm while disconnected. We believe that Sue's experience is a clear example of why disconnecting households who cannot afford to pay for essential services is unacceptable.

Mark, another interviewee whose story appears in chapter 4, also summed up how essential he considered electricity to be when he told us:

We have a baby and you need to cook dinner. Just can't live without it [electricity].

We also spoke to a mother in a family of five in Melbourne, whose household was disconnected from both gas and electricity at the same time (for four and three days respectively) by the same supplier. EWOV negotiated a payment plan for the household and arranged for them to be reconnected. The supplier also agreed to waive \$80 of their gas bill and \$50 of their electricity bill as compensation for the way in which it had treated the family, which the mother characterised as small but still helpful. She said that the days during which the family was disconnected were:

Horrible, absolutely horrible. No hot water. Candles at night. People say you can live without electricity and gas, but you can't. We went to a friend's house for a shower. Cooked on the barbeque. Couple of the nights were cold. Felt like someone ripped a part of me out.

3.2.2 Emotional distress

The experience described just above also demonstrates the emotional distress that can accompany disconnection. The mother told us that being disconnected 'felt like someone ripped a part of me out'.

Humiliation and embarrassment at being disconnected were very commonplace among both respondents living alone and respondents with children. In most cases, descriptions of the physical endurance of distress, such as cold homes and lack of food preparation options, were directly followed by comments pertaining to how degrading it felt to be unable to perform these daily tasks that we take for granted.

For example, a single female healthcare card holder renting a house in an outer Melbourne suburb described to us her two days without gas supply as follows:

No heating in the middle of winter – it was very cold. No ability to cook, no ability to have a shower. Very humiliating. I had to go to a friend's to shower. Have to ask people if you can have a shower at their place – very degrading. My friend lent me an electric fry pan so I could do some cooking. Made sandwiches.

Above we quoted a disability pensioner who had been unable to renew her pension during a long stay in hospital. After making those comments about the physical impact of electricity disconnection, she went on to say:

There were social implications. Even if I had been able to go to someone's house it is kind of embarrassing to say that you have no electricity and no phone. I do understand that it is only electricity and that people were able to live without it in the past, but in this modern world not much happens without it. Despite what the retailers might say -I like to pay my bills.

Steven's comments also reflected the degradation he felt at being disconnected:

We talk about third world countries - prisoners get cooked meals - why is it that poor people are treated worse? When they disconnect you they take your pride away.

One single woman in rural Victoria had been unable to work for several years due to chronic fatigue syndrome and was unable to afford her high electricity bills on her disability support pension. She was disconnected from her electricity supply:

It was very stressful because I am in a remote area and need electricity to pump water...It was also freezing. I had to light a wood fire, I was extremely cold and miserable. I felt powerless and victimised – how much further can they push you down, just because you're sick.

We also spoke to a single mother with three children living in public housing, who had fallen behind on many bills after suffering depression which left her unable to work and reliant on the sole parent pension. Her household was disconnected from electricity for three days and the experience was clearly distressing for this mother and her family. She described the experience as follows:

It was cold. Everything in my house runs on electricity. That's why the bills got so high – have to use one of those small radiator heaters. I was panicking and worried about my sick child. She

had pneumonia and we had no communication. It was just a big vicious circle. You try to adjust but this time everything went wrong.

3.2.3 Aggravated distress

The third type of distress, aggravated distress, relates to a person's frustration at the way they are being treated. We found that distress due to being disconnected was primarily aggravated in this way by suppliers, however in some cases this frustration extended to society as a whole. The following stories serve as examples of how households' experiences were aggravated by the manner in which their supplier dealt with them.

One single mother with three children whose electricity was cut off explained:

It was scary and frustrating. My father was critically ill and I couldn't get hold of him as my phone needs electricity. I have an alarm system and since the electricity was cut off the alarm company started calling me. I had to make an expensive mobile phone call to get reconnected...I had to make a long call and argue a lot. The call cost me \$18 as they kept putting me on hold.

We also spoke to Maggie, a mother in a one income family with four children living in a private rental property in a small town in regional Victoria. Maggie's household had its gas supply disconnected after being hit by several expenses at once just after Christmas. Her household's experience of disconnection was aggravated by the manner in which the gas supplier dealt with Maggie and her family. Maggie's story is outlined in more detail in chapter 4, however, in summary, Maggie told us that her household was disconnected after they were unable to pay the amount that their gas supplier was demanding towards their gas bill, even though Maggie offered smaller payments. When Maggie later heard that her neighbours, who had also been disconnected, had been reconnected after agreeing to pay \$50 per week towards their gas bill, she contacted the supplier again to arrange a payment plan, but the supplier again refused to reconnect Maggie's household. Maggie's household was only reconnected after she learned about the existence of EWOV through a friend and contacted EWOV (agreeing to a payment plan of \$50 per week). In total, Maggie's household remained disconnected from gas for seven months. Maggie described the seven months without gas as:

Hell. Very exhausting, filling the bath up, boiling the kettle to do the dishes. I could manage, but it would be a lot easier with the children with the gas. I'd shower at friends, give kids baths, husband would shower at work. Once I got pregnant, I needed hot baths. Had to get the gas put back on.

It is not surprising that people become further aggrieved when they are unable to resolve their situation with their supplier. For example, earlier we quoted a single mother of three who had been suffering from depression and whose household had lived without electricity for three days after disconnection. This woman told us that the process of reconnection was delayed due to her electricity supplier's unreasonable demands. She had accrued over \$1,000 in electricity debt and her supplier demanded a large lump-sum payment to reconnect her:

[I] told a Centrelink worker [about the disconnection] who told me to call EWOV. EWOV said I had to call the company first. The company said I had to pay \$750 to get reconnected. I called EWOV again and they fixed it. I had to promise to pay \$75 within 2 days of getting reconnected.

Clearly, this household's significant physical and emotional distress at being disconnected for three days, as demonstrated by the earlier quote, would have been reduced or even avoided if not aggravated by the electricity supplier's conduct.

Other respondents also made statements referring to poor supplier service levels that aggravated their distress. For example, the single woman in rural Victoria who suffers from chronic fatigue syndrome, quoted above, also told us:

I rang the Ombudsman straight away. I was totally stressed out. They arranged for me to be reconnected within 15 minutes, but the field officer didn't come to reconnect me until the very end of the day.

Another single woman living in a flat in a Melbourne suburb thought she had successfully arranged a payment plan with her electricity supplier after she received an unusually high bill, and had begun making payments under this plan, only to find her home disconnected one evening before leaving for night shift work. She thought that a fuse must have blown but when she called her supplier's faults line from work, she was told that there was no fault and that, instead, she had been disconnected for non-payment. She said:

I had to wait until 9am to call the company. No one wanted to listen. I called different people for hours, finally called EWOV [after a referral]. I had to throw out food because fridge not working. Hardest thing was no lights (because I work nights, come home, had to get candles). Lost money from work because I was so tired, couldn't work because had spent so long calling, hadn't slept, so couldn't go to work the following night.

Further, we spoke to Helen, a single mother living in a regional town in Victoria, whose story appears in chapter 4. Helen's household was placed on water restrictions after falling behind on a payment plan that she found too difficult to afford. Although Helen tried to explain her financial circumstances to her water authority, she felt the staff at the authority were rude towards her. After Helen's water supply was restricted, she again tried to explain her financial circumstances to the authority but it did not listen. She said:

They said I had to pay \$50 before they would take restrictions off. Finally I spoke to one man who was a bit understanding, he said to go to a welfare agency. They gave me EWOV's number. I called them and I was taken off restrictions that day.

In fact, even those households who were disconnected not because of incapacity to pay but because of supplier error, made comments about the aggravation caused by their supplier's conduct. We interviewed a single middle aged man living in rural Victoria who was disconnected from electricity due to overcharging on his electricity bills by his supplier over a two year period. He contacted the supplier many times over the two years to try to correct the errors, to no avail:

It's just an appalling service. [I] contacted the company so many times.

A single father with one child living in rural Victoria was also disconnected due to supplier error. He had recently purchased and moved into a new home and agreed to purchase his gas supply from a particular gas retailer. However, a different gas retailer, who had supplied gas to the previous tenants at the property, was sending account reminders addressed to the previous tenants. Although the man tried to explain to this supplier that the old tenants no longer lived at the property, the supplier continued to insist that he was now responsible for paying their bill, which was, of course, incorrect. When this supplier disconnected the man's gas supply, he contacted the supplier and told us that he dealt with a rude woman who refused to reconnect his gas supply until he paid the account. He told us:

I made a very big fuss, had to. Eventually **my** company sent someone out after hours to reconnect me. [His emphasis]

Meanwhile, he and his son lived without gas:

It was freezing – gets very cold here. My neighbour lent me an electric heater to help. I couldn't cook. Had to get takeaway. Couldn't wash, couldn't wash my 5 year old son. We rely on gas.

The point here is that all the households referred to above had their situation severely and unnecessarily compounded because supplier staff, primarily call centre staff, were either unwilling, unable or lacking the authority to assist their customers in an adequate and effective manner. The following statement was made by the accountholder of a shared household consisting of three adults and three children, who had their gas disconnected for two weeks after being unable to pay a \$600 lump-sum amount being demanded by their gas supplier:

When I was first disconnected, I called the company and the person just said bad luck. I called again later and the [different] person was helpful, told me about the Ombudsman. I got onto them and I was connected within a few hours.

This household would not have remained disconnected for two weeks if the first person that this woman spoke to at the supplier had simply given her the information regarding the existence of EWOV, avoiding:

We couldn't shower – had to go to other people's houses to shower. We lived on takeaway for 2 weeks. No heating.

More importantly, however, we question why the supplier was not able to resolve this matter itself and instead referred the woman to EWOV. All of the households we interviewed were reconnected after contacting EWOV, which makes us wonder why the suppliers were not able to negotiate acceptable arrangements with these households in the first place.

### 3.3 Households with children

The first situational factor we have chosen to highlight was a common one among our interviewees. Among our group of respondents, 68% of the disconnected households had children. Moreover, 62% of these households were single parent households. In many cases, this contributed to difficulties in organising reconnection as, for example, children needed to be looked after or taken to school or kindergarten.

Statistics regarding rates of disconnection, such as those analysed in chapter 1, count a disconnected customer as one disconnection. However, our Survey highlighted that one disconnected customer may, in reality, equal many disconnected people including children. This means that disconnection rates do not reflect the number of Victorians who have been forced to live without energy or water at some point in time. The 2001 Census reported that 48.4% of Victorian households in occupied private dwellings were comprised of a couple with children, while a further 14.8% of Victorian households were single parent households.<sup>133</sup>

Sue, who we mentioned earlier, first realised that her home had been disconnected from electricity when she got home around 3.30pm after picking up her children from school. When she contacted her supplier she was told that the disconnection was punishment for not paying her electricity bills. EWOV arranged for Sue's home to be reconnected, however Sue waited until 10.30pm for reconnection. The workers who came to reconnect the electricity told Sue that they only received the job request at 9.30pm.

Seven hours without electricity may sound harmless enough, but without sufficient funds to buy her children dinner and by having to stay at home to wait for workers to arrive to

<sup>&</sup>lt;sup>133</sup> ABS, 2001 Census Basic Community Profile and Snapshot, November 2002.

reconnect supply, it was a traumatic evening for this family of four. As we quoted above, Sue said:

...we just sat in the driveway until it was reconnected...My son cried – he was asking why they turned it off. My daughter had a really bad flu. We all put on jumpers and other things to keep warm.

Another woman we interviewed had recently qualified for the single parent pension as the father of her children had been imprisoned. She was living in public housing in an outer Melbourne suburb with her four children when her household was disconnected from gas. She had been on a payment plan at the time her household was disconnected, however, she explained that she had problems paying fortnightly instalments of \$40 as her children were starting school and she had to pay for expenses such as books and uniforms for her four children, which was difficult with the household's drop in income.

The household was reconnected the following day as the woman contacted a Salvation Army Crisis Centre and they contacted EWOV on her behalf. Although this was not the first time she had been disconnected from an essential service, the woman described the situation as 'pretty traumatic'. She said:

How was I going to feed the kids? I didn't have money for fish and chips, [they're] not that cheap anymore. Luckily, I had an electric fry pan. How was I going to bathe the kids? Because they have to go to school. Luckily the hot water tank was full. If it had been longer, would have been bad. Couldn't use the heater – the kids put doonas around them.

We spoke to another single mother with four children, living in public housing in a regional town, whose household was disconnected from electricity. She had been on a fortnightly payment plan but one fortnight paid only half the due payment as she was short of money that week, intending to make up this half-payment the following week. However, her household was disconnected a few days later. She told us that the disconnection was:

Terrible. I couldn't have a coffee. We had electric hot water so I couldn't bathe my daughter to go to kinder. The kids were nagging me because they were bored (no TV). I couldn't send them to school because I couldn't have them saying Mum's disconnected. Not fair, because I was going to pay, just not given time. The kids had no tea, I had to give them jam sandwiches, which they weren't happy about.

Kate's experience of disconnection also centred on the distress caused to her children. Kate's story is detailed in chapter 4, however Kate and her three children were left with no gas supply for 10 days after being disconnected for the second time over a gas debt, having failed to keep up with payments under a payment plan agreed following the first disconnection. Kate said the experience was a 'nightmare':

[I have] three children, one asthmatic. He plays football, trying to get him to take a bath in an inch of water! I didn't want to have people over because the place was so cold. It was damp smelling because it was so cold. The kids all got colds, so I had to pay for medication. Kids would go to bed with beanies, parkas, gloves on. People said it was warmer outside than inside! No insulation, heaps of windows. Getting the kids clean was horrible. For me, it was terrible not having hot water. My friend gave us a portable electric heater. The landlord didn't want me to use it but I had to.

Amongst the stories told to us by disconnected parents, it was fairly typical that expenses relating to their children often meant that there were insufficient funds to pay the utility bills on time. Typically, these expenses were in relation to Christmas, starting school and children's medication. This highlights the dilemma many of these parents experience – they want to be good parents and give the children what they need, while at the same time they

express great concern about having their children living in a home disconnected from an essential service. As Kate told us:

I only buy the basics, don't go out, I go without so my kids can be ok.

Maggie, whose experience was discussed earlier, said:

It [disconnection] was just after Christmas, and even though we can't do much during the year we try to give the kids a good Christmas – [we] had about \$2,000 owing from that.

Chapters 1 and 4 discuss factors contributing to an inability to afford energy or water services and to disconnection for non-payment and, although there are various reasons why parents may be unable to pay utility bills and be cut off from supply, we hope that the reader will keep these parents' stories in mind when considering the remainder of this Report. We strongly believe that the experiences of these parents and their children provides an even greater demonstration of why it is unacceptable to disconnect a household from energy or water when it is unable to pay. Further, it appears that a significant number of children are affected by disconnections, although this is not recorded in official rates that count disconnected account holders only.<sup>134</sup>

#### **3.4** Electric water pumps

Many rural and regional properties in Victoria are not connected to the reticulated water system, and some of these properties therefore rely on a water pump that runs on electricity to provide them with their water supply from other water sources, for example a dam or underground bore. As such, when these households are disconnected from electricity, they are also disconnected from water.

In sections 3.2.2 and 3.2.3 above, we discussed the experience of a single woman in rural Victoria who suffered from chronic fatigue syndrome and was unable to afford her high electricity bills on her disability support pension. When we asked this woman to tell us what disconnection from electricity had been like, she said:

It was very stressful because I am in a remote area and need electricity to pump water. So no electricity means you are effectively disconnected from water. [It's] a health issue. Can't flush loo, can't wash your hands, not much I can do. It is the most devastating effect on a property not connected to town water.

For this woman, the most distressing aspect of her electricity disconnection was the fact that, as a consequence, she was unable to access water. Water suppliers do not generally disconnect households from water services for non-payment of a water bill, rather they restrict water supply due to the grave consequences for any household of being unable to access any water. However, for rural and regional Victorian households that are not connected to the reticulated water system and rely on an electric water pump, the possibility of disconnection from water for non-payment of a bill is, clearly, a very real threat.

We spoke to another woman in rural Victoria who had experienced repeated problems in paying her electricity bills, due to illness and a relationship break-up that left her reliant on social security benefits. We spoke to her about the third time she had been disconnected from

<sup>&</sup>lt;sup>134</sup> A total of 42 adults and 53 children lived in the 31 disconnected households we interviewed for this project. Research by NATSEM has estimated that 23% of Australians living in poverty in 2001 were dependent children: Lloyd, Harding and Payne, *Australians in Poverty in the 21<sup>st</sup> century*, NATSEM, University of Canberra, September 2004. The DHS reported that, in 2002-03, half of applicants for URGs, which are used as crisis bill assistance, were from families with two or more children: Concessions Unit, DHS, *State Concessions 2002-2003*, Annual Report at 25.

electricity and although she was reconnected the same day, cutting off her electricity supply meant that her home became unliveable. The woman explained:

I just didn't go home. I stuck my food in the freezer. My daughter came and picked me up. I had no water so I couldn't stay in the house.

Electricity retailers are not permitted to disconnect customers dependant upon electricity to run medical equipment.<sup>135</sup> On the grounds of the health issues pertaining to cutting-off water supply, we also consider that clause 14(b) of the new draft *Energy Retail Code*<sup>136</sup> should be amended to include another bullet point providing that a retailer must not disconnect a customer if:

• for electricity, the customer's supply address is registered by the relevant distributor as an electric water pump supply address.

#### **3.5 Borrowing money to pay for reconnection**

Nine of the respondents we interviewed had to make a payment to their supplier in order to be reconnected. Five of those nine households had to borrow the money required to make the payment.

In section 3.3 above, we discussed the case of a single mother with four children, living in public housing in a regional town, whose household was disconnected from electricity after she made only half the payment that was due to her supplier one fortnight. She also told us:

I had to pay \$150 to the company [to get reconnected]. I couldn't afford it but they wouldn't take less. I borrowed it from my ex-husband, he went mental but gave it to me.

Steven, whose experience was highlighted earlier, also had to pay his electricity supplier a \$150 up-front payment before it would reconnect his electricity supply. As Steven did not have the money, he asked his neighbour for some assistance and the neighbour agreed to charge the \$150 on his credit card. Even after this payment was made, Steven's supplier demanded further payment before it would reconnect supply.

A young woman we spoke to lived with her school-aged brother in a public housing property in Melbourne. Her household was disconnected from gas for several days after she struggled to keep up with payments under a payment plan. As she had recently become unemployed, the household income was only \$170 per week, nonetheless the gas company requested a minimum payment of \$150 prior to reconnection. She borrowed the money from friends.

We also spoke to the father in a young family of four renting a house in an outer suburb of Melbourne, who found themselves unable to pay a gas bill on time and were disconnected from gas. In order to reconnect the gas supply, the supplier demanded a payment of \$400. The father said:

The weather was getting cold and the heater wasn't working...the company basically said, "You're overdue, tough luck".

The father decided to charge the \$400 to his credit card in order to be reconnected.

<sup>&</sup>lt;sup>135</sup> *Electricity Retail Code*, October 2001 at clause 14(b).

<sup>&</sup>lt;sup>136</sup> Draft *Energy Retail Code*, May 2004, to apply from 1 January 2005; available from the ESC's website at www.esc.vic.gov.au/electricity587.html.

We have chosen to focus on the issue of borrowing money for the purpose of reconnection as we believe it provides a good illustration of why disconnected households may experience emotional or aggravated distress when disconnected. These households' only choice was between two evils – to remain off supply or borrow money. Having to borrow money was regarded as a degrading or distressing experience.

In addition, having to borrow money in order to pay for energy or water services may mean that these households, already in financial hardship, effectively pay more for the same services, as borrowing may entail repayment of the borrowed sum with interest. We consider that the households least able to pay for essential services should be able to pay less, not more, for these services. Forcing households in hardship to borrow money can achieve the opposite result. Anglicare Victoria's recent survey of low-income earners, undertaken in May 2004, reported that their respondents used credit predominantly to pay for groceries and utility (electricity, gas, telephone and water) bills.<sup>137</sup> A recent report by the Western Region Energy Action Group in South Australia also discussed this issue when it stated:

'Heating and cooling is more expensive for low-income households than for the more affluent, and particularly those who own their homes, due to... the practice of pawning goods to pay electricity bills, [which] is in effect taking out a high interest loan... Similarly the use of loans, credit cards etc. incurs a significant interest cost.'<sup>138</sup>

Moreover, borrowing money can lead to a debt spiral, in which households find themselves further and further in debt and unable to re-establish control over their finances. In fact, Sue told us that this had happened to her:

Since I've been single, about 3 years, I've had problems with bills. Maintenance payments stopped from my ex-partner in about March, which made it harder to pay all the bills, including electricity. I was behind in the rent, had to catch up. I had car trouble. I need the car to take the children to school because it's far away so I had to get it repaired. It was \$400 so I had to borrow to pay it. Then [I] had to repay [this loan] and I couldn't get back on top of the debts.

We consider that the above stories provide a salutary warning of the dangers of providing energy and water suppliers with free reign to demand payment amounts from customers who have not paid their bill. The stories therefore support the retention of legal obligations which ensure that an energy or water supplier must offer a customer with payment difficulties an instalment payment plan based on the customer's capacity to pay (this obligation is discussed further in chapters 4 and 5). We also think it provides a powerful rebuttal to any argument that the fact that some customers pay a utility bill only after receiving a disconnection warning or being disconnected demonstrates that these customers can pay their bills but choose not to pay. Rather, it appears likely that many such customers are forced into unsustainable payment actions when faced with disconnection from supply.

# 3.6 Conclusion

The households that participated in our Survey had experienced what it was like, in reality, to go without electricity, gas or water. The physical distress experienced by these households demonstrates precisely why these services are essential. Further, we consider that readers themselves will be upset by the physical and emotional distress experienced by these households and will therefore agree with us that it is unacceptable to allow Victorian households to be disconnected solely because they are unable to afford to pay their energy or water bills.

 <sup>&</sup>lt;sup>137</sup> Anglicare Victoria, *Financial Hardship in Victoria: Report by Anglicare Victoria*, May 2004 at 12.
 <sup>138</sup> Western Region Energy Action Group, *Powering Poverty: A report on the impact of the 2003-2004 electricity price rises on 12 low-income households in South Australia*, July 2004 at 11.

It is noteworthy that many of the households we interviewed had the distress of disconnection aggravated by the manner in which their supplier dealt with them. We believe that this distress was unnecessary and avoidable, and we look to suppliers to improve their conduct. We also consider that supplier conduct has a direct effect on the *affordability* of the services in question – this is discussed further in chapters 4 and 5.

The fact that many of the disconnected households we interviewed had children living in them demonstrates not only that more people are affected by disconnection than the account holder, but that the number of children affected by disconnection may be substantial. This provides even greater weight to the argument that it is unacceptable to disconnect a household from energy or water when it is unable to pay.

We also highlighted two other situational factors. First, we discussed the practice of disconnecting electricity supply to households reliant on electricity to power a water pump. This effectively allows electricity suppliers to disconnect households from water, a practice which (due to obvious health reasons) water suppliers themselves are unable to perform. We consider that this practice should be immediately prohibited. Secondly, we looked at households that borrowed money to pay for reconnection. This occurs because utility suppliers have strong bargaining power due to the severe implications of living without energy or water. Customers can thus be pressured to pay more than they can afford in order to secure reconnection. This practice only exacerbates the household's financial situation and effectively contributes to a debt spiral.

In summary, we believe that the experiences of the disconnected households we interviewed clearly demonstrate why disconnection on the basis of incapacity to pay alone is unacceptable and why we should devote resources to eliminating its occurrence.

The next chapter analyses the stories of the households we interviewed in more depth, in order to understand why these households found themselves unable to pay their bills and disconnected from supply. It is only by understanding the underlying causes of disconnection that we will be able to devise measures to address and prevent disconnection from taking place.

# Chapter 4 Causes of Disconnection

# 4.1 Introduction

The previous chapter explored the experiences of Victorian households that have been disconnected from electricity, gas or water services. We believe that these experiences clearly demonstrate why disconnection on the basis of incapacity to pay alone is unacceptable and why we should attempt to prevent its occurrence.

However, it is not possible to identify and implement measures that will work effectively to prevent such disconnections from occurring, unless we first understand why these households cannot afford to pay for their energy or water services. Any measures introduced to increase the affordability of energy and water services should aim to address one or more identified causes of a lack of affordability.

In chapter 1 we discussed the principal causes that have been identified as contributing to a household's inability to afford energy or water services. The principal causes are inadequate income, prices (and tariff structures) and level of consumption, which is influenced by life cycle stages, poor quality housing stock and inefficient household appliances. We also pointed out that other factors may impact on these causes, for example customer assistance schemes administered by government or energy and water businesses may impact on the affordability of energy or water services.

In this chapter, we discuss the factors that were evident as having contributed to a lack of affordability of energy or water services for the Victorian households that participated in our survey.

Our analysis of the case studies we have compiled specifically focuses on whether the factors identified in the literature and discussed in chapter 1 were present. In addition, we analyse the way in which these factors interacted with each other and with current measures in place to assist Victorian households in financial difficulty to pay for their energy and water services. Having examined the stories of the Victorian households we interviewed in this chapter, the following chapter discusses existing and proposed measures to address energy and water affordability.

#### 4.2 Causes of Victorian households' inability to afford energy or water services

The principal causes of a lack of affordability of energy and water services, identified in chapter 1, were clearly present in the cases of the Victorian households we interviewed.

In fact, the people we interviewed themselves frequently identified these causes as having contributed to or caused their household's inability to afford its electricity, gas or water bills.

We discuss below the different ways in which we found that these causes combined to contribute to a household's inability to afford its energy or water services.

4.2.1 Low income combined with poor quality housing and inefficient appliances

Several of the households we interviewed were struggling to meet expenses following a relationship break-up, which led to a significant drop in income for the household. This situation could then be compounded by other factors, for example competing expenses or inefficient household appliances which caused consumption to be high.

The following case study is a good example of the manner in which a fall in income, here due to a relationship break-up, may combine with other factors to render energy unaffordable for a household.

# Sue's\* story

Sue's household was disconnected from electricity towards the middle of 2003.

Sue is a sole parent with three children. Her income is derived from a sole parent pension. She lives in public housing with her children.

Sue told us that she had been a good bill payer until she became single about 3 years earlier. Since then she had found it hard to pay all her bills as she did not have a large income coming in. To add to this, in 2003 Centrelink informed Sue that it had made an error calculating her pension following a change in the law and that Sue's pension had been overpaid for several months. The overpayments were automatically taken out of her pension for the following few months, reducing her income further. In addition, Sue's partner ceased maintenance payments in March 2003, further reducing her income.

Around the time she was disconnected, Sue had fallen behind in her rent and was trying to catch up. In addition, her car broke down and the repairs cost her \$400. Sue told us that her car is a priority for her as her children do not attend school locally and public transport in her area is poor, so she needs to be able to drive her children to and from school each day. Sue was forced to borrow to pay for the repairs, and said that she then had trouble getting back on top of her debts.

Sue said that she received a disconnection warning after she was unable to pay her electricity bills over several months. She contacted her electricity supplier and asked if she could have some more time to pay her bills but the company refused. Sue could not afford the bills so she simply continued not to pay, but eventually she did contact her supplier again. Sue arranged to apply for an URG and also agreed on a payment plan of \$50 per fortnight.

Sue owed approximately \$800 to her electricity supplier by this stage. She made the initial payment of \$50 but she struggled to continue to make the payments as they were too high for her. An URG was granted, which reduced the amount owing by almost half. However, the company disconnected the household one or two weeks later. Sue received no further warning that the company was going to disconnect the household – she went to pick up her children from school and returned home to find that the power had been switched off.

Sue called her electricity supplier from a public phone (as her home telephone had been disconnected for non-payment). The person she spoke to told Sue that she had been disconnected "as punishment for not paying". Sue was also told that payments of \$50 per fortnight would no longer be enough and that she would have to pay \$74 per fortnight if she wished to be reconnected. Sue stated that she could not afford to pay \$74 per fortnight.

Sue then called her mother, who advised her to call EWOV if she could not negotiate with the company. Sue called her electricity supplier again and asked to be reconnected but the company again refused. When Sue said that she would contact EWOV, Sue was told to "go ahead and do that". EWOV arranged for Sue to be reconnected that day. Sue waited until 10.30pm to be reconnected, despite being told by the company that she would be reconnected sooner.

Sue is concerned that her electricity bills are high – about \$300-\$400 per quarter. Sue thinks the high bills are caused by her old fridge but she cannot afford to buy another one. She had never thought to ask her electricity supplier for energy efficiency advice but said that she

would like advice as to how to reduce her electricity bills. Sue said that if she could afford to make changes to her home, she would buy a new fridge and insulate the doors for winter so that she did not have to use the heater all the time. When we visited Sue's home, we also noticed that Sue had placed her freezer next to a full-size, west-facing window, which would cause the freezer to work hard to remain cold. Sue had never realised this might effect the amount of electricity she uses.

Sue told us that she thought URGs should be high enough to clear all the debt owed. Although the URG she received was helpful, it had not been enough to clear Sue's electricity debt, meaning that she remained, in effect, in the same position as before - in debt to the company and unable to pay.

Sue said that she could now afford to make payments towards her electricity bills as her eldest daughter is living with her and pays board. Her daughter can also baby-sit the other children at night, meaning that Sue has been able to take on some casual work in the evenings. Sue said that if her daughter moved out she would not be able to afford many things she is currently able to pay for.

After reconnection, Sue's electricity supplier sent her a letter stating that someone from the company would contact her to arrange a new payment plan. However, no one has contacted Sue and she has not paid any amount towards her electricity bills since she was reconnected.

When we spoke to her, Sue's electricity bills had increased to \$1,500. Sue wants to contact the company about her bills but is too scared to do so. She said, "I'm terrified to call them – I'm worried I'm going to be cut off. I could now even afford to pay a little, even \$50 a fortnight, but I'm worried they will make me pay the whole lot."

\* Name changed to protect privacy.

Sue was disconnected because she could not afford her electricity bills. She identified her low income following the breakdown of her relationship as the main cause of her inability to afford her electricity bills and her financial difficulties generally. However, Sue also recognised that inefficient appliances and poor insulation were contributing to her inability to afford her electricity bills.

#### Low income

Sue's case is representative of many of the households we spoke to. 37.5% of the households we interviewed were comprised of a single mother and children, reliant on social security payments for income. Such households made up 48% of the households disconnected because of an incapacity to pay. It is interesting to note that only a small change in Sue's circumstances (her eldest daughter coming to live with her) has now significantly improved Sue's ability to afford her electricity usage. Sue herself identified that a reversal of this change, seemingly only a small issue, would again leave her unable to afford her electricity usage.

# Poor quality housing and inefficient appliances

Sue would also have benefited from a capital grant to upgrade her appliances and insulate her home. In fact, the provision of energy efficiency advice, even without the provision of a monetary grant, would very likely have assisted Sue to reduce her electricity bills.

We note that, if a customer informs their electricity or gas supplier that they may not be able to pay a bill and they do not agree on an alternative payment arrangement, or the supplier believes that the customer is experiencing payment difficulties, the current *Electricity Retail*  *Code* and *Gas Retail Code* (together the **Retail Codes**) oblige the supplier to provide the customer with telephone information about energy efficiency<sup>139</sup> and to consider conducting an energy efficiency field audit.<sup>140</sup> Sue had never received any energy efficiency information from her electricity supplier (nor does it appear that the company considered conducting an energy efficiency field audit). The company was, therefore, potentially in breach of its legal obligations. These obligations have been retained in the new draft *Energy Retail Code*.<sup>141</sup>

Similar stories to Sue's, with regard to the impact of inefficient appliances, have been previously reported as experienced by Victorian households, for example in the report An Unfair Deal:

'Supporting parent, 2 children, Centrelink income, purchasing a home. She had very high gas and electricity bills as her appliances are old and inefficient...She needed to replace the heater but didn't have sufficient funds to do so. The woman applied for a capital grant but was knocked back.'<sup>142</sup>

#### Supplier's refusal to negotiate a payment plan

Sue's story also highlights just how large an impact the supplier's conduct can have on a household's ability to afford its energy or water usage. In Sue's case, her electricity service may have been affordable if her electricity supplier had agreed to accept smaller fortnightly payments from Sue. In fact, the supplier's unwillingness to assist Sue to pay her bills not only made her electricity bills unaffordable at the time she was disconnected, but continues to impact on Sue's ability to afford her bills as she is now too scared to contact the company to negotiate an affordable payment arrangement and her electricity bills have risen to an immensely unaffordable amount.

Some of the households we interviewed told us that their energy or water supplier refused to negotiate an instalment payment arrangement. Again, we note that such conduct is potentially a breach of the company's legal obligations. If a customer informs their electricity or gas supplier that they may not be able to pay a bill and they do not agree on an alternative payment arrangement, or the supplier believes that the customer is experiencing payment difficulties, the Retail Codes oblige the supplier to offer the customer an instalment plan.<sup>143</sup> This obligation has also been retained in the new draft *Energy Retail Code*.<sup>144</sup>

Similarly, the water *Benchmark Customer Contract* provides, in relation to the metropolitan water retailers, that if a customer is having difficulties paying their bills or is in arrears, they may tell the water retailer that they wish to pay their bills by instalments, and the water retailer must offer the customer an instalment plan which is consistent with the customer's capacity to pay.<sup>145</sup> Under the new draft water *Customer Service Code*, the metropolitan water retailers and the RUWAs would be obliged to make instalment plans available to customers in

 <sup>&</sup>lt;sup>139</sup> Electricity Retail Code, October 2001 at clause 11.2; Gas Retail Code, July 2002 at clause 11.2.
 <sup>140</sup> As above at clause 11.3.

<sup>&</sup>lt;sup>141</sup> Draft *Energy Retail Code*, May 2004, available from the ESC's website at www.esc.vic.gov.au/electricity587.html, at clauses 11.2 and 11.3.

 <sup>&</sup>lt;sup>142</sup> B Kliger, An Unfair Deal: A consumer audit of the electricity, gas and water industry reforms,
 Financial and Consumer Rights Council Inc, 1998 at 25; see also Brotherhood of St Laurence,
 Electricity, gas and water – Costs and choices for vulnerable households, Changing Pressures, Bulletin No 5, February 1998 at 2.

<sup>&</sup>lt;sup>143</sup> *Electricity Retail Code*, above, n 139.

<sup>&</sup>lt;sup>144</sup> Draft *Energy Retail Code*, above, n 141, at clause 11.2.

<sup>&</sup>lt;sup>145</sup> Benchmark Customer Contract, Melbourne Metropolitan Water and Sewerage Retail Industry, January 1998, at clause 8.5(1) and 8.5(3).

accordance with the customer's capacity to pay.<sup>146</sup> They would also be obliged to assist customers on a case-by-case basis who have payment difficulties by making provision for alternative payment arrangements in accordance with a customer's capacity to pay, including offering a range of payment options, such as payment by instalment.<sup>147</sup>

In addition, in 42% of the cases of the households we interviewed, the supplier agreed to accept an instalment payment arrangement prior to disconnection, but insisted on payments that the household could not afford to maintain. This rendered the instalment plan of little value, as the household was subsequently disconnected for non-payment. This issue is discussed further below under Kate's story.

Ultimately, in Sue's case, a change to any one of the contributing factors would, by itself, assist Sue to be able to afford her electricity bills. It is also clear, however, that a combination of measures that addressed Sue's low income, lack of housing insulation, inefficient appliances and need for an affordable payment arrangement would be a more comprehensive way of tackling Sue's financial difficulties in terms of her electricity payments.

The case study below demonstrates many of the same issues.

4.2.2 Small financial margins, an unusually high bill and company inflexibility

The following case study demonstrates how an unexpected or unusually high bill impacts on a household that operates on very small financial margins. This is particularly problematic when the household is renting and does not have control over, or the ability to afford, improvements to housing or appliance quality.

### Kate's\* story

Kate's household was disconnected from gas in the winter of 2003.

Kate is a sole parent currently renting a three bedroom house in Melbourne's outer east. She lives with her three children who are 6, 11 and 13 years old. Affordability problems with her gas account had started over a year earlier when she was residing with her husband in a different property. They received a high gas bill of around \$600, possibly due to a gas fault, and questioned the bill with the company, which stated that it was "going to investigate". However, the company did not contact Kate again. After Kate and her husband separated, Kate moved into a rental property, where she lived for about a year. Again, she did not hear from the company regarding the high gas bill.

Approximately six months after moving into her current residence, Kate received a gas bill with the high amount from the old gas bill added to her gas account (the gas account when Kate was living with her husband had been in Kate's name solely). Kate could not afford to pay this bill (which totalled \$800) and subsequently received a disconnection warning. She contacted the company but it denied previously waiving the charges and was unwilling to offer her a payment plan on the grounds that the debt was too old. The company disconnected Kate's gas supply.

Kate was reconnected when she applied for an URG. However, her application was unsuccessful because she filled in the form incorrectly. After the reconnection, the company offered Kate an instalment plan of \$60 per fortnight. Although Kate told the company that she could not afford such high payments, the company refused to reduce the amount so Kate agreed to the plan.

<sup>&</sup>lt;sup>146</sup> See the draft *Customer Service Code*, May 2004, available from the ESC's website at www.esc.vic.gov.au/water730.html, at clause 5.4.

<sup>&</sup>lt;sup>147</sup> As above, clause 5.5.

Kate fell behind in her payments because they were too high. She contacted a welfare agency and discussed her situation with a financial counsellor, who advised that her current repayment levels were unmanageable. The company still refused to lower her instalment payment amounts and said that it would instead send her another URG application form as the financial councillor could assist Kate to complete it. Kate never received the new URG application form, despite being told by the company that it had sent the form to her three times. Kate found this difficult to believe as she continued to receive bills from the company in the meantime. A few weeks later, after having missed two instalments, Kate's gas supply was disconnected again.

Kate considered selling some items to Cash Converters, for example the television and computer, but her children begged her not to. She also tried to borrow money from the bank, her parents and her husband to pay her gas arrears. She remained off gas supply for 10 days during winter.

Kate described those she dealt with at the company as rude, largely because of the constant insinuation that she was lying about not having received the URG application forms. The company also never informed Kate of the existence of EWOV. Kate went to see her financial counsellor again, who referred Kate to EWOV. EWOV arranged for Kate's household to be reconnected and negotiated a payment plan of \$40 per fortnight. In addition, the company agreed to waive \$300 if Kate sticks to the payment plan for 12 months. However, Kate continues to have difficulties meeting the payments and has asked the company for another URG application form. The company has refused to send her another application form until her financial counsellor returns from leave.

When we met Kate she was still struggling with her electricity, gas and telephone bills. She receives \$850 per fortnight in the pension but her rent alone is \$440 per fortnight. Kate has been trying to find part-time work. Some time earlier she had what she described as the perfect job. She is a cook by trade and had found a position where she worked from 10am until 2pm every day. The job paid \$17 per hour and she was able to take the children to school and be home by the time they finished. However, her employer changed her hours to 8am until 4pm and Kate had to resign, as the new hours meant that she could not make sure the children returned. She is currently working half a day a week at the local church for \$8 per hour.

Kate told us "a lot of nights I don't eat", as she wants to ensure that she has the money to pay for things that her children need. Kate explained that it is all the little things that many people take for granted that cause her difficulties – she cannot get a hair cut, pay for school excursions (luckily the school is understanding about this) or buy a new pair of shoes (without a car and far from public transport, Kate walks a lot). Kate's house used to have an Internet connection for her children's school work, but Kate had to cancel it. Kate's eldest son in particular gets upset by these conditions and has run away from home numerous times. He tells Kate how sick he is of being poor, asking her "why don't you pay the bills?" and telling her "you won't even let me turn the heater on". Kate worries a lot about him. Kate's 11 year old child is often sick and her 13 year old child is asthmatic and needs expensive allergy medication. The bedrooms are freezing in winter as there is no heating in them, and on cold nights she moves the family's mattresses into the living room so they can sleep in front of the gas heater.

The house Kate currently rents for \$220 per week has a very open design, with no door between the entrance and the living room. It has an old Rinnai Gas heater in the living room which Kate believes is faulty and uses excessive amounts of gas – only the hot water system and the heater run on gas and the household's gas usage falls dramatically in summer. She

asked the landlord to repair the heater but when the repairers came she overheard them saying that the heater cannot be properly repaired and should be exchanged. Kate has made several requests to the landlord about fixing the heater, which Kate suspects triggered a surprise inspection by the owner. A few days after our meeting, Kate was due to attend a tribunal hearing in relation to a Notice to Vacate her residence – Kate is accused of not maintaining the garden. Kate also told the gas company that her current heater is faulty but it replied that she would have to pay for it to test the heater.

An eviction order from an energy inefficient house with high rental costs may not sound too serious to outsiders, but Kate told us, "Nobody wants to rent to single parents. I had to get a friend from church to sign the lease for this place. There is no point in applying to the housing commission as it is a long wait". Kate told us would have liked to stay at her previous rental property, which was of better quality, but she could not afford the rent of \$260 per week. Her gas bills were also lower at this previous residence. Kate said that if she could make improvements to her current residence, she would put sunshades on the east-facing windows and install proper insulation and ducted heating. Kate noted that ducted heating would also prevent her children from falling ill all the time (thereby reducing her medical expenses).

#### \* Name changed to protect privacy.

Kate's case again demonstrates that there are numerous factors that contribute to an inability to afford energy costs. However, we recognise that, in Kate's case, it is useful to distinguish between her affordability problems in general and the factors which led to her ten day long disconnection from gas.

### Small financial margins

A key issue for Kate is that she was, and still is, living on very small financial margins. Many of the characteristics of Kate's household were typical of those households we interviewed that had experienced payment difficulties in relation to their energy or water bills – Kate is a female single parent, with a lack of paid employment, living in private rental housing. 20% of the respondents to our survey who stated that the disconnection they experienced was a result of being unable to pay were, like Kate, single mothers on a non-aged pension living in a rental property. Further, as stated above, 48% of the households we surveyed that were disconnected due to an inability to pay were single mother households. 44% of households disconnected due to incapacity to pay were on non-aged pensions and 96% lived in either public or private rental accommodation.

#### Trapped in the low end of the rental market

It is clear that not all of the above factors can be addressed by energy- or water-specific policy measures. However, Kate's problems with her gas account were also gas-specific, in the sense that she is a low-income tenant in poor quality housing, unable to repair her gas heater or make improvements to her residence to reduce her gas usage. Like Sue, Kate may have benefited from a capital grant to replace her gas heater and insulate her home or, at the very least, may have been assisted by the provision of energy efficiency advice.

Kate herself identified that her situation would be improved if she lived in better quality housing. However, several factors, including rental costs and discrimination against single parents, made it difficult for her to access such rental properties.

#### Supplier inflexibility in negotiating an affordable payment plan

It is also clear from Kate's case that the gas company bears some responsibility for the disconnection of Kate's household. For customers like Kate (or Sue), who have to juggle their finances, unexpected or even very small changes may cause severe payment difficulties. To avoid disconnection for non-payment, it is critical that the company listen to the customer and what the customer considers is necessary to solve the problem. It made little sense for Kate's gas company to insist on an instalment payment amount that she simply could not afford. Kate's income had not increased, yet after the first disconnection the company 'assumed' that she could afford to pay \$60 per fortnight for gas alone.

There is a large difference between an instalment payment plan and an *affordable* instalment payment plan. An instalment plan is of little help in making energy or water bills more affordable for a household if the household cannot afford the individual payment amounts. As stated above, 42% of the households we interviewed told us that the supplier agreed to accept an instalment payment arrangement prior to disconnection but insisted on payments that the household could not afford to maintain. This seems to us to be a major issue of concern.

In some cases, such conduct by a supplier may also be in breach of its obligations under the Retail Codes. Under clause 11.2 of the Retail Codes, if a customer informs their electricity or gas supplier that they may not be able to pay a bill, or the supplier believes that the customer is experiencing payment difficulties, the supplier must assess the customer's capacity to pay and offer the customer an instalment plan.<sup>148</sup> Clause 11.2 does not explicitly oblige the supplier to ensure that the instalment plan it offers actually takes into account the customer's capacity to pay. However, clause 12.2(a) of the Retail Codes states that, when offering an instalment plan, the amount of the instalments 'must reflect the customer's consumption needs and capacity to pay'.<sup>149</sup> This clause begs the question to some extent - how the amount should be determined if the customer does not have the capacity to pay for their consumption needs is not explained. Nevertheless, it is clear that capacity to pay must be taken into account and suppliers cannot, therefore, blindly insist on instalment amounts that a customer has clearly stated they cannot afford.

Further, clause 12.2(c) of the Retail Codes states that, when offering an instalment plan, a retailer must 'have in place fair and reasonable procedures to address payment difficulties a customer may face on the plan<sup>150</sup>. If a customer misses a payment on their instalment plan, as Kate did, we consider that a procedure that simply allows the retailer to continue to insist on payment of the same amount or disconnect the customer, without the retailer making any inquiry as to why the customer did not make the payment or providing any further assistance if the customer is facing payment difficulties, most likely breaches this obligation under the Retail Codes.

In relation to water, in contrast, the current Benchmark Customer Contract does obligate the metropolitan water retailers to offer a customer an instalment plan which is *consistent with the* customer's capacity to pay, if the customer is having difficulties paying their bills or is in arrears.<sup>151</sup> In addition, as detailed above, the new draft *Customer Service Code* would oblige both the metropolitan water retailers and the RUWAs to make instalment plans available to customers in accordance with the customer's capacity to pay and, further, to assist customers on a case by case basis who have payment difficulties by making provision for alternative

<sup>&</sup>lt;sup>148</sup> See *Electricity Retail Code*, above n 139.

<sup>&</sup>lt;sup>149</sup> As above at clause 12.2(a).
<sup>150</sup> As above at clause 12.2(c).

<sup>&</sup>lt;sup>151</sup> See Benchmark Customer Contract, above n 145.

payment arrangements in accordance with a customer's capacity to pay, including offering a range of payment options, such as payment by instalment.<sup>152</sup>

A report based upon an analysis of 55 financial counselling cases in Melbourne's outer southeast,<sup>153</sup> found that 20% of the cases involved consumers with broken payment plans. The report states that:

'We have been informed that the utility companies Call Centre staff have set rules to follow in these situations. Invariably they will not allow another Easyway plan and will demand a payment beyond the means of the client. They will not divert from these rules and rarely pass the client to someone who has that authority.'<sup>154</sup>

Again, these "rules" do not appear to allow for an assessment of the customer's capacity to pay, nor do they appear to be 'fair and reasonable procedures to address payment difficulties a customer may face on the plan'. We encountered a similar trend in the stories of the households we spoke to. For example, we set out Helen's<sup>\*</sup> story below.

Helen, a sole parent with one child, had her water supply restricted in October 2003 after she failed to maintain payments of \$20 per fortnight, which were too high for her to afford. The water authority had originally demanded payments of \$50 per fortnight. Helen found the water authority rude to deal with and felt that it would not listen to her when she tried to explain her financial difficulties. After she contacted EWOV and was taken off restrictions, EWOV helped to negotiate an instalment payment plan of \$10 per fortnight. Having been able to maintain these payments, Helen has now agreed to increase her payments to \$20 per fortnight again. However, unlike before, she has now been given the telephone number for a specific staff member of the water authority who she can contact if she again experiences financial difficulties in maintaining the \$20 payments. Helen told us that this person is much nicer to deal with.

Similar cases have also been previously reported as experienced by Victorian households in the *An Unfair Deal* report<sup>155</sup> and the *Switched Off* report,<sup>156</sup> as well as by the Springvale Community Aid and Advice Bureau.<sup>157</sup>

In both Kate's and Helen's cases, increased flexibility by the company in arranging an instalment payment plan may have avoided disconnection or restriction. Given Kate's circumstances and the manner in which the high arrears accrued, we also consider that debt waiver was an appropriate option for Kate's gas supplier to at least consider. In summary, the inflexibility of Kate's gas company in dealing with her circumstances, and an insufficient assessment of Kate's capacity to pay (possibly in breach of the company's legal obligations), contributed to Kate's inability to afford to pay for her gas usage.

4.2.3 Unexpected events and lack of knowledge of assistance – the unpredictability of financial hardship

The last case study demonstrates the manner in which unexpected events may, very suddenly, create payment difficulties for customers with no previous problems. The following case

<sup>&</sup>lt;sup>152</sup> See draft *Customer Service Code*, above n 146 and n 147.

<sup>&</sup>lt;sup>153</sup> Springvale Community Aid and Advice Bureau, CUAC Grants Project, May 2004.

 $<sup>^{154}</sup>$  As above at 8.

<sup>\*</sup> Name changed to protect privacy.

<sup>&</sup>lt;sup>155</sup> B Kliger, An Unfair Deal: A consumer audit of the electricity, gas and water industry reforms, above n 142 at 28-29.

<sup>&</sup>lt;sup>156</sup> J Benvenuti and D Walker, *Switched off: Case Studies of consumers' experiences with energy and water utilities*, Consumer Advocacy and Financial Counselling Association of Victoria Inc, June 1995.

<sup>&</sup>lt;sup>157</sup> Springvale Community Aid and Advice Bureau, *CUAC Grants Project*, above n 106 at 3, 7-8.

study also illustrates this issue. In addition, it demonstrates the lack of knowledge that a "first timer" with affordability problems may possess about the assistance available to them. A lack of awareness of assistance programs may contribute to an inability to resolve affordability problems in relation to energy and water bills.

The fact that households may be unused to experiencing difficulties in affording their energy or water bills also indicates that it is not always possible to predict who is at risk of financial hardship.

### Tom's\* story

Tom was disconnected from electricity for approximately one year.

Tom is a single male in his late twenties who has lived by himself in a rental property in an outer Melbourne suburb for five years.

Tom's life situation was affected by a series of unfortunate events, including loss of employment, a violent co-tenant and court cases. Tom permitted an old friend to stay with him for a few weeks. When this friend became violent, Tom was effectively forced to leave his own home until he managed to obtain a restraining order against this "housemate".

When Tom was able to move back into the property (for which he had continued to pay rent whilst unable to live there), he discovered that the electricity had been disconnected. Tom explained, "I'm partly to blame for that. I hadn't called the company. I just didn't think of calling them whilst all of this was going on". Tom found an old electricity bill that had arrived while he was unable to enter the property, which indicated that the electricity debt owed on his account was over \$400. Tom could not afford to pay this amount, particularly as he was unemployed at the time. As he did not know what to do, Tom simply remained off supply. Tom told us that he likes to do his own thing and figure out things for himself. He continued to think that once he found a new job, he would be able to pay the bill. Tom remained disconnected for a year.

Ultimately, Tom's mother intervened and made an appointment for him to see a financial counsellor. Tom had never heard of the existence of financial counsellors before. The financial counsellor called the electricity company and handed Tom the telephone receiver to explain what had happened. Tom told the company of his unfortunate situation and offered to send it a copy of the restraining order issued by the court as proof. He and the financial counsellor tried to negotiate a payment plan to pay the bill but the company said it was Tom's problem, insinuating that he was lying and stating that it would only accept a payment of several hundred dollars towards the outstanding debt before it would reconnect the electricity. The financial counsellor then called EWOV and Tom was reconnected. Tom and the company agreed to a payment plan.

Tom obtained employment as a subcontractor, meaning that his income is determined by the number of hours he is able to work. Tom missed one electricity payment after he fell ill and was unable to work for a short period of time. Without any warning, the company again disconnected Tom's electricity. Tom was reconnected the following day after contacting the company. Tom told us, "I know I didn't ring them, but I would have explained if they had asked me. How are you supposed to do anything if you get no warning?"

Tom now pays \$50 per fortnight towards his electricity account and \$25 per fortnight towards his gas account (his gas had also been disconnected for much of the same period). Tom does not think he will have problems paying his electricity bills in the future – as long as he has work. As a subcontractor, however, he does not have any holiday or sick leave entitlements. This situation again made it difficult for Tom late last year, as he was injured at work and had

to miss four weeks of employment. WorkCover (compulsory workers' accident compensation insurance) covered his first week in hospital but Tom was without pay for the remaining three weeks. Tom thinks of hours of work in terms of bills. He usually works 40 hours per week and earns \$12 per hour. After 11 hours of work he knows that one week's rent is covered, and after another 3 or 4 hours he has the money to pay his energy bills. In this way Tom ensures that all of his essential expenses are covered, as he wants to make sure that he is never disconnected from electricity or gas again. Tom told us, "It [being disconnected] was hell. It is something I don't want to go through ever again."

\* Name changed to protect privacy.

Tom's case demonstrates that retailers must be careful in assuming that a customer is not telling the truth, either because the customer has not previously experienced payment difficulties or because the customer's story sounds unusual. More importantly, it demonstrates that we must be wary of assuming that it is always possible to identify financial hardship customers in advance.

### Unexpected events - no prior experience of financial hardship

Tom had no prior experience of severe financial hardship and was not receiving social security. Tom's situation was extraordinary, but nonetheless real, and Tom's electricity retailer could have been more understanding and open to hearing unanticipated scenarios. After all, Tom felt that he had a reasonable explanation for his non-payment of the outstanding debt but he was dependent upon the company's understanding and reaction to resolve the situation.

Tom was not the only person who told us that their energy or water supplier had not believed them when they attempted to explain their circumstances. Only six of the 25 households disconnected because they were unable to pay their bills said that their company had been understanding and/or helpful. For example, see Maggie's<sup>\*</sup> story (below).

Maggie told us that her household was disconnected from gas in February 2003 after she and her husband were unable to pay an unusually high gas bill of nearly \$700 – their gas bills were usually around \$100. Her husband is employed as a tradesman but they could not afford such a high bill; their four children had just returned to school entailing expenses for uniforms, they were trying to repay debt from the Christmas period (Maggie told us, "We can't do much during the year so we try to give the kids a good Christmas") and their car registration and insurance were also due for payment. Maggie's household was also behind in rent payments and, although the landlord had given them some leeway, they were attempting to catch up on their rent.

When a company representative arrived to disconnect the gas, he called the gas company on Maggie's behalf as Maggie's telephone had been disconnected for non-payment. Maggie spoke to the company and offered to pay \$150 instalments towards the bill even though, as Maggie told the company, "It will break us, but we'll do it." The company refused to accept anything less than payment of half the bill (\$350), even though Maggie tried to explain that her husband's pay day was not until later in the week and they simply did not have that amount of money at the time. Maggie also offered to arrange direct debits or to pay the only money she had on her in cash (\$50), but the company refused. Maggie told the company representative that he would have to disconnect the gas, which he did.

<sup>\*</sup> Name changed to protect privacy.

Maggie's household was disconnected from gas for seven months. When Maggie heard that her neighbours, who had also been disconnected because they were unable to pay their gas bill, had been reconnected after agreeing to pay instalments of \$50 per week, she contacted the company and asked to be reconnected on the same basis. The company refused, telling Maggie that her neighbours were a different case. Her neighbours received social security whereas Maggie's household did not. A friend of Maggie suggested that she contact EWOV. She did and EWOV arranged for Maggie's household to be reconnected the next day. The company agreed to accept payments of \$50 per week and waived \$50 of the debt. Maggie and her husband now have a payment card and also try to pay extra when they can afford to do so.

Tom's and Maggie's cases demonstrate that it is dangerous for a company to assume it can determine which households may be in financial hardship on the basis of rigid criteria. Although indicators may be useful in assisting a company to determine which households are likely to experience affordability problems, it is clear that each case must be assessed on its own facts.

In particular, to only extend assistance to customers in receipt of social security ignores many households who may be experiencing financial difficulties despite the fact that one or more members of the household are in paid employment. We consider that in Maggie's case, there were ample alternative indicators that Maggie's household may have been experiencing difficulties affording its electricity bill, including that the family had received an unusually high bill, that Maggie had used the company representative to contact the company due to the disconnection of their telephone and that Maggie explicitly told the company that her household could not afford the bill.

Further, the above cases demonstrate that energy and water companies must improve their ability to listen to and take into account what their customers tell them. In all of the cases discussed above (including Sue, Helen and Kate), if the company had actually genuinely considered what the customer was telling them, a resolution to the customer's payment problems may have been reached more quickly (and cost-effectively) and disconnection may have been avoided altogether. From the cases above, it is clear that a customer's self-identification as being in payment difficulties is an extremely useful indicator that energy and water suppliers can use to identify customers in financial hardship.

# Lack of knowledge of assistance schemes and the role of suppliers

Related to the above issue, Tom's case also raises the issue of his lack of knowledge regarding the potential assistance available to him. He did not know about concessions, URGs or the existence of financial counsellors or EWOV, as he had not experienced problems paying his electricity or gas bills before. This clearly contributed to Tom's inability to resolve his problems in paying his energy accounts. For customers like Tom, information about, and access to, assistance such as URGs and EWOV is also vital in order for them to get reconnected as quickly as possible, if they have reached the point of having been disconnected.

For "first timers" experiencing payment difficulties, their energy or water supplier will be the person or entity with whom they have the most contact regarding assistance. Consequently, the information provided to them by their energy or water supplier is critical. It follows that a failure by the supplier to provide this information will have negative impacts on the customer's ability to afford their energy or water bills and avoid disconnection.

None of the disconnected households we interviewed in our study were informed about EWOV by their retailer. EWOV reports that, in total, only 18% of the customers who contact

EWOV are told about EWOV by their supplier.<sup>158</sup> Furthermore, several respondents had not heard about any financial assistance schemes. This was also the experience of the financial counsellors at the Springvale Community Aid and Advice Bureau:

'There is no evidence as to whether there was any dialogue between the client and the utility company prior to the contact with the Financial Counsellor. Perhaps however there is a case for the utility company to be proactive in such cases and strongly encourage the client to contact them to seek means of avoiding disconnection. The Financial Counselling team has certainly had cases where a disconnection is imminent and an URG was an option not raised by the utility company in their discussions with the client.'<sup>159</sup>

Although we agree that retailers should first attempt to make arrangements with their customers themselves, Tom's case demonstrates that it is essential that retailers also, at a minimum, inform customers about other avenues of assistance available should negotiations fail.<sup>160</sup>

4.2.4 Prices for electricity, gas and water

The households we interviewed were not necessarily aware of the price per unit of energy or water that they paid for their consumption. However, some of the households specifically raised the issue of cost/price as a contributing cause of their inability to afford their bills.

#### Mark's\* story

Mark's household was disconnected from electricity in the Autumn of 2003.

Mark lives with his partner and their two children in an outer suburb of Melbourne. When Mark became unemployed and some other expenses also arose, his household was unable to pay its electricity bills. The amount owed to the electricity company increased to \$1,600 and although Mark accepted an instalment payment plan, he missed three payments. The company disconnected Mark's household.

Mark was advised by his local mayor's office to contact EWOV. He did so and his household was reconnected the same day. Mark told us that he was now on another instalment plan but was concerned that the instalments were still too high. He was hoping to obtain some seasonal work soon. The company also added a reconnection fee of \$82.50 to Mark's electricity account.

When we asked Mark if he had any suggestions for improvements which he thought could have helped in his situation to stop his household from getting disconnected, Mark said, "No, it is just getting too expensive, you know". Mark told us, "You just want to go and get a generator and do your own thing. The bills seem to go up by \$150 every year".

Mark applied for an URG twice but was unsuccessful both times. Mark thought that URGs are not designed for such high amounts as he owed. Mark also told us that he obtained the WEC when he became unemployed but it had not helped him very much in being able to afford his electricity bills.

<sup>&</sup>lt;sup>158</sup> 18% of all customers contacting EWOV in 2002/03 said that they found out about the EWOV scheme through their retailer. An additional 7% knew about the EWOV scheme because of the retailers' message about EWOV on their disconnection notices: EWOV, *Annual Report 2003* at 3. <sup>159</sup> Springvale Community Aid and Advice Bureau, *CUAC Grants Project*, above n 106 at 8.

<sup>&</sup>lt;sup>160</sup> If this were a legal obligation, it might also provide the companies with a further incentive to negotiate acceptable arrangements with their customers themselves, as the companies are charged for every customer that seeks EWOV's assistance.

After reconnection, Mark sold some of the family's appliances, including their freezer, to try to minimise electricity consumption. He also installed a digital meter to ensure that the household's electricity use was being correctly recorded. However, Mark told us that this has not helped and now he misses the freezer.

#### \* Name changed to protect privacy.

It is self-evident that, if the price or cost of electricity decreases, the ability of households to afford electricity will generally increase. Mark's case is interesting as, although Mark recognised that his unemployment was the principal reason that he had been unable to pay his household's electricity bills, Mark clearly perceived the cost of electricity as increasing every year, making it ever more difficult for him to afford to pay for his household's electricity use. Increasing prices for energy or water services can have a dramatic effect on low-income households.<sup>161</sup>

#### Additional charges

The total price paid by a household for energy or water will be affected not only by the cost of its actual use of energy or water (usually on a price per unit basis) but also by the cost of additional charges. For example, a service to property charge will affect the total price paid. Similarly, the reconnection charge that Mark's electricity company added to his account increased the amount he had to pay for his household's electricity.

Given that Mark's household was already unable to afford the cost of its electricity usage, we consider that the company's imposition of a reconnection charge was unnecessarily harsh and has contributed to Mark's ongoing difficulties in affording his electricity bills. Another household we interviewed, which was suffering extreme financial hardship, specifically singled out the reconnection fee they were charged following reconnection of their gas service as kicking them while they were down, saying, 'As if the bill itself is not enough'.<sup>162</sup>

As the price of energy or water has a clear relationship to its affordability, the imposition of additional charges (such as reconnection charges or late payment fees) should be carefully considered and cautiously applied.

### The relationship between tariff structures and consumption

Mark attempted to reduce his household's future electricity bills by disposing of appliances that may use a lot of electricity. However, Mark noted that this did not appear to have helped in reducing his electricity bills.

It is unclear why this is the case. It is possible that the appliances Mark sold had not, in fact, contributed significantly to his household's electricity consumption, that electricity prices increased or that the household's electricity use increased for other reasons. However, we note that it could also be due, at least in part, to current tariff structures for electricity under the various *Standing Offer Tariffs*, that incorporate a fixed up-front service charge and then a variable charge based on usage. For relatively low consumption households, the fixed up-front charge means that a small reduction or increase in consumption may not significantly affect the total amount of a bill (because the largest portion of the bill consists of the fixed up-

<sup>&</sup>lt;sup>161</sup> The serious impact that increasing electricity prices has had on the affordability of electricity services for low-income households in South Australia is the subject of a recent report: WREAG, *Powering Poverty: A report on the impact of the 2002-2003 electricity price rises on 12 low-income households in South Australia*, July 2004.

<sup>&</sup>lt;sup>162</sup> See also as above at 11.

front charge). It is interesting that one respondent to a survey of low-income earners undertaken by Anglicare Victoria in May 2004 also specifically noted:

'I don't understand why the government doesn't do something about the increasing cost of gas and electricity. No matter how much you limit your use, the costs just don't seem to reduce at all'.<sup>163</sup>

Tariff structures and their relationship to affordability are discussed further in chapter 5.

#### Financial assistance

The price paid for energy or water is affected by any financial assistance applied to a household's energy or water bills. The availability of concessions or emergency relief grants is therefore an important factor contributing to the affordability of a household's energy or water.

Mark was unable to obtain an URG to reduce his electricity bill; clearly, if he had been granted an URG, the amount he had to pay for his electricity would have been reduced and he may have found it easier to afford to pay, particularly if the company was then willing to accept lower instalment amounts. Mark had also been given the impression that URGs were not available for high bill amounts such as his (\$1,600).

This is technically incorrect – it is true that URGs are not granted for amounts that represent more than six months worth of usage, but they may still be applied to very high bills as partial payment.<sup>164</sup> However, Mark's thoughts on URGs recall Sue's comment to us (mentioned above) that URGs should be high enough to clear all the debt owed, otherwise the customer remains in debt and unable to pay, effectively the same position as before the URG is granted. Sue's insight is important, as it highlights that it is necessary to assess the underlying purpose of emergency relief grants in order to determine whether they are effective in relieving a household's inability to afford its bills. For example, if a grant is meant to relieve a household's temporary financial crisis, the grant's usefulness will be undermined if, after the application of the grant, the household is still left in financial crisis.

We also note that Mark obtained the WEC, which would have reduced his electricity (and gas) bills. However, Mark did not perceive this concession as having assisted him greatly in being able to afford his electricity bills. There can be no doubt that a concession (described in chapter 1) reduces an energy or water bill and thus renders this bill *more* affordable than without the concession. However, if the underlying purpose of a concession is not simply to reduce the amount of a bill but to reduce it to a level that is *actually* affordable for a low-income household, the effectiveness of the concession will be undermined if it does not do this, as Mark considered was the case for his household.

We note that 58% of the households we interviewed were eligible for concessions at the time they were disconnected, which seems to indicate that the concessions scheme may not be sufficient to ensure that energy and water bills are affordable for many low-income households, such as Mark's. Further, a clear majority of the households disconnected from their gas service for non-payment (69%) were disconnected in the winter or spring season, despite the fact that the WEC is specifically designed in recognition that electricity and gas bills increase in winter due to increased energy usage for heating.

These issues are discussed further in chapter 5.

 <sup>&</sup>lt;sup>163</sup> Anglicare Victoria, *Financial Hardship in Victoria: Report by Anglicare Victoria*, May 2004 at 11.
 <sup>164</sup> Concessions Unit, DHS, A Guide to Concessions in Victoria - Assistance for People on Low Incomes.

### 4.2.5 Life cycle needs for energy and water

Many of the households we spoke to included children or adults who are at home a significant portion of their time. As discussed in chapter 1, this may contribute to greater consumption and, therefore, higher energy or water bills.

# Steven's\* story

Steven's household was disconnected from electricity in October 2003 and remained disconnected for three weeks.

Steven lives alone but has a child with his former partner who often stays with him. His child was unable to stay while the house remained disconnected from electricity.

Steven had been unable to pay his electricity bills for nine months and owed \$1,300 to his electricity company. This was the first time Steven had experienced problems in paying electricity bills – Steven was in an accident which resulted in a permanent injury that left him unable to work. He had separated from his partner and was now receiving a disability support pension.

Steven was granted an URG in the amount of \$260, which he described as small but helpful. However, he was disconnected as he remained unable to pay the remainder of his electricity account. Steven's electricity company refused to reconnect him, stating that it would not accept less than a \$150 payment towards his account. Steven later contacted his local Member of Parliament, who contacted EWOV on Steven's behalf. EWOV arranged for Steven to be reconnected and placed on an instalment payment plan.

As Steven is unable to work, he is often at home. He described his social life as his DVD player and his television, which run on electricity. Steven worries about how much it costs to run appliances, but told us, "There's not that much you can do if you don't have money". Steven also needs an air conditioner (which a community agency is obtaining for him) as he suffers from a skin condition when it gets hot. Steven is concerned that using an air conditioner will further increase his electricity usage but he needs it.

\* Name changed to protect privacy.

Steven recognises that he cannot necessarily afford to pay for the electricity consumed by the appliances he uses, but he is unable to reduce his electricity consumption due to his life needs. His life needs are, in turn, dictated by his medical condition and consequent unemployment. In our opinion, Steven did not necessarily require a once-off emergency relief grant (although Steven considered it helpful in this instance). Instead, any form of assistance for Steven clearly needs to take into account that his electricity bills were, and will continue to be, affected by his life situation and resultant needs.

Like in Steven's case, many households may contain adults or children with a greater need for energy or water than the average person. Again, this may result in increased consumption. For example, 76% of the households we interviewed who were disconnected due to incapacity to pay were households with children, and many of these households contained one or more children suffering from asthma or another medical condition that required increased use of heating to maintain a healthy environment for the child. The relationship between health and medical needs and increased energy consumption was well documented in the *Powering Poverty* report recently produced in South Australia.<sup>165</sup> That report concluded that the

<sup>&</sup>lt;sup>165</sup> WREAG, Powering Poverty: A report on the impact of the 2002-2003 electricity price rises on 12 low-income households in South Australia, above n 161 at 9-10.

'development of a disability and chronic illness management program to subsidise energy bills of those who must have heating or cooling to prevent serious illness' would assist households such as Steven's.<sup>166</sup>

4.2.6 Causes as perceived by disconnected households

We asked the households we interviewed to tell us if they had any suggestions for improvements which they thought could have helped in their situation to have stopped them from getting disconnected.

The suggestions made by households were, naturally, directed towards what the households perceived were causes of their disconnection. Many households made this link explicitly clear, answering this question by telling us what they thought should *not* be done in future or to other households.

There were some suggestions that were made repeatedly by the households that were disconnected due to an incapacity to pay their bills. In particular, these households considered that:

- suppliers should be more understanding generally and, particularly, of the fact that some customers cannot afford to pay large amounts of money up-front or immediately;
- suppliers should be more flexible by offering:
  - payment plans, direct debit or Centrepay arrangements;
  - payment arrangements requiring smaller instalment amounts; and
  - more time to pay (especially given that people are paid their wages or receive social security payments on a fortnightly basis, meaning they may need an extra week to pay on some occasions); and
- suppliers should provide better training to call centre staff (who were often perceived as unhelpful and/or rude) on hardship issues.

It is noteworthy that all of the above suggestions are directed towards addressing perceived problems with energy and water suppliers' conduct in handling cases of failure to pay bills due to incapacity to pay, not with broader issues of income, price or consumption levels. We can only conclude that the current ways in which Victorian suppliers are dealing with customers experiencing difficulties paying their bills are, at best, inadequate and, at worst, a significant contributing factor to these households' inability to pay their bills and/or avoid disconnection.

Other suggestions made by households, which were directed towards both the principal causes of a lack of affordability identified in chapter 1 and towards other factors, included: access to more information on energy efficiency and running costs of different appliances; the availability of more concessions; increasing the amount available through an URG; having a single call centre staff member at the supplier to deal with throughout the course of a matter; and banning entirely the disconnection of any household in which a child resides.

Not unsurprisingly, the households who were disconnected for reasons other than incapacity to pay their bills, most commonly because of company error, also made suggestions directed at improving the supplier's conduct towards dealing with customers.

 $<sup>^{166}</sup>$  As above at 14.

# 4.3 Conclusion

The cases studies outlined in detail above, together with the stories of the other households we interviewed, illustrate that a household's incapacity to pay its energy or water bills, and subsequent disconnection for non-payment, may be due to a wide variety of contributing causes, particularly the causes identified in the literature and discussed in chapter 1.

The experiences of the households we interviewed also demonstrate that the conduct of the relevant energy or water supplier has a significant impact on the ability of a household in financial hardship to afford its bills. In particular, a supplier's inflexibility and/or non-compliance with its legal consumer protection obligations can render electricity, gas or water services less affordable and often leads to increased hardship for a household.

The nature, availability and awareness of assistance schemes also has a considerable effect. Assistance schemes, and general causes of a lack of affordability, interact with each other in different ways to render a household unable to afford its energy or water bills.

To be effective, any measures implemented by government, regulators or industry to alleviate hardship and increase a household's ability to afford its energy or water bills must address one or more of the causes of a lack of affordability. Indeed, this must be the underlying goal of any such measure. However, it is also clear that assistance measures must be designed with a recognition that no single cause of a lack of affordability will necessarily operate in isolation. A measure designed to address one cause of a lack of affordability should not, therefore, be expected to cure the problem immediately or on its own.

Conversely, the implementation of an assistance measure should, for the same reasons, be viewed as one element in an overall strategy to increase the affordability of energy or water services. A failure to implement an assistance measure on the basis that it cannot address all the causes of affordability problems misses the point and is disingenuous; by its nature, any assistance measure will constitute only one of a range of potential measures that may be implemented in order to improve the affordability of energy and water services.

The following chapter discusses a number of assistance measures that have been or may be implemented to address both a household's inability to afford energy or water and disconnection due to incapacity to pay.

# Chapter 5 Preventing disconnection from gas, electricity and water

# 5.1 Measures to address affordability and disconnection

As demonstrated in chapters 3 and 4, households may be unable to pay their energy or water bill and be disconnected for numerous reasons. In order to propose solutions to the problem, it is necessary to understand the underlying assumptions and principles tied to any assistance measures proposed, as well as the roles played by the participating parties. In terms of assessing their effectiveness, it is important to measure how successfully any proposals promote the affordability of energy and water. As many measures rely on the interplay of other schemes in order to be effective, it is also useful to consider not only how well they meet their own specific objectives, but also their value within a broader context.<sup>167</sup>

We have looked at assistance measures according to two dimensions. First, the various measures (in place or proposed) can, for analytical purposes, be scaled according to high or low 'application' value. By 'application' value, we mean the number of consumers to whom the measure may potentially apply; in other words, whether the measure has a universal or targeted application. More precisely, a measure with low 'application' value would be targeted, and hence only available to, a small segment of consumers. An example of a measure with low 'application' value is the Capital Grants scheme administered by the DHS. A Capital Grant is low in 'application' as an eligible consumer must not only be in financial hardship, but also be able to prove that an appliance has become less energy efficient as a direct result of fault or malfunction. A scheme with high 'application' value, on the other hand, is characterised by a more universal applicability. Utility concessions, for example, have a higher 'application' value than Capital Grants as concessions are available to all Victorian consumers who hold an eligible concession card. However, concessions have a lower 'application' value than the *Electricity Retail Code*, which currently applies to all electricity customers who consume less than 160MWh/year of electricity regardless of household income or financial hardship.<sup>168</sup>

The second dimension useful for categorising assistance measures is 'timing'. By 'timing', we mean the stage within the general cycle of consumption, billing and possible disconnection at which the measure intervenes or applies. This dimension relates to the issue of affordability. Programs with preventative aims, such as concessions and energy efficiency initiatives, are characterised by early intervention in that they aim to provide assistance before a household finds itself with difficulties paying a bill. At the other end of the scale are measures that aim to assist consumers who are already experiencing acute affordability or disconnection problems. Examples of such measures are URGs and debt waivers.<sup>169</sup>

It is generally accepted that theoretically universal measures, such as consumer protection laws and industry regulations, do not always ensure equally beneficial outcomes for all consumers. Although the design and implementation of the legal and regulatory framework will influence equality levels, there will always be winners and losers in a market place. Indeed, the goal of a competitive market is to increase efficiency and maximise welfare, but this is silent as to who receives the benefits of these gains in efficiency and overall welfare. Special considerations and measures may therefore be necessary to ensure that unprofitable or

<sup>&</sup>lt;sup>167</sup> By "measures", we mean any policy, program, arrangement or initiative delivered by one or more of industry, government or the community sector that claims to address utility disconnections and/or the affordability of these services.

<sup>&</sup>lt;sup>168</sup> ESC, *Electricity Retail Code*, October 2001.

<sup>&</sup>lt;sup>169</sup> We understand debt waiver to be an arrangement by which an energy or water supplier agrees to forgo payment of a certain amount owed by the customer for consumption of the relevant service – the supplier waives some or all of the debt accrued.

disadvantaged consumers have access to essential services on a fair, equitable and affordable basis.

An important notion in relation to 'timing' is that early measures will, if their objectives are met, address affordability. In contrast, late measures address affordability crises and disconnection. We are of the opinion that whilst measures aimed at consumers who have fallen between the cracks and are at risk of disconnection are of great importance, the public policy emphasis should be on achieving effective preventative measures. Solutions to the problem of disconnection due to incapacity to pay are not going to be efficient or effective in the long term if the problem of affordability endures.

In addition, as late assistance measures are often, and we believe rightfully, delivered by industry, we are of the view that they need to be grounded in earlier universal measures in order to limit arbitrary outcomes for customers experiencing hardship.<sup>170</sup> Payment plans, for example, are a relatively late assistance measure as only consumers in financial hardship and unable to pay their bill qualify. At present, this late measure is grounded in the earlier customer assistance measure constituted by the *Electricity* and *Gas Retail Codes*<sup>171</sup> (together the Retail Codes), which oblige energy retailers to offer payment plans. However, the sustainability of these payment plans, in terms of instalment amounts requested by and affordable for the customer, is based upon the retailers' various and largely unknown policies. In relation to sustainable payment plans, the Retail Codes only stipulate that payment plans 'must *reflect* the customer's consumption needs and capacity to pay'.<sup>172</sup> In our view, given the experiences of the households we interviewed, the availability, design and affordability of payment plans should be more clearly stipulated in legal and regulatory measures in order to deliver more predictable and effective solutions to consumers in hardship. This is because the design and effect of late and targeted measures generally will reflect the design and content of early and universal measures in place. Payment plans in particular will be discussed further below.

We have identified 17 measures (either existing in Victoria or proposed) that have been proposed as solutions to affordability problems experienced by consumers. We have analysed these measures according to 'application' and 'timing' in Figure 5.1 below.

<sup>&</sup>lt;sup>170</sup> As demonstrated in chapter 4, we believe that utility suppliers should be required to play an active role in ensuring that households stay connected to essential services, given the effect of their actions on the affordability of those services. We do not think that the solution to affordability problems and disconnections can or should be based solely upon government funded assistance.

<sup>&</sup>lt;sup>171</sup> ESC, *Gas Retail Code*, July 2002.

<sup>&</sup>lt;sup>172</sup> *Electricity Retail Code*, above n 168, at clause 12.2(a); *Gas Retail Code*, above n 171 at clause 12.2(a) [our emphasis].

# Competition Consumer protection laws (FTA, TPA etc.) Interval Meters\* Independent Universal/ dispute Dispersed resolution Industry codes of practice (retail codes) Enhancing consumer market power (consumer information, price comparison mechanism) Price regulation Energy efficiency 'Application' standards Prepayment meters\* Concessions Centrepay Direct debit Payment Retro fitting\* plans URGs Capital grants Waivers / vouchers\* Targeted/ Concentrated Late Early

#### Figure 5.1 Consumer measures relevant to utility retail markets

'Timing'

\* Measure not currently present in Victoria

In this chapter we will discuss the measures we have identified as proposed solutions to affordability and disconnections (see figure 5.1 above). We have also identified six broad policy objectives directed at addressing the causes of a lack of affordability of energy and water services, under which the measures can be grouped. The six broad policy objectives we have identified are:

- 1) To ensure effective competition and empowered consumers.
- 2) To protect consumers from unwanted market outcomes.
- 3) To lower the price of services.
- 4) To increase energy and/or water efficiency and reduce consumption.
- 5) To assist consumers to manage expenditure.
- 6) To provide assistance to consumers unable to pay.

The above objectives are directed at lowering the price of energy and water services, reducing a household's consumption of these services, and providing further assistance to increase affordability through assistance schemes, payment options and other measures. We recognise, however, that none of the above objectives are directed at addressing inadequate income, a significant contributing cause to a household's inability to afford its energy or water bills. As stated in chapter 1, inadequate income is an issue at the heart of poverty debates generally. We consider that it is self-evident that a higher income would increase the affordability of energy and water services for a household, but have declined to discuss this issue here as it is beyond the scope of this Report.

Each of the six sections of this chapter which follow are devoted to one of the above objectives. In each case, the discussion aims to analyse and explain the underlying assumptions of specific measures and how they relate to overall policy objectives, what these measures can achieve in practice, and the role of the organisations and individuals involved in their delivery. We also make recommendations in regard to measures that we consider offer solutions suitable for Victorian households, as well as to the Victorian policy context and regulatory framework.

Finally, we note that the measures in Figure 5.1 represent a mixture of direct policy tools, such as consumer information, price regulation and concessions, and indirect policy tools. The indirect policy tools are provided by non-government participants, but arguably exist as a result of direct policy tools. Certainly their form depends on the design of direct policy tools; as discussed above, for example, if industry uses payment plans or other hardship measures to assist consumers' capacity to pay, it must be seen in relation to government's regulatory and legal requirements imposed upon industry. However, some of these measures may also be characterised as business tools. Prepayment meters, for example, are a more ambiguous measure. Are prepayment meters an indirect policy tool as they assist consumers in managing expenditure? Or are they solely a credit management tool used by business and with no correlation to policy objectives? Questions such as these will be discussed below.

# 5.2 **Objective 1:** To ensure effective competition and empowered consumers

As discussed in chapter 1, the Victorian electricity and gas markets are now open to FRC. FRC is intended to bring many benefits, including efficient pricing of services to consumers. Efficient, and therefore presumably low, prices increases the affordability of energy services generally, meaning that the introduction of competition to energy markets is a measure designed, amongst other things, to address the affordability of energy services.

Victorian consumers do not currently have any choice as to their water supplier or the terms and conditions, including the price, at which water services will be supplied. We have not,

therefore, analysed any measures directed at achieving this objective in relation to water services in great detail in this chapter.

The energy retail markets in Victoria, however, being competitive, are dependent upon both supply side and demand side participation to be effective. A prerequisite for demand side participation is empowered consumers exercising market power. Key requirements for empowered consumer participation in the market place are easy access to reliable information, low transaction costs and product differentiation.

5.2.1 Information asymmetry, transaction costs and product differentiation

Unbiased and reliable information provided to consumers in an accessible and plain-language format is essential for consumer confidence and market participation. Arguably, the current consumer information arrangements in Victoria do not offer such a service.

Some retailers seem to oppose this type of activity and claim that energy is not so complex that consumers need further assistance. AGL, for example, stated in their submission to the ESC's Review of Full Retail Competition and the Consumer Safety Net for Gas and Electricity (the **FRC Review**) that:

'AGL believes there is sufficient information available. There is a strong commercial incentive for retailers to outline to customers the benefits of accepting their offers. As with any other product or service characterised by competition (even for something as complex as insurance), customers know they can phone other retailers to obtain quotes. We do not believe that the low level of transactions costs incurred by customers serves as an impediment'.<sup>173</sup>

However, a customer survey commissioned by the ESC in relation to the FRC Review found that approximately 50 percent of the respondents who lacked customer confidence said that this was the result of an information deficiency.<sup>174</sup> Residential consumers in particular were concerned about the difficulties in obtaining and comparing costs and prices. The ESC has now launched a price comparison service, with government stating its intention that all energy retailers will be required to publish product details on their websites.<sup>175</sup>

We are of the view that regulators and policy makers need to encourage and facilitate information provision and comparative mechanisms in a new market. Reducing information asymmetry, a well documented cause of market failure, is a task that should have been given much more emphasis by the ESC from the beginning of the introduction of FRC into Victoria's retail energy markets. We believe that it is essential that such information is collected and provided to consumers by a source independent of industry.

Hand in hand with the problem of information asymmetry is the problem of high search costs. Transaction costs such as transfer fees and exit fees are problematic but can be addressed by regulation. Search costs, on the other hand, have proven to be a major obstacle for consumer participation in the energy market. Research has demonstrated that high search costs, and thereby high transaction costs, result in customer inertia and subsequently sub-optimal outcomes.<sup>176</sup>

<sup>&</sup>lt;sup>173</sup> AGL, AGL Response To Essential Services Commission Victoria Issues Paper On Effectiveness of Retail Competition, January 2004 at 8

<sup>&</sup>lt;sup>174</sup> ESC, Special Investigation: Review of Effectiveness of Retail Competition in Gas and Electricity, Public Draft Report, March 2004 at 56.

<sup>&</sup>lt;sup>175</sup> See ESC, *Price Information Disclosure in the Competitive Energy Market*, Consultation Paper, October 2003.

<sup>&</sup>lt;sup>176</sup> M Waterson, *The role of consumers in competition and competition policy*, International Journal of Industrial Organization, Volume 21, 2003, at 129-150.

Another central cause of customer inertia is lack of product differentiation. The experience of other jurisdictions with contestable retail energy markets is that there are few differentiations apart from price that customers respond to. The Victorian market has not yet produced significant price variation between residential offers. Some non-price differentiation has taken place, for example offers of discounted football club membership, but it is unlikely that these efforts will produce sufficient competition levels to deliver noticeable price benefits to Victorian customers.

We therefore recommend that initiatives such as price comparison mechanisms, accessible to consumers without high search costs, be developed and we are therefore strongly supportive of the ESC's development and recent launch of its on-line price comparison tool.<sup>177</sup> For the same reasons, we also strongly support moves to compel suppliers to disclose all their fees and charges in a transparent and accessible manner, by listing them on their websites.<sup>178</sup> However, we do not see the provision of better consumer information as a panacea for the development of effective competition and, subsequently, more affordable services.

**Recommendation:** That further initiatives be developed that provide easily accessible information to Victorian consumers regarding market offers for energy services.

5.2.2 Competition and consumer policy

The measures discussed above are designed to enhance demand side participation in the energy market. As such, they may be viewed as forms of consumer protection regulation. Several commentators have pointed out that competition and consumer policy must be regarded as two sides of the same coin.<sup>179</sup> That is, effective competition depends, at least partly, on effective consumer policy, because competition does not work without the full participation of suppliers and consumers.<sup>180</sup> For example, Louise Sylvan, Deputy Chair of the Australian Competition and Consumer Commission, recently stated:

'In the same way that misuse by a company of its market power inhibits appropriate vigorous competition, the failure of consumers to be able to exercise their market power also inhibits competition'.<sup>181</sup>

In fact, as early as 1984, the head of the then Trade Practices Commission in Australia stated that:

'Consumers not only benefit from competition, they activate it and one of the purposes of consumer protection law is to ensure that they are in a position to do so.'<sup>182</sup>

In other words, consumer protection should not be seen as an impediment to competition, just as competition should not be seen as disadvantaging consumers. Rather, to achieve effective competition it is necessary that consumers are empowered and exercise market power. Given that, as stated earlier, effective competition has a role to play in increasing the affordability of energy services for Victorian households, we consider that there must be robust consumer

<sup>&</sup>lt;sup>177</sup> The ESC's Energy Comparator is available on its website at www.esc.vic.gov.au.

<sup>&</sup>lt;sup>178</sup> I Royall, *Watts on the web*, Herald-Sun, 29 September 2004, available at

www.heraldsun.news.com.au.

 <sup>&</sup>lt;sup>179</sup> See, eg, L Sylvan, *Consumer regulation – How do we know it is effective?*, Speech to the National Consumer Congress, March 2004; A Asher, *Enhancing the Standing of Competition Authorities with Consumers*, ICN conference Korea, April 2004; T Muris, *The Interface of Competition and Consumer Protection*, Fordham Corporate Law Institute's 29<sup>th</sup> Annual Conference on International Antitrust Law and Policy, October 2002; R Bannerman, in Trade Practices Commission, *Annual Report 1983-1984*.
 <sup>180</sup> See J Vickers, *Economics for consumer policy*, British Academy Keynes Lecture, October 2003.

<sup>&</sup>lt;sup>181</sup> Sylvan, *Consumer regulation – How do we know it is effective?*, above n 179 at 5.

<sup>&</sup>lt;sup>182</sup> Bannerman, in Trade Practices Commission, Annual Report 1983-1984 at 184.

protection in place to ensure that competition in the Victorian energy market achieves the desired outcome of lower prices and better quality service.

Sylvan also made this connection when she stated:

'In those industries where [consumers are unable to exercise their market power], one would expect to find consumers paying relatively too much money for products or service, and/or that service and quality levels are less than they should be.'<sup>183</sup>

The Victorian *Fair Trading Act 1999* and the Commonwealth *Trade Practices Act 1974* both contain general legislative provisions aimed at protecting consumers from unreasonable or exploitative practices that would prevent consumers from exercising sufficient demand side pressure on suppliers. However, different industries or markets will operate differently and the issues affecting demand side market failures will vary. For this reason, it may sometimes be necessary to consider industry specific consumer protection measures to improve the ability of consumers to participate in particular markets. As Sylvan pointed out:

'We can see where our markets may not be sufficiently competitive – markets, for example, where consumers don't seem to be switching, markets where there is not much real functional differentiation between products, markets where consumers get locked in and then cannot exercise their choice for alternatives.'<sup>184</sup>

Indeed, in the previous section we discussed measures that could be introduced specifically into the Victorian electricity and gas markets to address particular problems with the market that we can already see. We therefore encourage government, regulators and other policy makers to remain open to introducing industry specific consumer protection regulation into the Victorian energy market wherever the need for such measures is demonstrated. We should not be afraid of such regulation. To quote Sylvan once more, 'the concept of a good competitive economy is not one of a contest between markets and regulation. The concept is of getting results; often, competition in markets can only be ensured through sound regulation and a vigorous regulator'.<sup>185</sup>

In fact, industry specific regulation already applies to the Victorian electricity and gas (and water) retail markets, including the measures outlined in chapter 1, such as the Retail Codes, the obligation to supply and price regulation, which make up a 'consumer safety-net'. Although there has been discussion of reducing the scope of this regulation,<sup>186</sup> the Centre for the Study of Privatisation and Public Accountability at Monash University published a report in February 2004 which concluded that a removal of the consumer safety-net and lifting of the price caps in Victoria would 'indeed be a politically risky decision, and demonstrate a dominance of belief in the market over international empirical evidence'.<sup>187</sup>

However, some of the underlying reasons for existing industry specific regulation are not related merely to improving demand side participation in the energy market, but also to ensuring that competition benefits all consumers and does not disadvantage certain, vulnerable, groups of consumers. Only if policy makers and regulators facilitate consumer empowerment is this likely to be achieved. However, we consider that there are ways of ensuring that certain customer groups receive sufficient protection against negative outcomes without being incommodious to competition, because this is a distributional question, not

<sup>&</sup>lt;sup>183</sup> Sylvan, Consumer regulation – How do we know it is effective?, above n 179 at 5.

 <sup>&</sup>lt;sup>184</sup> See also Sylvan, *Consumer regulation – How do we know it is effective?*, above n 179 at 9.
 <sup>185</sup> As above at 3.

<sup>&</sup>lt;sup>186</sup> See, eg, ESC, Special Investigation: Review of Effectiveness of Retail Competition and Consumer Safety Net in Gas and Electricity - Overview report, Final Report to Minister, June 2004 at 28.

<sup>&</sup>lt;sup>187</sup> Bowman, Coghill and Hodge, *Protecting Utility Consumers from Market Failure*, Centre for the Study of Privatisation and Public Accountability, Monash University, February 2004 at 40.

necessarily one of impeding or enhancing competition. It is basic economic theory that competition leads to efficiency gains and may maximise overall welfare, but does not necessarily ensure that these benefits are distributed equally or in a way that the community considers desirable. Further, economic theory considers it possible to efficiently redistribute the benefits of competition (as determined by, for example, social policy objectives).

This leads us to our second broad policy objective, that of protecting consumers when the market does not.

**Recommendation:** That government, regulators and other policy makers remain open to introducing industry specific consumer protection regulation into the Victorian energy (and water) market wherever the need for such measures is demonstrated.

# 5.3 **Objective 2: To protect consumers from unwanted market outcomes**

We believe that effective competition benefits consumers by making services more affordable. However, we do not believe that a competitive market alone will provide the protection necessary to ensure universal access to essential services. As stated earlier, competition brings many benefits but these benefits may not be equally distributed. This may not seem problematic in relation to, say, the market for luxury cars, but it is not acceptable to allow some consumers to "lose" in a market for a service such as energy or water to which all consumers require adequate access.

Empirical evidence from other sectors such as telecommunications and banking demonstrates that wholly market-based arrangements have failed vulnerable consumers.<sup>188</sup> It is therefore necessary that the regulation of utilities is based on social criteria in addition to economic criteria. This is not unprecedented. For example, in 2000 the United Kingdom (**UK**) energy regulator, Ofgem, published its *Social Action Plan* which focuses on 'areas where specific measures to protect consumers, and the development of competition, can work together to bring benefits to vulnerable consumers and the fuel poor'.<sup>189</sup>

The ESC has not taken a similar role as initiator and driver of schemes and programs to address fuel poverty and disconnection. *The Essential Services Commission Act 2001* (Vic) stipulates clear economic regulatory objectives on which the Commission must act.<sup>190</sup> More specifically, the ESC's primary objective is to 'protect the long term interests of Victorian consumers with regard to the price, quality and reliability of essential services'.<sup>191</sup> However, in doing so the ESC must have regard to seven objectives, including 'to ensure that users and consumers (including low-income or vulnerable customers) benefit from the gains from competition and efficiency'.<sup>192</sup> We consider that this is an implicit recognition of the principle that competition leads to efficiency and welfare gains but is silent as to distributional effects, and is an explicit direction to the ESC to act to redistribute the gains of competition fairly and equitably (which can only be done on the basis of social policy criteria).

Uneven distributional outcomes in the Victorian energy markets are already evident. The ESC concluded in their draft report on the FRC Review in March 2004 that whilst some segments of the Victorian energy markets could be regarded as fully competitive, these sub-markets only comprised about 40% of the residential and small business customer base.

<sup>&</sup>lt;sup>188</sup> Bowman, Coghill and Hodge, *Protecting Utility Consumers from Market Failure*, above n 187 at 41.

<sup>&</sup>lt;sup>189</sup> Ofgem, The Social Action Plan, March 2000 at 4.

<sup>&</sup>lt;sup>190</sup> Essential Services Commission Act 2001 (Vic) section 8.

<sup>&</sup>lt;sup>191</sup> As above at section 8(1).

<sup>&</sup>lt;sup>192</sup> As above at section 8(2)(f).

Thus, further market enhancements were considered necessary.<sup>193</sup> In terms of retailers' marketing activity, the ESC reached the conclusion that customer groups considered the least attractive by retailers included low-consumption, off-peak and rural customers:

'Although retailer targeting of market offers appears relatively broad and imprecise, customer classes perceived to have low consumption, poor credit or subject to off-peak tariffs are unlikely to be targeted by retailers' marketing programs. Tenants may also be avoided given their relatively low consumption levels. Although strategies to avoid high credit risk customers appear to be ineffective (in both cost and outcome terms), customers within generally low income areas of metropolitan and regional centres are much less likely to be the focus of market contract offers. Concession cardholders are not excluded from marketing efforts (some are higher volume users and many are good payers). However electricity-only customers in outer regional Victoria are less likely to be targeted, as they are more likely to use off-peak tariffs'.<sup>194</sup>

Consumer Affairs Victoria has pointed out that there are two dimensions that influence consumer disadvantage and vulnerability, namely a market dimension and a personal dimension. The personal dimension is made up of the attributes and circumstances that impact upon an individual's consumer decisions.<sup>195</sup> These attributes and circumstances, such as low income, geographic remoteness and limited English language proficiency, together with market characteristics, can cause consumer disadvantage and thus vulnerability in a particular market place.

The distributional effect of a market is generally perceived to warrant intervention if the social cost of leaving benefits and detriments as they lie is perceived as too high. The essentialness of energy (and water) makes it impossible for policy makers not to address unequal distribution of benefits by the competitive market. However, in the case of disconnection from energy (or water), in Victoria this has seemed to involve a question of what percentage level of households being disconnected is deemed acceptable by the government or regulator and how high this level can reach before it is regarded as too high. The lesson to date is that disconnection for non-payment levels of 1-2% have not been regarded as unacceptable. We consider, however, that such disconnection rates *are* unacceptable as they still represent, in reality, a significant number of people going without access to essential services. These rates indicate that some intervention is required to ensure vulnerable households are not losing out in the energy market.

We are therefore of the view that whilst competition levels may improve and deliver enhanced outcomes for the majority of consumers at the majority of times, some customer groups will remain in need of protection and assistance. It is the role of government and, to a lesser extent, regulators to ensure that these measures are in place, particularly when affordable access to an essential service is in question.

5.3.1 Industry specific or general consumer protection regulation?

There is currently debate in Victoria as to whether industry specific regulation is needed, and whether consumers of an essential service can be adequately protected by general consumer

<sup>&</sup>lt;sup>193</sup> ESC, Special Investigation: Review of Effectiveness of Retail Competition in Gas and Electricity, above n 174 at 90.

<sup>&</sup>lt;sup>194</sup> As above at 91-92.

<sup>&</sup>lt;sup>195</sup> Consumer Affairs Victoria, *What do we mean by 'vulnerable' and 'disadvantaged' consumers?*, Discussion paper, 2004. The paper defines the main market factors as: information asymmetry, market power, exploitative supplier motivations and complex products/transactions.

protection laws. For example, the *Fair Trading Act* and the *Trade Practices Act* have been discussed as providers of adequate protection for Victorian energy consumers.<sup>196</sup>

Both industry specific and general consumer protection regulation have broad 'application' in this context. The main difference is that, as discussed earlier, industry specific regulation can address industry specific consumer protection issues, for example, in the case of energy, regulation surrounding difficulties in accessing comparable price information or concerning the disconnection of consumers from supply. As argued in chapter 1, energy (and water) are essential services; the essentialness of the services sets them apart from other goods and services and makes it necessary to have industry specific regulation in addition to the application of general consumer protection laws.

5.3.2 Retail codes and benchmark customer contracts

As discussed in chapter 1, Victorian electricity and gas retailers have been subject to separate industry Retail Codes since the introduction of FRC, however the ESC is currently in the process of finalising a single *Energy Retail Code*.<sup>197</sup> Although the Retail Codes (and the new *Energy Retail Code*) do not address the problem of affordability in itself, industry specific codes can stipulate safeguards for consumers facing affordability problems and who are subsequently at risk of disconnection. In particular, they can regulate the conduct of suppliers in dealing with customers in hardship, which, as we saw in chapter 4, may contribute significantly to affordability problems and subsequent disconnection.

The Retail Codes, and the new *Energy Retail Code*, oblige Victorian energy retailers to offer instalment plans to those customers who inform their retailer that they are experiencing financial hardship or whom the retailer suspects are experiencing financial hardship. According to clause 12.2 of the Retail Codes, the period of the plan and the amount requested must reflect the customer's consumption needs and capacity to pay. Similarly, the current water *Benchmark Customer Contract* obliges the metropolitan water retailers to include in their customer contracts an obligation to offer a customer having difficulties paying their bills or in arrears, an instalment plan which is consistent with the customer's capacity to pay.<sup>198</sup> The draft water *Customer Service Code*, which will apply to both metropolitan water retailers and RUWAs, contains an obligation to make instalment plans available to customers in accordance with the customer's capacity to pay.<sup>199</sup>

While these obligations provide some assistance to customers unable to pay their energy or water bill, the wording of these obligations clearly allows for some ambiguity in their implementation. However, as the implementation stage of these measures is very late on the 'timing' dimension, they are directed at consumers already facing a crisis; there is no room for arbitrary outcomes due to the devastating impact this may have on the households involved. This is clearly demonstrated by the experiences of the households we interviewed, such as Sue's, Kate's and Helen's stories, discussed in chapter 4. The inability of households to obtain agreement with their retailer on a payment plan that reflected their capacity to pay was a recurrent theme and was generally a precursor to disconnection from supply. This issue is discussed further below in section 5.6.1.

<sup>&</sup>lt;sup>196</sup> See, eg, ESC, Special Investigation: Review of Effectiveness of Retail Competition and Consumer Safety Net in Gas and Electricity - Overview report, above n 186at 28; J Tamblyn, The Right to Service in an Evolving Utility Market, Presentation to the National Consumer Congress, March 2004.

<sup>&</sup>lt;sup>197</sup> ESC, Draft *Energy Retail Code*, May 2004, available from the ESC's website at www.esc.vic.gov.au/electricity587.html.

<sup>&</sup>lt;sup>198</sup> ESC, *Benchmark Customer Contract*, Melbourne Metropolitan Water and Sewerage Retail Industry, January 1998, at clause 8.5(1) and 8.5(3).

<sup>&</sup>lt;sup>199</sup> ESC, Draft *Customer Service Code*, May 2004, available from the ESC's website at www.esc.vic.gov.au/water730.html, at clause 5.4.

Earlier measures that limit the arbitrariness or ambiguity of late measures are, therefore, clearly warranted. Earlier measures will consist of clearer regulation and guidance regarding measures and obligations that are implemented at a late stage. As argued above, fair consumer protection regulation does not impede the development of effective competition, rather it will enhance it. We do not consider, therefore, that explicit requirements on all energy (and water) retailers with regard to dealing with customers in hardship would impede competition in the energy retail markets. If energy consumers were aware of the options offered by the different retailers and could trust in their availability, all parties would gain from the arrangement. More importantly, however, more robust regulation of this area would significantly improve the situation for households facing difficulties affording their energy and water bills and, we believe, would reduce the number of households disconnected, unacceptably, because they cannot afford their energy or water services.

In our view, the most obvious manner in which to implement improved regulation of supplier conduct with regard to customers facing affordability problems is to impose an obligation on suppliers to introduce more sophisticated hardship policies, based on a standardised set of minimum obligations that reduce the scope for arbitrariness or inappropriately low standards. The water *Benchmark Customer Contract* operates in precisely this way, providing room for the metropolitan water retailers to develop their own customer contracts but providing consumers with minimum protections and greater clarity regarding key consumer protection issues, including disconnection for non-payment.

We note that the Victorian metropolitan water retailers and some of the RUWAs have already implemented hardship policies that go beyond the minimum requirements of the *Benchmark Customer Contract* (or indeed the Retail Codes) in relation to dealing with customers in hardship and we commend these suppliers for doing so. Nevertheless, the ongoing implementation of, monitoring of compliance with and improvement to these policies remains at each supplier's discretion and goodwill. This means that outcomes for customers in hardship are still prone to arbitrary implementation and, further, there is no requirement on the suppliers to continuously improve the policies.

For this reason, we strongly recommend that suppliers be *required* to adopt hardship policies rather than simply be encouraged to do so. Imposing such an obligation would allow the ESC to set minimum standards for the policies and monitor the actual implementation of policies by suppliers. An obligation to adopt a hardship policy consistent with stated minimum standards could be imposed on Victorian energy retailers under the *Energy Retail Code* and/or could take the form of a new guideline, compliance with which is made a condition of retailer licences, in the same way that guidelines on, for example, credit assessment and confidentiality and explicit informed consent have been made licence conditions. This would be our preference, given that guidelines are specifically designed to provide greater clarity regarding more general obligations. For example, the *Credit Assessment Guidelines*<sup>200</sup> provide guidance on what may be considered an 'unsatisfactory credit rating' by the retailers under the Retail Codes. Similarly, such an obligation could be imposed on the water suppliers under the new draft *Customer Service Code* or clarifying guideline. We note that EWOV has also recently stated that it supports the imposition of a regulatory requirement on all energy and water suppliers to develop hardship policies.<sup>201</sup>

<sup>&</sup>lt;sup>200</sup> ESC, *Electricity Industry Guideline No. 4 - Credit Assessment*, April 2002; ESC, *Gas Industry Guideline No. 1 - Credit Assessment*, May 2002.

<sup>&</sup>lt;sup>201</sup> EWOV, *It's time to review hardship initiatives, Ombudsman says*, Media Release, 30 September 2004; EWOV, *Resolution 18: 1 January 2004 – 30 June 2004*, Bi-annual newsletter at 12; both available from the EWOV website at www.ewov.com.au/html/publications.html.

The ESC's Final Decision on the Review of the Electricity and Gas Retail Codes, which outlines the new *Energy Retail Code*, proposes to include a new provision in the *Energy Retail Code* enabling Victorian energy retailers to charge customers a late payment fee, but only once the ESC has approved the charging of such fee.<sup>202</sup> The ESC further states, however, that its approval to charge late payment fees will be subject to certain conditions, including that retailers implement best practice hardship policies and procedures, based on Yarra Valley Water's hardship policy.<sup>203</sup> The ESC proposes to issue a guideline on late payment fees which will include the requirement to implement a hardship policy.<sup>204</sup> It appears that customers being dealt with under a retailer's hardship policy will be exempt from late payment fees or will have any late payment fees waived.<sup>205</sup>

At this stage it is unclear what such a 'best practice hardship policy' might look like, other than that it will bear some resemblance to Yarra Valley Water's hardship policy.<sup>206</sup> The ESC has proposed to conduct further consultation with stakeholders to determine the most appropriate benchmarks for the hardship policies,<sup>207</sup> however we do not know how detailed the ESC envisages these benchmarks to be. It is therefore not possible to comment on the substance of the minimum requirements or benchmarks for hardship policies that will be set by the ESC under these proposals. However, we note that even the generally well-regarded hardship policy implemented by Yarra Valley Water is not highly detailed and does not contain all of the minimum standards for a hardship policy that we would advocate (discussed further below).

In addition, the Victorian Government has recently announced that it will introduce legislation to ban the imposition of late payment fees on domestic and small business customers by Victorian energy retailers.<sup>208</sup> This means that, even if the *Energy Retail Code* is amended to include the provisions regarding late payment fees discussed above, Victorian energy retailers will not actually be able to impose such fees on their customers. This will render any guideline on late payment fees obsolete and we are therefore unsure whether such a guideline will be developed by the ESC. It would certainly seem a waste of the ESC's resources to do so. If the guideline is not issued, the requirements regarding hardship policies will also fail to be implemented.

Lastly, the development of hardship policies in this context is, clearly, tied to the introduction of late payment fees. Under the ESC's proposals, retailers who do not wish to charge late payment fees will be under no obligation to develop a best practice hardship policy. Further, if hardship policies are developed within the context of being only one of several criteria for approval for charging late payment fees, the importance of developing hardship policies is subordinated and we expect that this will result in less comprehensive benchmarks for hardship policies than would be the case if they were the central focus of examination. In any case, we question whether the requirement to implement a hardship policies is not based solely on the need to protect certain customers from late payment fees. Rather, we consider that hardship policies should be required of retailers to address affordability problems more generally, as detailed above.

<sup>&</sup>lt;sup>202</sup> Energy Retail Code, above n 197, at clause 7.4.

<sup>&</sup>lt;sup>203</sup> ESC, *Review of Electricity and Gas Retail Codes – Energy Retail Code*, Final Decision, May 2004 at 15-16. Yarra Valley Water is one of the three Melbourne metropolitan water retailers.

<sup>&</sup>lt;sup>204</sup> As above at 2.

 $<sup>^{205}</sup>$  As above at 2, 14-16.

<sup>&</sup>lt;sup>206</sup> Yarra Valley Water, *Customer Contract 2004*, clauses 8.4 and 9.1 (particularly clause 8.4.5).

<sup>&</sup>lt;sup>207</sup> ESC, Review of Electricity and Gas Retail Codes – Energy Retail Code, above n 203 at 16.

<sup>&</sup>lt;sup>208</sup> M Ketchell, *Power, gas companies under fire*, The Age, 29 September 2004; available from www.theage.com.au/articles/2004/09/28/1096137241360.html.

A specific *Hardship Policy Guideline* would provide better guidance regarding minimum standards for a retailer's hardship policy. It would sit neatly with a new obligation under the *Energy Retail Code*, most likely under clause 11, requiring retailers to deal with those of their customers facing payment difficulties in accordance with their hardship policy. Indeed, the ESC has already demonstrated that it is open to requiring suppliers to implement hardship policies – clause 5.6 of the draft water *Customer Service Code* imposes on each water supplier a requirement to implement a 'hardship policy that details procedures for assisting residential customers in hardship'.<sup>209</sup> Work invested in developing a *Hardship Policy Guideline* would therefore be useful in clarifying the obligations of both Victorian energy retailers and Victorian water suppliers.

The households we interviewed, as discussed in chapter 4, encountered difficulties in dealing with their suppliers. In summary, these difficulties occurred because suppliers:

- did not accept that the households were in financial hardship;
- did not deal with their cases sensitively or on an individual basis;
- were inflexible in providing options to deal with accrued debt;
- did not provide any further assistance; and/or
- made errors in relation to the household's account.

There are various models that have been advanced as guidance for appropriate hardship policies.<sup>210</sup> We consider that, in order to provide appropriate assistance to households in financial hardship, such as the households we interviewed, hardship policies must be required to meet mandated minimum standards that address the problems encountered by the households we interviewed and draw upon the work already done on this issue.

In particular, we consider that a *Hardship Policy Guideline* should include minimum standards in relation to the following matters:

# a) Methods of identification by suppliers of customers who are in financial hardship and who should therefore be dealt with under the supplier's hardship policy

Suppliers should implement processes that allow them to better identify customers in hardship, including training of call centre staff, monitoring of customer accounts for certain indicators and flagging of records of customers with a history of payment difficulties.

Indicators that could be used by suppliers to identify customers in hardship might include: a history of payment difficulties; high debt;<sup>211</sup> entitlement to concessions; tenant status; and, importantly, self-identification by a customer as being in financial hardship. Self-identification is clearly one indicator that is currently being under-utilised by suppliers, if the experiences of the households we interviewed are considered. However, suppliers should not be limited by inflexible criteria for determining whether a customer is in hardship, as Tom's story in chapter 4 demonstrates.

<sup>&</sup>lt;sup>209</sup> Customer Service Code, above n 199, at clause 5.6.

<sup>&</sup>lt;sup>210</sup> See, for example, Yarra Valley Water, *Customer Contract 2004*, above n 206; Victorian Water Industry Association, *Water Industry Residential Hardship Guide*, September 2003; *Customer Service Code*, above n 199 at clause 5.6; Ofgem and Energywatch, *Preventing debt and disconnection*, January 2003.

<sup>&</sup>lt;sup>211</sup> See WREAG, Powering Poverty: A report on the impact of the 2003-2004 electricity price rises on 12 low-income households in South Australia, July 2004 at 12.

#### b) Minimisation of billing errors

Billing errors, such as delays in providing a bill, can impact dramatically on the ability of a low-income household's capacity to meet that bill. We discuss further in section 5.7.1 below a submission to the ESC by Jindara Community Programs (**Jindara**) regarding the experiences of households that received high bills and the impact that this had on the household's ability to afford the bill. The Jindara submission indicates the serious effect that billing errors can have on the affordability of essential services.<sup>212</sup> More generally, suppliers should provide training to their staff to treat cases of billing error carefully and not to dismiss customer complaints regarding errors too harshly or quickly.

#### c) Provision of targeted assistance to customers in financial hardship

The households we interviewed commonly complained of rude treatment and a lack of understanding by their supplier with respect to their financial circumstances. It is clear that suppliers should provide regular training to their call centre staff on financial hardship issues to ensure that staff deal with customers sensitively. Further, we consider that suppliers should dedicate a specific group of staff within the business (dependant on business size) to deal with all hardship customers. General call centre staff should be trained to identify and refer customers in hardship to this specialised group, who have the ability and authority to deal with customers in hardship in an appropriate manner under the supplier's hardship policy.

In addition, suppliers should make efforts to contact customers in person, not only in writing or by telephone, when households are at risk of disconnection for non-payment. Some households may not understand the gravity of a written warning or may be grappling with other issues that divert their attention from their energy or water service. This is often the case for households in financial hardship, given that they may be dealing with other serious issues at the same time, such as unemployment, illness, relationship breakdown or the inability to afford other essential services.<sup>213</sup> The households we interviewed often attempted to take steps to address their situation once visited by a supplier representative who was at their home to disconnect their service, however this person had no authority to discuss payment matters with the customer. A visit in person can be an effective way to identify customers in hardship and engage with them in devising solutions to affordability problems. This issue is also discussed in section 5.7.3 below.

#### d) Provision of flexible payment options

Suppliers should be able to consider offering a range of payment options to customers in financial hardship. Further, suppliers should not require customers to meet rigid criteria before offering alternative payment options – see, for example, Maggie's story in chapter 4.

A key payment option will be instalment payment plans based on a household's capacity to pay for energy or water services (discussed in section 5.6.1 below). We note here that independent financial counsellors constitute an existing resource that may be used to provide robust assessments of a household's actual capacity to pay. Suppliers should develop links to independent financial counselling services to assist them to make such

<sup>&</sup>lt;sup>212</sup> J McMillan and D Nelthorpe, *Submission to the Essential Services Commission on the Draft Energy Retail Code – High Customer Bills*, Jindara Community Programs, September 2003; available from www.esc.vic.gov.au/electricity587.html.

<sup>&</sup>lt;sup>213</sup> See WREAG, Powering Poverty: A report on the impact of the 2003-2004 electricity price rises on 12 low-income households in South Australia, above n 211 at 11-12.

assessments, including working with financial counsellors to overcome any resourcing constraints faced by increased usage of their services. We also recommend that government provide increased funding to financial counselling programs, given the highly useful function that financial counsellors would serve in relation to hardship policies, by assisting energy and water suppliers to assess capacity to pay and thus offer essential services to Victorian households on an affordable basis.

We also consider that debt waiver should be an option that suppliers be required to consider, at least in certain circumstances. It is clear from the stories of the households we interviewed that leaving a customer in debt after applying partial assistance to pay for a bill does not alleviate affordability problems. We discuss debt waiver further below in section 5.7.2.

#### e) Links to energy and water efficiency programs

We discuss the role of energy and water efficiency advice and programs in detail in section 5.5 below. However, we note here that improvements to the energy and water efficiency of residences have the potential to greatly improve the affordability of energy and water services for low-income households. Suppliers with hardship policies are in an excellent position to identify households who would benefit from energy and water efficiency improvements to their homes. We therefore consider it crucial that hardship policies provide for suppliers to connect customers in hardship with available assistance to improve the energy and water efficiency of their homes. We note also that suppliers themselves bear some responsibility for giving advice and assistance in this regard, given they are responsible for delivering the services in question.

#### f) Monitoring and review of hardship policies

Hardship policies, or any *Hardship Policy Guideline*, should contain clear obligations on suppliers to monitor their performance under their hardship policy and report on their performance to the ESC on a regular basis. The ESC should be required to report publicly on supplier performance to allow public scrutiny and community input into ensuring the ongoing effectiveness of hardship policies and advocating for improvements to policies or the guideline as appropriate.

Some may argue that a requirement to adopt hardship policies will impose an additional cost burden on suppliers, who will be forced to implement more expensive measures to deal with residential customers facing payment difficulties, including upgrading of their computer systems, undertaking personal home visits, conducting home efficiency audits and compliance and monitoring costs. If this is the case, we consider that the additional cost is justified on the basis that energy and water are so essential that it is unacceptable to allow low-income households to go without these services simply because of a lack of capacity to pay for them. We consider that this is true even if these costs are ultimately borne by the rest of the market or by taxpayers generally, not merely by suppliers (and their shareholders).

However, it may not be the case that hardship policies impose a cost burden on suppliers. Rather, there is evidence to suggest that the implementation of a hardship policy may convey benefits, including financial benefits, to a supplier. For example, at a conference organised by EWOV in 2001, the CEO of City West Water noted, in relation to the implementation of a hardship policy:

'And we have continued to reduce our legal costs. Over a two-year period, we have probably reduced our legal costs in the order of \$700,000 which is good for business and we hope, good for customers as well. The hardship policy wasn't an add on cost in our business. That came after we stripped out a good deal of corporate entertainment, corporate sponsorships -

we substituted those sorts of resources back into the hardship policy area.<sup>214</sup>

Yarra Valley Water also reported improved cash flow and management of bad debt since implementing its hardship policy, as well as improved relationships with stakeholders.<sup>215</sup> We therefore consider that mandatory hardship policies are warranted both on social and commercial grounds.

**Recommendation:** That the ESC impose an obligation on Victorian energy retailers and water suppliers to adopt hardship policies based on mandated minimum standards set out in a *Hardship Policy Guideline*. Such minimum standards should address: a) Methods of identification by suppliers of customers who are in financial hardship and who should therefore be dealt with under the supplier's hardship policy; b) Minimisation of billing errors; c) Provision of targeted assistance to customers in financial hardship; d) Provision of flexible payment options; e) Links to energy and water efficiency programs; and f) Monitoring and review of hardship policies.

**Recommendation:** That government provide increased funding to financial counselling programs, given the highly useful function that financial counsellors serve in assisting energy and water suppliers to assess capacity to pay and thus offer essential services to Victorian households on an affordable basis.

# 5.4 **Objective 3:** To lower the price of services

In section 5.2 we argued that a competitive market has the potential to reduce prices for *all* consumers, although the relatively immature electricity and gas markets in Victoria are not currently delivering such outcomes. However, a central concern raised in section 5.3 was the effect that the competitive market may have on low-income and disadvantaged consumers.

Another method to increase the affordability of energy (and water) services for low-income households is to introduce measures designed specifically to lower prices, as opposed to measures designed to facilitate competition (which is hoped will lead to lower prices).

#### 5.4.1 Price regulation

One tool available to government in order to lower prices and make services more affordable is price regulation. Price regulation comes in many forms, and can operate in parallel to market offers or as a last resort (a price cap) to ensure that regulated services do not become unaffordable for consumers.

Economic theory would naturally warn against any such intervention as distorting the operation of the market. Indeed, Australian energy retailers claim that price regulation, as a response to demand side concerns in an immature market, only prolongs market immaturity

<sup>215</sup> T Kelly, 'Working With Customers Experiencing Financial Difficulty', Presentation, in EWOV, Getting Connected...Genuine utility-consumer partnerships, above n 214 at 40-41 and see also further comments made by M Bourke and T Kelly at 51-54; see also Western Australian Council of Social Service (WACOSS), Would You Like a Bit of Heat with that Trickle of Water? - A report on the results of research into the cost of essential services to Emergency Relief Agencies and their clients, July 2003 at 18; G Dufty, Social policy perspective of low income and disadvantaged households - issues for a converged telecommunication market, St Vincent de Paul society, Paper presented at Telecommunications Industry Ombudsman Conference, 25 November 2003, available from www.tio.com.au, at 8.

<sup>&</sup>lt;sup>214</sup> M Bourke, 'From Credit Management to Consumer Partnerships - our evolving approach', Presentation, in EWOV, *Getting Connected...Genuine utility-consumer partnerships*, Transcript of conference, 9 November 2001, available from www.ewov.com.au, at 49.

and that ill-informed customers are not unique to energy markets.<sup>216</sup> While there may be some logic to the claim that price regulation may prolong low demand side participation, we do not regard it as justifiable to argue that customers have to "learn how to cope" in other markets, and hence they should have to in the energy market as well. This is because, as the Energy Retailers Association of Australia itself acknowledges, a key feature of energy retail as a product is that it 'involves the provision of an essential product'.<sup>217</sup>

Given the danger that, as discussed in section 5.3 above, certain groups of consumers, particularly low-income and disadvantaged households, may be priced out of a competitive market, we consider that the government (and/or regulators) should retain reserve powers to monitor retail prices continuously and to intervene on social equity grounds if prices rise to a level that is unaffordable for certain households. We recognise that such intervention may not be necessary in relation to markets for all goods and services. However, the essential nature of energy and water services means that social policy considerations tell us it is unacceptable to allow some consumers to be excluded from access to these services. In any case, we do not agree that such intervention by government (or a regulator) is necessarily a distortion of the competitive market. Rather, such intervention should be seen as part of the government's role as the body which determines how the gains achieved by competition should be distributed, taking into account social policy objectives.

It appears that the Victorian Government agrees with us, at least to some extent. It announced in December 2003 that it had negotiated a pricing structure for the Victorian electricity and gas standing offers for the period 2004-2007. The Government's reasoning for this agreement with the energy retailers was to act to protect consumers by constraining proposed price increases. The Minister for Energy Industries and Resources, Theo Theophanous, announced:

'This agreement will provide real benefits for all Victorians over the long term, while promoting competition in the energy market...What we have done is the equivalent of a home-owner locking in a fixed interest rate while interest rates are low. With this energy agreement, we have passed on the benefits of this low-cost environment to all Victorians.<sup>218</sup>

Retail price regulation in Victoria is only light-handed as it merely sets a cap on the price increases sought by the energy retailers. However, it is the view of the Victorian Government and regulator that price regulation remains necessary while awaiting effective competition in the energy retail market, at least for domestic consumers.<sup>219</sup>

Victorian water suppliers remain government-owned and do not operate in a competitive market. As discussed in chapter 1, the Victorian Government has, until recently, set the prices charged by the metropolitan water retailers and Melbourne Water, and prices set by the RUWAs and Rural Water Authorities have been subject to approval by the Government. The ESC has now become responsible for regulating water prices and will determine pricing arrangements to apply from 1 July 2005. Although the ESC is undertaking extensive consultation regarding the manner in which it will regulate water pricing, it is clear that, in the absence of a competitive market, both government and the regulator consider that water pricing must be monitored and regulated in some manner.

<sup>&</sup>lt;sup>216</sup> KPMG. The Effectiveness of Competition and Retail Energy Price Regulation, Discussion paper prepared for the Energy Retailers Association of Australia, December 2003. As above at 50.

<sup>&</sup>lt;sup>218</sup> Minister for Energy Industries and Resources, Low Energy Prices Locked In For Next 4 Years, Media Release, 23 December, 2003.

<sup>&</sup>lt;sup>219</sup> See, for example, ESC, Special Investigation: Review of Effectiveness of Retail Competition and Consumer Safety Net in Gas and Electricity - Overview report, above n 186 at 35.

**Recommendation:** The government (and/or regulators) should retain reserve powers to monitor retail prices continuously and to intervene on social equity grounds if prices rise to a level that is unaffordable for certain consumers.

#### 5.4.2 Tariffs

In the case of electricity, the ESC also has the role of economic regulator for the Victorian distribution industry. The distribution component of a customer's bill is substantial, accounting for 30 to 50 percent of the total bill amount.<sup>220</sup> Distribution charges therefore have a significant impact on the overall affordability of a household's electricity bill. The ESC undertakes rigorous reviews of distribution pricing, and makes distribution price determinations, every five years.<sup>221</sup>

Price regulation of the Victorian electricity distribution industry is incentive based, which in this context means that the revenue requirements of the electricity distribution businesses are first calculated and the businesses are then permitted to recover this revenue through various tariffs charged to consumers during the regulatory period. This approach means that Victorian distribution businesses have the ability to assign various tariffs to different customer groups. This "tariff basket" approach has resulted in great variance in, and changes to, the electricity costs borne by Victorian electricity consumers. For example, an ESC report assessing Victorian electricity distributors' tariffs from 2001 to 2004 pointed to tariff changes such as:

'In 2001 CitiPower [also] increased block 2 on the residential single rate tariffs and the off-peak charge for sub-transmission. These increases were off-set by reductions in the standing charges for residential and general purpose tariff customers.'<sup>222</sup>

#### and

'Powercor [also] indicates that it has aligned its tariffs to ensure small and medium customers pay the same rates for their usage'.<sup>223</sup>

The Victorian electricity distribution businesses are required to provide annual tariff reports to the ESC that contain detailed information for consumers regarding tariff charges, cost allocation, pricing principles and the rationale behind the introduction or removal of tariffs. The ESC has acknowledged that the information provided by the distribution businesses has been inadequate for the purpose of providing useful information to consumers and is currently reviewing changes to the reporting requirements.<sup>224</sup>

Whilst we strongly agree that the current reporting framework is inadequate, the provision of clearer information to consumers will not address concerns regarding the volatility and uneven allocation of charges. We therefore recommend that the ESC also adopt a clear set of pricing principles for the distribution businesses to follow. The current regime only requires the businesses to have regard to an upper and a lower bound within which tariffs must

<sup>&</sup>lt;sup>220</sup> Office of the Regulator-General, Victoria, *Electricity Distribution Price Determination 2001-2005 Volume I Statement of Purpose and Reasons*, September 2000.

<sup>&</sup>lt;sup>221</sup> The regulatory review period for the electricity distribution industry in Victoria is currently 5 years. The ESC does, however, have the power to lengthen or shorten this period.

<sup>&</sup>lt;sup>222</sup> ESC, Pricing Issues Consultation Group, Attachment 1: Assessment of Distribution Businesses Tariff Reports 2001-04, June 2004 at 4.

 $<sup>^{223}</sup>$  As above at 6.

<sup>&</sup>lt;sup>224</sup> ESC, *Consultation Paper No. 1: Framework and Approach*, Electricity Distribution Price Review 2006, March 2004 at 44-46.

reside.<sup>225</sup> There is thus no requirement on the distributors to incorporate considerations of stability into their decisions regarding tariff charges and allocation, let alone considerations of the affordability of services for different groups of end-user consumers.

In particular, we recommend that the ESC support distribution pricing principles based on equity, stability and consistency.<sup>226</sup> The implementation of clearer distribution pricing principles that are explicitly designed to take into account the affordability of the end bill for Victorian households, particularly households in financial hardship, would be of significant assistance in addressing unaffordable electricity bills for these households.

Another option available to government and regulators is to regulate tariffs in such a manner that low consumption consumers are rewarded, rather than financially punished, for their low usage levels. This principle would apply to electricity, gas and water pricing. In the current marketplace, low consumption consumers of electricity, gas and water services are unattractive customers and are financially penalised via tariff structures which incorporate a large up-front, fixed charge and then a smaller flat charge per energy or water unit consumed. As a result, small volume users pay more per energy or water unit than large users, as they must still pay the same up-front charge for use of their energy or water service. As noted in chapter 4, this tariff structure may have contributed to Mark's household being unable to reduce its electricity bills by any significant amount, despite reducing consumption. An inclining block tariff, for example, might ensure that low consumption consumers pay less per energy or water unit than consumers with higher consumption, and would have the added environmental benefit of sending price signals that encourage lower consumption.

Indeed, recent trends suggest that governments and regulators in Australia are now favouring moves towards arrangements that ensure energy and water services are priced on a cost reflective basis in order to provide an incentive for consumers to reduce discretionary or wasteful consumption. The recent reforms to the pricing of water services in Victoria, discussed below, are an example of this. The New South Wales energy and water regulator, IPART, has also raised concerns about flat tariff structures due to the inherent cross-subsidies and lack of demand side incentives to reduce consumption in such a pricing structure.<sup>227</sup> One option proposed by IPART in relation to electricity distribution pricing is to implement an inclining block tariff for electricity distribution services which, if passed through to retail tariff structures, should result in customers paying:

'an initial lower price per kWh for energy consumed up to some prescribed threshold level of consumption [and] a higher price per kWh for energy consumed above the threshold'.<sup>228</sup>

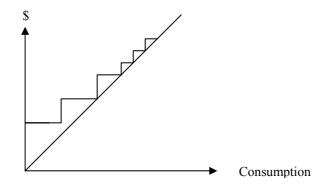
<sup>&</sup>lt;sup>225</sup> The lower bound is that tariffs for each customer should be above the avoidable cost to service that customer and the upper bound is that tariffs should be below the cost of providing the service on a stand-alone basis to the customer.

<sup>&</sup>lt;sup>226</sup> The NSW regulator, IPART, recently introduced such principles.

<sup>&</sup>lt;sup>227</sup> IPART, *Inclining Block Tariffs for Electricity Network Services*, Secretariat Discussion Paper, June 2003.

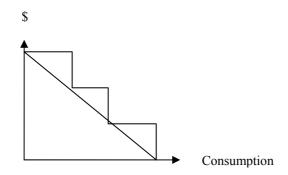
<sup>&</sup>lt;sup>228</sup> As above at 11.

#### Figure 5.2 Inclining block tariff



A declining block tariff, on the other hand, will deliver an initial high fixed charge and declining cost for consumption above the threshold level. Thus, a declining tariff would favour large consumers.

# Figure 5.3 Declining block tariff



Some commentators have argued, however, that many low-income households are relatively large users of energy and water services. As a result, they could be even more disadvantaged by inclining block tariff regulation.<sup>229</sup> This argument makes some sense as we know that low-income households often live in poor quality housing, have older and more energy or water inefficient appliances and may spend more time at home, all of which contribute to increased consumption and, therefore, higher bills. Larger households are also likely to use more energy and water than smaller households, even if they generally use energy or water efficiently. These issues were discussed in detail in chapter 1 and were borne out in the stories of many of the households we interviewed, as discussed in chapter 4.

For this reason, although we regard price and tariff regulation as a measure of relatively high 'application' value and consider that it has the potential to improve the affordability of energy and water services for all households, the impact of any regulatory pricing structure on the affordability of energy and water services for certain households, particularly low-income with higher use households, must be closely monitored; the impact of price regulation on affordability will depend strongly on the design of pricing principles and the regulation of tariff structures. Concessions for certain households may also be designed to address the

<sup>&</sup>lt;sup>229</sup> See, for example, Utility Consumers' Advocacy Program, Public Interest Advocacy Centre, *Well Connected*, Newsletter No 21, July 2004 at 2.

unintended effects of inclining block tariffs on these households. Concessions are discussed further in section 5.4.3 below.

Finally, we note that, for price and tariff regulation to have its desired effect, consumers must be able to lower their costs by responding to price signals and by consuming less overall or consuming at times when prices are low.<sup>230</sup> In very basic terms this can be achieved by offering peak and off-peak tariffs, or by offering a tariff structure such as an inclining block tariff. However, in order to obtain the full benefit of better designed tariff structures, consumers must have access to information that allows them to respond to price signals.

The ESC proposes to introduce interval meters into the Victorian electricity market for this very reason.<sup>231</sup> Interval meters are meters that are able to record a household's usage in short blocks, allowing the collection of information about how much of the service was consumed at specific times. This and other contemporary metering technology opens up opportunities for more sophisticated (and complex) demand side responses to price signals and, therefore, invites more sophisticatedly designed tariff structures, particularly time of use tariffs.

We are not convinced, however, that interval meters will, in reality, have the desired effect of encouraging or enabling households to respond to pricing signals including time of use tariffs. First, unless interval meters send immediate signals regarding the prices being paid, not only the amount of electricity being used, households will still only receive price signals, in the form of bills, at a later stage. Secondly, the prices households pay for their electricity will depend on the tariffs to which they are subject, not on an objective measure about how much electricity is worth at any particular time. As Britton recently pointed out:

'The signal may be "You are on the wrong plan!", rather than "You are using too much juice!". The actual price for energy units consumed will likely vary from consumer to consumer, so the signals will vary. These will then be rolled up into a cumulative bill that will be delivered at some point in time remote from the metering events.<sup>232</sup>

Finally, the desire to encourage households to respond to price signals assumes that households will, in fact, be able to do so. However, as energy and water are essential services, certain levels of consumption will be non-discretionary. Further, as discussed above and in chapter 1, each household's non-discretionary consumption level will depend on that household's circumstances, including the number of people in the household, life cycle needs such as whether household occupants are unemployed or suffer from an illness or disability and the energy and water efficiency of the residence. Many households will not necessarily be able to reduce consumption in response to price signals, namely price rises, even if they would like to.<sup>233</sup> It is thus inevitable that price rises consequent on the introduction of time of

<sup>&</sup>lt;sup>230</sup> We recognise that there is a difference between the objectives of load-shifting (encouraging consumers to consume at times of less demand, thus relieving pressure on networks and supply) and demand reduction (encouraging consumers to reduce their overall consumption). For environmental reasons, we support measures that encourage demand reduction in addition to load shifting. However, in terms of increasing the affordability of services, measures introduced to encourage either of the above could potentially to offer households the ability to lower their bills.

<sup>&</sup>lt;sup>231</sup> See ESC, *Mandatory Rollout of Interval Meters for Electricity Customers*, Final Decision, July 2004. We note that no such proposals currently appear to exist in relation to gas or water services in Victoria.

<sup>&</sup>lt;sup>232</sup> C Britton, 'Stop it! You're using too much electricity!', in *Consuming Interest*, No.100, Winter 2004 at 7.

<sup>&</sup>lt;sup>233</sup> See WREAG, Powering Poverty: A report on the impact of the 2003-2004 electricity price rises on 12 low-income households in South Australia, above n 211 at 8-11; M Langmore and G Dufty, Domestic electricity demand elasticities, Issues for the Victorian Energy Market, St Vincent de Paul Society Victoria, June 2004.

use tariffs will reduce the affordability of utility services for at least some households, most likely low-income households.

As discussed above, concessions may be utilised to help avoid the negative impacts on the affordability of energy and water services that may result from certain tariff structures, whether that be inclining block tariffs or time of use tariffs. However, ultimately, any tariff structure implemented across an entire market may have potentially unwanted effects on the affordability of energy and water services for some groups of low-income households. This will present an ongoing challenge for policy makers. It may be that a special type of energy or water tariff, such as a "Basic Energy Account" and "Basic Water Account" will need to be developed, under which households in financial hardship can be guaranteed energy or water services at an regulated, affordable price, even if this price is subsidised by the rest of the market or by taxpayers generally.<sup>234</sup> In order to ensure that energy and water services remained affordable under these Basic Accounts, we consider that the Basic Accounts would need to be quarantined from additional fees and charges, such as late payment fees and, in some cases, reconnection fees, given the negative impact that such fees have on the ability of low-income households to pay their bills (see, for example, Mark's story in chapter 4).

**Recommendation:** That the ESC support distribution pricing principles based on equity, stability and consistency, explicitly taking into account the affordability of the end bill for Victorian households, particularly households in financial hardship.

**Recommendation:** That consideration be given to implementing new tariff pricing structures for energy services, particularly an inclining block tariff structure. However, the impact of any tariff structures on low-income households should be closely monitored and concessions used to mitigate against negative outcomes.

**Recommendation:** That consideration be given to implementing a Basic Energy Account and Basic Water Account, quarantined from additional fees and charges, that guarantee Victorian households in financial hardship energy or water services at an regulated, affordable price, even if this price is subsidised by the rest of the market or by taxpayers generally.

#### 5.4.3 Concessions

In 2002 an estimated 27% of all Victorians were concession card holders<sup>235</sup> and thus eligible for state utility concessions, described in chapter 1 (hence we place the Victorian concessions scheme approximately one quarter of the way up the 'application' dimension in figure 5.1). The concessions scheme also intervenes at a relatively 'early' stage, assisting households identified as low-income by lowering the amount payable on their energy or water bills in order to make these essential services more affordable, but without making financial hardship a prerequisite to eligibility. Indeed, the concession scheme's stated objective is to improve the affordability of key services for those people who are the most vulnerable and financially disadvantaged members of our community (being those people who have been assessed by

<sup>&</sup>lt;sup>234</sup> Consideration would, of course, also need to be given to ensuring demand management under such a Basic Energy or Water Account. See also WREAG, *Powering Poverty: A report on the impact of the* 2003-2004 electricity price rises on 12 low-income households in South Australia, above n 211 at 14.

<sup>&</sup>lt;sup>235</sup> DHS, *A Guide to Concessions in Victoria - Assistance for People on Low Incomes*, Concessions Unit at 1: 'The Commonwealth Government is responsible for ensuring that individuals and families have an adequate level of income. The Commonwealth Department of Family and Community Services (through Centrelink) and the Commonwealth Department of Veterans' Affairs provide eligible people with pensions, benefits and allowances. The Commonwealth Government provides concession cards to people receiving a Commonwealth pension, benefit or allowance or to people entitled to Commonwealth concessions.'

the Commonwealth Government as having a sufficiently low income to qualify for concession or health care cards).<sup>236</sup>

The WEC is the central component of the Victorian utility concession scheme and accounts for over 50% of the DHS Concession Unit's annual utility concession related expenditure of \$149.9 million.<sup>237</sup> The most common concessions, for example the WEC, Water Concession and Sewerage Concession, operate by reducing a consumer's bill by a certain percentage amount;<sup>238</sup> the Victorian Government pays the supplier directly for the amount deducted from the consumer's bill. However, some concessions are applied as a direct payment to the consumer, for example the Non-Mains WEC and the Carted Water Rebate.<sup>239</sup>

From an international perspective, the utility concession scheme is a rare initiative and is a crucial instrument to increase the affordability of energy and water, especially energy for heating purposes, in Victoria. Jurisdictional differences, such as climate, may explain why winter energy concessions are not common in the northern hemisphere. In some northern hemisphere regions to which Victoria is otherwise comparable, winter mortality rates and the implications of frozen water pipes warrant the need for programs that specifically target the prevention of disconnection instead. Victorian winter temperatures, however, are just low enough to boost usage but it is rarely so cold that disconnections from energy services would cause fatalities or permanent building damage. The WEC is subsequently seen as an appropriate instrument to assist low-income households, especially during the winter season, without banning suppliers from disconnecting for non-payment.

However, some might argue that the discount provided by utility concessions is modest. As discussed in chapter 4, 58% of the disconnected households we interviewed had been eligible for concessions and a clear majority of the gas disconnections (69%) took place in the winter or spring season. This suggests that whilst the WEC is helpful in reducing bills, it is not sufficient to ensure that all low-income households can, in fact, afford to heat their homes adequately during the colder months.

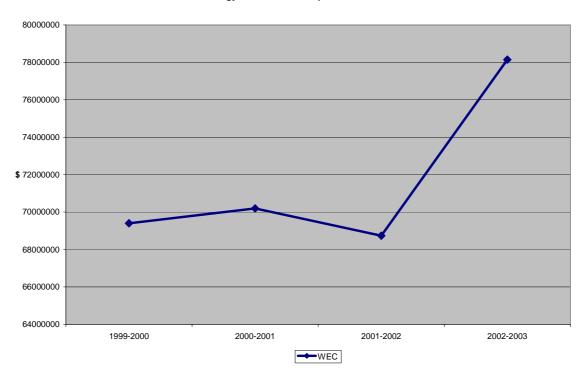
<sup>&</sup>lt;sup>236</sup> Concessions Unit, DHS, *State Concessions 2002-2003*, Annual Report at 5.

<sup>&</sup>lt;sup>237</sup> As above at 11-17. The WEC provides a 17.5% reduction on two mains electricity bills and three mains gas bills that are issued to a consumer between mid-May and mid-November. Total WEC expenditure in 2002-03 was \$78.1million.

<sup>&</sup>lt;sup>238</sup> In the case of Water and Sewerage Concessions, the amount is, however, capped at a maximum of \$69 each per year (the cap was only increased from \$67.50 to \$69 on 1 July 2004).

<sup>&</sup>lt;sup>239</sup> For further details, see Concessions Unit, DHS, *State Concessions 2002-2003*, above n 236; DHS, *A Guide to Concessions in Victoria - Assistance for People on Low Incomes*, above, n 235.

#### Figure 5.4



Winter Energy Concessions expenditure 1999-2003

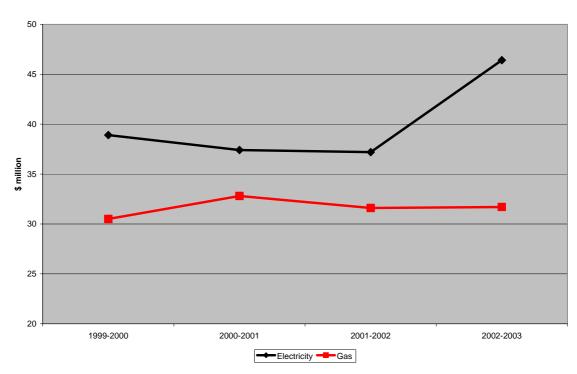
In 2001-02, the average WEC claim was \$54 for electricity and \$59.40 for gas.<sup>240</sup> However, according to the DHS Utility Consumption Survey, the average annual electricity bill paid by aged/service pensioner households in 2001 was \$576, by other concession households was \$641, and by non-concession households was \$765,<sup>241</sup> meaning that a significantly large bill was still left to be paid following the application of concessions. Further, as demonstrated in Figure 5.4 above, WEC expenditure increased substantially between 2001-02 and 2002-03, with the average claim per household increasing to \$65 and \$62 for electricity and gas respectively. The DHS explains that the principal reason behind the increase, which was mainly taking place in the electricity component of WECs (see Figure 5.5 below), was increased electricity tariffs and charges. Furthermore, the DHS points out that the more long term trend shows that consumption growth is highest amongst regional consumers and those living in public housing, both customer groups that are over-represented amongst concession card holders.<sup>242</sup>

<sup>&</sup>lt;sup>240</sup> Concessions Unit, DHS, *State Concessions 2001-2002*, Annual Report. DHS attributes the 2001-02 decrease in WEC expenditure to the method some of the retailers used for applying concessions.

<sup>&</sup>lt;sup>241</sup> Roy Morgan Research, Victorian Utility Consumption Survey 2001, Final Report, DHS, June 2002.

<sup>&</sup>lt;sup>242</sup> Concessions Unit, DHS, State Concessions 2002-2003, above n 236.

# Figure 5.5



Winter Energy Concessions expenditure 1999-2003 (\$ mill)

The concession deduction of 17.5% may offer reasonable assistance for households on lower consumption levels, but if a household's quarterly winter electricity bill amounts to, say, \$400, the \$330 payable will still be the equivalent of almost a fortnight's income for many income support recipients. Thus, households eligible for energy concessions may still conceivably face having to spend 10-15% of their income on a single source of energy.

The current concessions scheme is, therefore, far from able to single-handedly render essential services affordable for many households classified as low-income. Indeed, there are numerous other situations in which the WEC will also have little or no impact on energy affordability, for example because the WEC may only be applied to reduce two winter electricity bills and three winter gas bills per year. If a household solely relies on electricity, for example, it is not only forced to use a more expensive fuel source than gas, it is also only eligible to receive concessions for two bills issued between mid-May and mid-November. Another issue is the use of air-conditioning, especially for households in the north-western part of Victoria, which experiences very hot temperatures in summer; low-income households do not receive any consumption concessions for electricity use during summer.

Households in rural and regional Victoria who do not have access to the reticulated gas system often rely on bottled Liquefied Petroleum Gas (**LPG**) for household energy.<sup>243</sup> These households are not able to access the WEC to reduce their gas bills. However, the Victorian concession scheme includes the Non-Mains WEC, which is available to consumers who use \$120 or more of LPG in a calendar year.<sup>244</sup> As stated above, the Non-Mains WEC is not a

<sup>&</sup>lt;sup>243</sup> LPG is currently a relatively expensive fuel source as LPG price levels in Victoria are impacted by both international LPG prices and fluctuations in the A\$/US\$ exchange rate (and there have been significant changes to both in recent years). For a more in-depth explanation of LPG prices, see ESC, *The Supply of Bottled LPG in Victoria*, Final Report, June 2002.

<sup>&</sup>lt;sup>244</sup> The Non-Mains WEC was claimed by 23,463 customers in 2002-03. Total Non-Mains WEC expenditure for 2002-2003 was \$1,853,577: DHS, *State Concessions 2002-2003*, above n 236 at 17.

percentage based deduction, unlike the WEC. Rather, concession card holders that consume \$120 or more of LPG over the course of a calendar year may apply for a fixed rebate of \$79, which is paid directly to the consumer.<sup>245</sup> This rebate is of course substantial if LPG consumption is low, however some households incur annual LPG expenses amounting to well over \$1000.<sup>246</sup>

The same problem applies in relation to other households that are only eligible for the Non-Mains WEC rather than the WEC. Households that live in a caravan park or retirement home, for example, will generally be individually metered for electricity by the caravan park or accommodation proprietor rather than a licensed electricity retailer, as the individual meters are owned by the proprietor. These households can only access the Non-Mains WEC, meaning that they receive a fixed rebate of \$79 per year, even though their electricity usage may be otherwise comparable to households that are directly billed by a licensed electricity retailer (and thus eligible for a 17.5% deduction off two winter energy bills). Again, if electricity consumption is low this rebate may be substantial, however, many households will incur large electricity bills.

In recognition of this problem, the DHS Concession Unit sought to change the Non-Mains WEC arrangements prior to the 2004-05 State budget.<sup>247</sup> However, the Government did not approve the Unit's proposal to implement a three tiered LPG concession scheme by which the Non-Mains WEC rebate amount would have been scaled according to a household's consumption.

Despite the issues discussed above, we strongly support the retention of the Victorian concessions scheme. This is because the principle of a scheme that lowers energy and water bills for households that are identified, in advance, as being at risk of affordability problems is sound. The concerns with the current scheme identified above do not go to the underlying rationale for a concessions scheme, but question whether the scheme is, in fact, effective in achieving its objective. We recommend that the Victorian Government undertake a comprehensive assessment of whether certain concessions need to be restructured and/or increased to better assist households to afford their energy and water bills. In undertaking such a task, it would be able to draw on the expertise and advice of the DHS Concession Unit.

We also note that the structure of concessions must complement the structure of the tariff systems in place for charging households for their use of energy or water.<sup>248</sup> For example, a concession that applied to reduce the amount of the fixed, up-front component of a household's electricity bill would cease to be effective if an inclining block tariff for electricity was introduced that reduced the up-front charge to a small or negligible amount. Given the likelihood of changes to utility tariff structures in the future, particularly in the case of water services, that may significantly increase charges based on consumption, it is critical that corresponding changes to the concessions scheme be included in any tariff reform proposals.

<sup>&</sup>lt;sup>245</sup> See Concessions Unit, DHS, *State Concessions 2002-2003*, above n 236 at 17; DHS, *A Guide to Concessions in Victoria - Assistance for People on Low Incomes*, above, n 235.

<sup>&</sup>lt;sup>246</sup> See, for example, D Nelthorpe, *Submission by FCRC on the Need for a Comprehensive Welfare and Consumer Safety Net for Domestic Consumers of LPG*, Financial and Consumer Rights Council, Submission to the ESC's Bottled LPG Inquiry, March 2002 at 3.

<sup>&</sup>lt;sup>247</sup> The DHS Concessions Unit presented and consulted on a discussion paper titled *Review of the Non-Mains Winter Energy Concession* in April 2003. The paper included options to improve affordability of LPG for low-income households. However, due to the budgetary implications of the

recommendations, their implementation was subject to funds being made available in the state budget. <sup>248</sup> For example, the Off-peak Electricity Concession which has been applied since July 2002 was developed as a specific response to changes in tariff pricing: DHS, *State Concessions 2002-2003*, above n 236 at 15.

Indeed, the Victorian water industry provides a very real example of this principle. In its June 2004 White Paper, *Our Water Our Future: Securing Our Water Future Together*, the Victorian Government announced that it would introduce new pricing arrangements for water.<sup>249</sup> In particular, one of the principal changes is the move to an inclining block tariff system of pricing for metropolitan Melbourne domestic water customers, to commence on 1 October 2004.<sup>250</sup> The Government summarises the new arrangements as follows:

'Under this tiered system, Melbourne households will pay 75 cents per kilolitre for the first 40,000 litres of water they use each quarter. This volume is based on an estimate of essential indoor use.

When water use is between 40,000 and 80,000 litres, water will be charged at 88 cents per kilolitre, and over 80,000 litres consumers will pay \$1.30 per kilolitre.

Under this system, average users are likely to face bill increases in the order of three to five per cent while larger users could face increases of ten per cent or more.<sup>251</sup>

Given the likely bill increases, the Government has explicitly recognised the negative impact that the move to an inclining block tariff system may have on the ability of some households to afford their water bills. It is, therefore, implementing a range of other measures designed to assist households to reduce their bills. Many of these measures focus on water conservation and demand reduction initiatives, which we strongly support (this is discussed further in section 5.5 below). However, the Government has also recognised the need to make changes to the concessions system in relation to water services.

The current Victorian concessions scheme includes the Water Concession and Sewerage Concession. In Victoria, a property owner is responsible for water service charges and sewerage service charges for a property they own. The person or persons who reside in the property (whether as owner or tenant) are responsible for water usage charges and sewage disposal charges. At present, the Water Concession is payable as a 50% reduction off water service and/or water usage charges and the Sewerage Concession is payable as a 50% reduction off sewerage service and/or sewage disposal charges, each capped at a maximum of \$69 per year.<sup>252</sup> Homeowners eligible for concessions are therefore likely to apply much of these concessions to the fixed, upfront water and sewerage service charges respectively, meaning that they are more likely to receive the maximum benefit of each concession, a total of \$138. However, eligible tenants can only apply the concessions to reduce their water usage and sewage disposal charges respectively, meaning that they may not obtain the maximum benefit of the concessions each year, particularly as sewage disposal charges are low – tenants are not likely to reach the maximum cap for the Sewerage Concession and cannot apply any remainder to their water usage charges, even if they have already reached the maximum cap of a \$69 reduction to their water usage charges.

Further, only *certain* concession cardholders who own their own home, namely pensioners, are currently eligible to apply the Water and Sewerage Concessions to both their service charges and usage charges. Other concession cardholders who may own their home, namely those with a Health Care Card, cannot use these concessions to assist them to pay their water and sewerage service charges, meaning that they are likely to receive less of the benefit of the

 <sup>&</sup>lt;sup>249</sup> DSE, *Our Water Our Future: Securing Our Water Future Together*, White Paper, June 2004.
 <sup>250</sup> As above at 127-128. It is proposed that pricing arrangements that provide incentives for water

conservation also be implemented in regional areas over the next few years: at 128. <sup>251</sup> DSE, *Securing Our Water Future Together: Pricing For Sustainability*, Fact Sheet 8, June 2004 at

<sup>&</sup>lt;sup>252</sup> See DHS, A Guide to Concessions in Victoria - Assistance for People on Low Incomes, above, n 235. The cap increased from \$67.50 to \$69 on 1 July 2004: DSE, Our Water Our Future: Securing Our Water Future Together, above n 249 at 136.

concessions than pensioners because, like tenants, they may only apply the concessions to usage charges (despite paying more charges than tenants).

From 1 October 2004, when the new tariff system comes into force, concession card holders will be eligible to receive a reduction of 50% off their *total* water and sewerage bill.<sup>253</sup> This means that tenants, in particular, are likely to receive a greater reduction in total, given that the maximum amount of the concessions may be applied across both water usage and sewage disposal charges.<sup>254</sup> We consider that this change clearly provides a much better fit with the design of the tariff system for water services in Victoria. The previous separation of the Water and Sewerage Concessions did not reflect the pricing of the respective services and the situation of tenants. We note that this change would have been desirable even if the new pricing arrangements for water services were not being implemented.

Further, all concession cardholders, whether pensioners or Heath Care Card holders, will be eligible to apply the concessions to both service and usage charges. This better reflects the needs of low-income households and treats different low-income households more equitably. Again, we note that this change would have been desirable regardless of changes to the pricing of water services.

Lastly, the Water and Sewerage Concessions will increase from the current maximum of \$138 per year to \$146 per year from 1 October 2004. The maximum amount will be further increased to \$150 per year from 1 July 2005 and will then be indexed for inflation each following year. Again, we consider that increases to the amount of the concessions and the implementation of arrangements to ensure that the concessions continue to increase with inflation provide a much better reflection of the reality of pricing of these services and the needs of low-income households, particularly in light of the expected increases to total cap of \$135, which was increased to \$138 only on 1 July 2004, had not been increased before this date since 1983, even for inflation, meaning that the value of the concessions had eroded over time.<sup>255</sup>

We commend the above changes to the Water and Sewerage Concessions for, as we advocate, being implemented concurrently with, and reflecting, changes to the relevant tariff and pricing system.

However, there are other aspects of the new pricing arrangements for water services that may have a significant impact on the water bills of many households, but for which no changes appear to have been made to the concessions system.

First, there is the issue of the manner in which the new inclining block tariff system may impact on low-income households with unavoidably high consumption levels. As discussed earlier in this chapter, inclining block tariff structures have been criticised for having the potential to disadvantage low-income households that are unable to reduce consumption, due to household size, poor quality housing, inefficient appliances and time spent at home.

<sup>253</sup> DSE, *Our Water Our Future: Securing Our Water Future Together*, above n 249 at 136-137.

<sup>254</sup> Note, however, that where a property is not connected to the sewerage system and is therefore not paying any sewerage charges, the maximum amount of the concession available will remain at half of the total cap, namely \$73 from 1 October 2004: DSE, *Our Water Our Future: Securing Our Water Future Together*, above n 249 at 137.

<sup>&</sup>lt;sup>255</sup> DSE, Our Water Our Future: Securing Our Water Future Together, above n 249 at 137; DSE, Securing Our Water Future Together: Pricing For Sustainability, above n 251 at 2.

It is unclear to what extent these issues have been taken into account in formulating both the initial water usage level of 40,000 litres per quarter<sup>256</sup> and the amount of the increases to the cap on the Water and Sewerage Concessions. It may be that we will see the new concessions scheme improving the affordability of water services for the "average" low-income household but failing to address the needs of larger households or households in particularly poor housing. It will be important to monitor this issue and we urge the Government to make further improvements to the concessions scheme if required.

The Government has explicitly acknowledged that the new inclining block tariff system will impact large families, who 'may be using water wisely but due to the size of their water consumption they are being priced at the top block tariff<sup>2,257</sup>. To address this particular issue, the Government has proposed that large families who are finding it difficult to pay their bills may be eligible for a 'water savings package' that includes various items to assist in reducing consumption, such as low flow control valves.<sup>258</sup> However, the amount and type of water and sewerage concessions available do not vary with the size of a household, nor are concessions mentioned in the section directed specifically at addressing the impact of the changes on large families, indicating that the new-look concessions, unlike the water savings package, are *not* specifically targeted to this issue.

Secondly, the introduction of an inclining block tariff pricing system for Melbourne domestic water consumers is not the only change being made to pricing arrangements for water services. For example, from 1 October 2004 Victorian water authorities will be required to contribute funding, called 'environmental contributions', to pay for 'water related initiatives that seek to promote the sustainable management of water and to address adverse impacts to the environment associated with its use'.<sup>259</sup> Each water authority will be able to pass on its environmental contribution to consumers through increased tariffs and charges for the provision of water and sewerage services. The Government estimates that this 'is likely to increase prices by an average of five per cent for urban water customers and two per cent for rural customers'.<sup>260</sup> Although this estimated price increase also takes into account the effect of introducing an inclining block tariff for metropolitan customers,<sup>261</sup> it is nevertheless unclear whether the effect on the ability of low-income households to afford higher water bills resulting from any price increases caused by passing on environmental contributions has been taken into account by the changes to the concessions system. Certainly, the changes to the concessions system are not mentioned in discussions regarding the passing on of environmental contributions, only in discussions regarding the introduction of an inclining block tariff.<sup>262</sup>

Similarly, the Government has explicitly forewarned that water consumers will face price increases during 2004-2005 to take into account increases to the base cost of delivering water services (which is used to calculate the water prices charged by water authorities). The base cost of delivering water services will be increased due to new pricing principles that require water authorities to recover service delivery costs from their customers.<sup>263</sup> Again, it is not

<sup>&</sup>lt;sup>256</sup> As quoted earlier, the 40,000 litres is stated to be 'based on an estimate of essential indoor use', however we do not know whether 'essential indoor use' factored in different household sizes and the other contributors to higher unavoidable consumption discussed above.

<sup>&</sup>lt;sup>257</sup> DSE, Our Water Our Future: Securing Our Water Future Together, above n 249 at 128.

<sup>&</sup>lt;sup>258</sup> As above.

 $<sup>^{259}</sup>$  As above at 129.

<sup>&</sup>lt;sup>260</sup> As above.

<sup>&</sup>lt;sup>261</sup> See DSE, *Securing Our Water Future Together: Victoria's Action Plan for a Secure Water Future*, Brochure, June 2004 at 5.

<sup>&</sup>lt;sup>262</sup> DSE, Our Water Our Future: Securing Our Water Future Together, above n 249 at 128-130; see also DSE, Securing Our Water Future Together: Victoria's Action Plan for a Secure Water Future, above n 261.

<sup>&</sup>lt;sup>263</sup> DSE, *Our Water Our Future: Securing Our Water Future Together*, above n 249 at 131-132.

clear to what extent, if any, the changes to the concessions system have taken into account the effect of this particular price increase, anticipated to be in the order of CPI to CPI plus three per cent for urban households, on the ability of low-income households to afford their water bills.

We consider that the recent comprehensive reforms to the pricing of Victorian water services provide a good example both of the manner in which reforms to the concessions scheme can complement pricing reforms and the manner in which the design of the concessions scheme can sometimes be forgotten in the design of pricing arrangements.

However, many Victorian households have such high consumption levels that utility concessions may have very little impact on the overall affordability of essential services for those households. We therefore strongly advocate that government policy solutions to this problem also incorporate a stronger focus on reducing the consumption levels of these households in the first place. As discussed in chapter 4 and below, assistance to reduce consumption would certainly have helped many of the households we interviewed.

**Recommendation:** That the Victorian Government retain the concessions system for energy and water services, but undertake a comprehensive assessment of whether certain concessions need to be restructured and/or increased to better assist households to afford their energy and water bills, drawing on the expertise and advice of the DHS Concession Unit.

**Recommendation:** That concessions be reviewed and, if necessary, restructured to complement the structure of any tariff systems in place for charging households for their use of energy or water.

# 5.5 Objective 4: To increase energy and/or water efficiency and reduce consumption

There is a strong relationship between energy and water efficiency and energy and water affordability; efficiency improvements have the potential to make real and long term changes to affordability problems amongst low-income households. This is because efficiency improvements reduce consumption in a sustainable manner (as opposed to underconsumption), leading to reduced bills. This is particularly so when pricing is based largely on consumption levels, for example under an inclining block tariff pricing system. For this reason, we strongly support measures designed to improve energy or water efficiency for residential consumers, thereby reducing their consumption and increasing the affordability of their energy and water bills.

Specific energy or water efficiency programs will have different 'application' values, as they can vary from a public energy saving information campaign to retrofitting of households in financial hardship. With respect to timing, all energy efficiency programs will have some preventative effect in the sense that they aim to reduce consumption before bills are incurred, although retrofitting programs often identify participants through financial hardship criteria and will therefore intervene at a later stage (albeit with the intention of preventing future affordability problems by reducing future consumption).

We discuss a range of energy and water efficiency measures below.

#### 5.5.1 Energy and water efficiency advice

Energy or water efficiency advice, that is, advice on how households can reduce their consumption of energy or water, may take the form of a public education campaign, a

website<sup>264</sup> or targeted information to specific customer groups, such as home renovators, builders, tenants, rural and regional consumers<sup>265</sup> or households in financial hardship.<sup>266</sup> Public information and education campaigns with sufficient coverage over long periods of time are often successful in achieving behavioural and attitudinal changes, with public anti-littering campaigns being a prime example.

Our concern, however, is that the greatest financial savings from implementing energy or water efficiency advice are not achieved through behavioural changes alone. Rather, they are achieved through the improvement of the energy or water efficiency of a residence and/or the replacement of inefficient household appliances, both of which may be costly to implement. Most low-income households, therefore, face financial barriers to achieving increased energy and water efficiency, even if they would like to follow the advice they are given.<sup>267</sup>

As discussed earlier, while we do not oppose energy and water services being priced on a cost reflective basis to provide an incentive for consumers to reduce wasteful consumption, the unintended consequences of such pricing arrangements for many low-income households must be recognised. If the average household can also afford to undertake private efficiency improvements based on energy or water efficiency advice, whilst low-income households cannot, the result might be a 'double whammy' for low-income households, which are both disadvantaged by the new pricing arrangements *and* unable to reduce consumption in the same manner as other households. There is also the danger that, as low-income households' usage levels will diverge from the typical (lower) consumption pattern, the subsequent higher costs for energy or water services faced by low-income households will be justified by the mantra that households should pay accurate and cost reflective prices, ignoring the reasons for these households' higher usage levels.

We therefore strongly advocate, in addition to energy and water efficiency advice, that economic measures (essentially, financial assistance) to assist low-income households living in energy or water inefficient housing or with appliances causing high consumption be implemented. This is discussed below.

#### 5.5.2 Retrofitting

The Allen Consulting Group, in a report to SEAV in late 2003, argued that the reason individuals and firms in Victoria are not implementing energy efficiency improvements, although of clear financial benefit to them, is most likely market failure constituted by:

'the existence of information asymmetries that inhibit individuals and industry from investing a 'socially-optimal' amount of capital in energy efficiency.'<sup>268</sup>

The report warned against automatically justifying government intervention to correct market failure, as the costs incurred and the distortionary effects of such intervention could be higher than the total benefits. However, the report concluded that in this case:

<sup>&</sup>lt;sup>264</sup> See, for example, the website established by SEAV to provide energy efficiency advice to Victorian households at www.sustainable-energy.vic.gov.au.

<sup>&</sup>lt;sup>265</sup> For example, SEAV undertakes regional information partnerships with organisations based in rural and regional areas to deliver energy efficiency and renewable energy information services to residents, community organisations and small businesses in rural and regional Victoria – see SEAV's website at http://www.seav.vic.gov.au.

<sup>&</sup>lt;sup>266</sup> For example, Victorian energy retailers are explicitly required by clause 11.2 of the Retail Codes to provide energy efficiency advice to customers experiencing payment difficulties.

 <sup>&</sup>lt;sup>267</sup> See also WREAG, Powering Poverty: A report on the impact of the 2003-2004 electricity price rises on 12 low-income households in South Australia, above n 211 at 11.
 <sup>268</sup> The Allen Consulting Group, Economic Impact Analysis of Improved Energy Efficiency, Final

<sup>&</sup>lt;sup>268</sup> The Allen Consulting Group, *Economic Impact Analysis of Improved Energy Efficiency*, Final Report for SEAV, November 2003 at vi.

'[Where] socially beneficial actions that are also in the private benefit of the economic entity concerned...are not being taken because of market failures such as information asymmetries...it may well be in the interests of the community if the government introduces appropriate measures to correct for such market failures.'<sup>269</sup>

The report considered that the government may have a role in correcting this market failure by providing the market with the necessary information and guidance to allow firms and individuals to make socially optimal decisions that are also in their own private interests. In other words, having determined that the problem is caused by a lack of energy efficiency information, the solution is to provide energy efficiency advice and information programs.

As argued above, however, in the case of low-income Victorian households we consider that addressing information asymmetries will have little impact on these households' energy efficiency levels due to the absence of investment capital. Put simply, these households cannot afford to make energy efficiency improvements in their own interests, even if they know exactly what they need to do and want to do so. The government must therefore consider policy instruments that specifically address this issue and will have a direct impact on efficiency levels for low-income households, not only long term financial incentives and information campaigns that may encourage households and firms with available capital to make efficiency improvements. It is likely that such policy instruments will involve economic measures, essentially financial assistance.

Government supplied economic measures come in many forms, including grants, subsidies and low-cost loans. In the case of low-income households, we do not believe that a high uptake of loans to pay for energy and water efficiency improvements can be expected, nor do we consider it appropriate to burden low-income households with additional debt to enable them to access essential services on an affordable basis.<sup>270</sup> Government financed retrofitting programs, on the other hand, will typically involve grants or subsidies to enable households to retrofit their residence, that is, make improvements to the residence to increase its energy and water efficiency and replace or modify appliances to improve their efficiency.

Whilst retrofitting programs might be considered expensive, this thinking may not be entirely economically sound. Energy and water efficiency programs providing retrofitting are so-called 'lumpy investments', that is, their cost is built into the program up-front but the benefits of the program, including cost savings that outweigh the initial cost outlay, are seen later and therefore make the cost of the program an investment that provides sound returns. Research has demonstrated that most expenses in relation to efficiency improvements in the residential sector can be recuperated within as little as three to six years.<sup>271</sup>

We therefore strongly support the implementation of retrofitting programs. We consider that retrofitting programs are good investments in the long term. They are also well-directed at one of the principal causes of low-income households' inability to afford energy and water services. These households are burdened with inefficient housing and appliances that increase their consumption but they do not have the funds to make improvements.

<sup>&</sup>lt;sup>269</sup> As above.

<sup>&</sup>lt;sup>270</sup> The incurring of debt in this context is reminiscent of the accumulation of debt that some lowincome households experience when they are unable to afford their energy or water services, discussed in chapter 1. The incurring of debt by low-income households in order to be able to pay for energy efficiency improvements could also, therefore, be seen as a manifestation of the fact that the energy or water services in question are unaffordable for those households.

<sup>&</sup>lt;sup>271</sup> I McNicol, *Residential Sector Energy Efficiency Improvement Potential*, SEAV presentation at the National Framework for Energy Efficiency workshop, 22 April 2004.

There has been some recognition of these principles by the Victorian Government in its introduction of the 'Water Savings Package', discussed earlier. This package, which may include free water savings devices such as low flow control valves and free services such as plumbing, will be offered to large families who are finding it difficult to pay their water bills.<sup>272</sup> In addition, the Victorian Government has trialled a pilot Energy Task Force retrofitting project for low-income households, particularly in public housing, undertaken by the SEAV and Neighbourhood Renewal (DHS), although it is a small project and has not yet been fully implemented.<sup>273</sup>

However, there is still a noticeable absence of retrofitting programs in operation in Victoria. For example, based on the DHS Concession Unit's expenditure, the Capital Grants scheme does not appear to be the Government's preferred customer assistance scheme. In 2002-03, total Capital Grant expenditure was \$177,637 and only 170 customers received a Capital Grant in Victoria. Amongst those grants, 56% were for hot water systems, 9% for heaters and 28% for refrigerators. The average grant was \$1,045.<sup>274</sup> By contrast, total expenditure on the URG scheme, which constitutes crisis bill assistance and is not energy or water efficiency related, was \$2,676,698. URGs assisted 8051 Victorian customers with an average grant payment of \$328 for electricity customers, \$302 for gas customers, \$271 for metropolitan water customers and \$272 for rural water customers.<sup>275</sup> These amounts are similar to the amounts that could potentially be saved each year by retrofitted households (see below).

There is also a certain urgency to the implementation of retrofitting policies, as it is likely that energy and water efficiency improvements will increase rapidly in the residential sector. Energy consumption trends show that both electricity and gas usage will continue to rise amongst residential consumers in Australia, with an estimated 42% of residential consumption going towards heating purposes and 28% towards heating water by 2005.<sup>276</sup> Research has estimated that the residential energy efficiency improvement potential is 13% in energy savings within a 6.5 year timeframe, with improvement costs calculated to take 3.6 years to pay back.<sup>277</sup> Consequently, unless the inability of low-income households to share in the benefits of these efficiency improvements is addressed, the inefficiency gap between different customer groups will expand further and result in increased disadvantage.

However, in advocating financial assistance to households to make energy and water efficiency improvements, we must also tackle the issue (and fear) of 'free riders'. In this context, the 'free rider' assumption refers to consumers or households who receive financial assistance to undertake efficiency improvements but who would not have been interested in undertaking these improvements if they had been in the position to do so on their own. The fear is that retrofitting programs 'waste' money on these free riders.

We argue, however, that economic measures for increased energy and water efficiency must be seen in relation to government expenditure in assisting households with energy and water bills. In Victoria in 2002-2003, the Victorian Government spent over 800 times more on energy and water concessions and relief grants than it did on Capital Grants.<sup>278</sup> By contrast, in the UK the NAO has estimated that the energy efficiency scheme 'Warm Front', which in

<sup>&</sup>lt;sup>272</sup> DSE. Our Water Our Future: Securing Our Water Future Together, above n 249 at 128.

<sup>&</sup>lt;sup>273</sup> See the SEAV website at www.seav.vic.gov.au/buildings/energy\_task\_force.asp . The Victorian Government has committed to spending only \$3 million over four years on the full Energy Task Force project.

<sup>&</sup>lt;sup>74</sup> Concessions Unit, DHS, State Concessions 2002-2003, above n 236 at 26.

<sup>&</sup>lt;sup>275</sup> As above at 23-25. URGs are discussed further in section 5.7.1 below.

<sup>&</sup>lt;sup>276</sup> McNicol, *Residential Sector Energy Efficiency Improvement Potential*, above n 271.

<sup>&</sup>lt;sup>277</sup> As above. These measures include improvements to water heating, clothes washers, dishwashers,

cooking systems, refrigeration, lighting systems and building shells (including heating and cooling). <sup>278</sup> See Concessions Unit, DHS, *State Concessions 2002-2003*, above n 236 at 11-17, 24, 26: Energy and water concessions and URG expenditure: \$152.6 million; Capital grant expenditure: \$177,637.

2002 assisted 303,000 households with a grant of £445 (on average) for energy efficiency measures, had the potential to reduce each household's fuel bill by an average of £150 per annum.<sup>279</sup> Thus, the initial cost of insulation and heating is recouped in just three years of fuel savings. Similar results have also been anticipated in the Victorian context with, for example, \$143,000 committed to retrofitting 280 homes in the La Trobe Valley area last year, an average cost of \$511 per home, with anticipated savings for retrofitted households of up to \$170 per year.<sup>280</sup> It therefore seems that retrofitting programs have the potential to reduce the Victorian Government's spending on concessions by a significant amount, making it highly cost effective regardless of whether 'free riders' also benefit.

**Recommendation:** That more comprehensive and state-wide retrofitting programs be implemented by the Victorian government. Retrofitting programs are both good investments in the long term and well-directed at one of the principal causes of low-income households' inability to afford energy and water services.

#### 5.5.3 Energy and water efficiency standards and ratings

Standards for the energy and water efficiency of housing or appliances can improve the affordability of energy and water services, as they may ensure that households live in more efficient housing and use more efficient appliances, thus consuming less services and paying lower bills. The term "standards" commonly refers to requirements, whilst the term "ratings" primarily functions as a consumer information tool. The two mechanisms are, however, interlinked as agreed standards are usually a prerequisite for ratings that consumers can use to assess the quality of products or services subject to standards.

The SEAV has implemented a 5 Star standard for all new residential homes in Victoria from July 2004, requiring that all new homes incorporate compliant energy efficiency and water saving features. The prime objectives of the 5 Star standard are to increase housing quality, increase energy and water affordability and make housing more environmentally sound.<sup>281</sup>

We are very supportive of the new 5 Star standard. From a long term perspective, the 5 Star standard will assist low-income households in affording energy and water services as more of the available housing stock becomes of 5 Star standard quality. More immediate measures are, however, needed to improve the energy and water efficiency of current typical low-income housing. Research shows that people living in rental properties (public or private) have an increased likelihood of experiencing difficulty in paying utility bills.<sup>282</sup> For public housing stock, it would make sense for the Government to set high efficiency standards which are implemented as soon as possible. Public housing tenants are in subsidised housing precisely because they have been assessed as low income earners. It would therefore be poor public policy to allow these households to face unnecessarily high utility costs due to poor housing standards. As discussed above, some recent government retrofitting initiatives have

<sup>&</sup>lt;sup>279</sup> NAO, *Warm Front: Helping to Combat Fuel Poverty*, June 2003 at 1. We acknowledge that it is difficult to claim that a scheme such as 'Warm Front' will achieve the same bill savings for consumers in Victoria as energy costs, tariff structures and climate amongst other factors may impact on the total cost reduction. However, we believe a rigorous analysis of such schemes and the potential savings they could deliver for low-income Victorian households is clearly desirable and the government needs to initiate such an analysis.

<sup>&</sup>lt;sup>280</sup> Brendan Jenkins MP, Member for Morwell District, *Efficiency Makeovers Reduce Regional Energy Bills*, Media Release, 10 August 2004.

<sup>&</sup>lt;sup>281</sup> See the 5 star house website at www.5starhouse.vic.gov.au .

<sup>&</sup>lt;sup>282</sup> See, for example, the chapter by the Social Policy Research Centre, *Poverty, hardship and utilitiesrelated financial stress in Victoria*, in the Committee For Melbourne Utility Debt Prevention project's *Debt Spiral Study Report* (forthcoming).

attempted to address this issue, however their roll-out is patchy and lacking in long term or substantial financial commitment.

The biggest challenge, however, is private rental stock. Landlords in Victoria are not currently obliged to ensure that their rental properties meet any kind of energy or water efficiency standards, nor is there any energy and water efficiency rating system for rental properties. Tenants attempting to make a decision about which of available rental properties is the most affordable for them do not, therefore, have all the information necessary to allow them to make an informed decision. Rent costs are known, whereas likely energy and water costs remain undisclosed. Tenants in the private housing market already take other cost issues into account when choosing a rental property. The difference in the case of energy and water costs is that information in regards to, for example, public transport costs is readily available whilst utility bills can become an unpleasant surprise a month, or even a season, later. The distinction between rent costs alone and rent together with other housing costs has been aptly described as the difference between an affordable house and affordable housing.<sup>283</sup>

The information asymmetry faced by tenants in dealing with potential landlords is also arguably distorting the private rental market to a significant extent. Low-income tenants demand the most affordable housing available, however, in the absence of all necessary information, low-income tenants may choose less affordable (or efficient) housing than would be the case in a more fully informed marketplace. This allows some landlords to compete unfairly with other landlords who offer more affordable overall housing, given that rent is often the sole consideration tenants are able to take into account. In addition, it prevents demand-side signals regarding the quality of available housing from being sent to landlords, resulting in little incentive for landlords to improve the efficiency of their rental properties. Such improvements would also carry other public benefits, particularly environmental benefits flowing from reduced energy and water consumption.

In the Australian Capital Territory, energy ratings are now required for every home put up for *sale.*<sup>284</sup> Whilst that is a start, we argue that any Victorian initiative should first focus on all properties entering the *rental* market, as this would have more profound and immediate social gains with respect to low-income households. The *Residential Tenancies Act 1997* (Vic) should stipulate that a residential lease provide information about the likely costs of heating and cooling the home and of running the appliances installed and translate this information into an easily understood rating system that allows comparisons between properties. Only through the provision of such information can Victorian tenants make an informed choice about renting a property. Energy and water ratings for private rental properties should also be designed to ensure that landlords are provided with the incentive to upgrade their rental properties. Many efficiency measures cost relatively little, and it may well be worthwhile for a landlord to invest \$300 in a new gas heater to avoid a month without rent coming in.

However, information alone will not solve the entire problem of low-income households living in poor quality, inefficient private rental stock. If a household cannot afford the rent for, or is denied access to,<sup>285</sup> better quality rental housing it will be forced to live in inefficient housing even if aware that this housing is inefficient and that future energy and water bills may be unaffordable. Ultimately, measures must be implemented that either provide affordable housing alternatives to low rent/poor quality housing or force landlords to improve their low rent/poor quality rental properties.

<sup>&</sup>lt;sup>283</sup> See, eg, VCOSS, VCOSS Response to Review of the effectiveness of retail competition and the consumer safety net for electricity and gas – Issues Paper, Submissions to the ESC, December 2003 at 3, available at www.esc.vic.gov.au/gas728.html.

<sup>&</sup>lt;sup>284</sup> Civil Law (Sale of Residential Property) Act 2003 (ACT) Part 3.

<sup>&</sup>lt;sup>285</sup> For example, landlords may choose not to rent to a low-income household due to the risk (perceived or actual) of rental payment default or other hazards.

As stated above, not only is there no energy and water efficiency rating system for rental properties, but Victorian landlords are not required to provide rental properties that meet any minimum acceptable energy or water efficiency standards. In addition to any market-based incentives for landlords to upgrade their properties, the Victorian Government should strongly consider implementing required minimum energy and water efficiency standards for rental stock. This would ensure that all low-income households in the private housing market have access to minimum acceptable quality housing. In effect, mandatory energy and water efficiency standards would constitute a retrofitting scheme within the private rental market, as landlords would be forced to retrofit their rental properties. As discussed in section 5.5.2 above, retrofitting offers considerable potential to improve the affordability of energy and water services for low-income households. Thus, just like the SEAV 5 Star standard for new homes, an energy and water efficiency standards scheme for private rental properties could increase housing quality, increase energy and water affordability and make housing more environmentally sound.

There are various fiscal policy tools that the Victorian Government could consider if it was concerned about the financial burden that such a scheme may cause landlords. For example, the Victorian Government already offers rebates to homeowners installing grey water tanks, thus it may want to explore the possibility of rebates or tax breaks for landlords who improve their rental properties. We also note that the Federal Government has implemented many policies that have encouraged investment in the private property market (these investors then depend upon rental income). We consider that the Federal Government also therefore holds some responsibility to implement policies that encourage those property investors whom it has assisted to create their own private wealth to improve the prospects of low-income Australian households. This could perhaps be done through measures such as denying tax breaks unless rental properties meet certain energy or water efficiency standards.

**Recommendation:** That government upgrade the energy and water efficiency of public housing stock.

**Recommendation:** That legislation be implemented requiring all residential leases to provide information about the likely costs of heating and cooling of the rental property and of running the appliances installed and to translate this information into an easily understood rating system that allows comparisons between properties.

**Recommendation:** That government strongly consider implementing mandated minimum energy and water efficiency standards for private rental stock.

#### 5.6 **Objective 5:** To assist consumers to manage expenditure

The experiences of the households we interviewed demonstrate that the occurrence of an unexpected event or expenses may leave a household with insufficient funds to pay an energy or water bill. Similarly, low-income households may be unable to manage a high lump-sum payment on a low fortnightly income. These issues can be significant contributing factors to difficulties affording an energy or water bill.

Many measures directed at addressing these issues therefore aim to ensure that consumers are able to manage their expenditure. Such measures may be either early or late in terms of timing, depending on whether they are implemented before services are consumed or only after households facing payment difficulties are already identified. Further, they may be fairly universal or targeted to those households that, again, have already been identified as being in need of assistance.

#### 5.6.1 Payment arrangements

A common tool that allows households to manage their expenditure is to permit payment of bills and expenses by instalment or other flexible arrangement. Instalment payment arrangements and other payment arrangements, for example extensions of time to pay bills, are already widely used by Victorian energy and water suppliers in relation to energy and water bills. As stated earlier, the Retail Codes and the water *Benchmark Customer Contract* (and the draft *Energy Retail Code* and water *Customer Service Code*) require suppliers to offer instalment plans to customers having payment difficulties.<sup>286</sup> In fact, as demonstrated by the stories of the households we interviewed, affordable payment arrangements are critical to the ability of low-income households to afford energy and water services.

The way in which such payment arrangements are mandated in Victoria makes them a relatively late and targeted assistance measure, as they are specifically aimed at households already experiencing payment difficulties. However, instalment plans, for example, may represent earlier intervention if they continue past the period of a household's payment difficulties and become, instead, a method of smoothing out future bill amounts by regular payments. In some cases, smoothed payment arrangements may also be made available to Victorian households which are not specifically identified as being in financial hardship.

Instalment payment plans and other payment arrangements are intended to assist households to manage their expenditure and thereby improve their ability to afford energy and water bills. A payment arrangement such as an instalment plan is therefore futile if it is itself unaffordable for the household. For example, if fortnightly instalment amounts under an instalment plan are too high for a household to afford each fortnight, the instalment plan will be of no assistance to that household (and will not prevent it from being disconnected for non-payment).

42% of the respondents to our survey were on an instalment payment plan at the time of disconnection. However, as was evident from our interviews, the instalment amounts demanded by retailers when households asked to pay by instalment were high and often well beyond the household's capacity to pay. This was apparent from comments such as:

I have to pay \$55 a fortnight on my electricity account. That is one week worth of food to me. I don't know how I'll do it - I'll have to eat less I guess.

This was also an issue that Kate faced (as discussed in chapter 4) as she was disconnected for a second time when she was unable to meet gas payments of \$60 per fortnight. Sue and Helen encountered similar problems with instalment plans.

In our opinion, this is a critical issue currently facing Victorian policy makers concerned with the affordability of energy and water services. Given the importance of affordable payment arrangements in ensuring the affordability, and thus maintenance of supply, of energy and water services, it is imperative that suppliers be forced to offer instalment plans and other payment arrangements that are commensurate with a household's capacity to pay. While it is commendable that the ESC has included obligations in regulatory instruments applying to energy and water suppliers that require retailers to offer payment arrangements to customers in hardship, this has not, in reality, been sufficient to address affordability problems facing low-income households.

<sup>&</sup>lt;sup>286</sup> *Electricity Retail Code*, above n 168, at clause 11.2; *Gas Retail Code*, above n 171, at clause 11.2; *Energy Retail Code*, above n 197, at clause 11.2; *Benchmark Customer Contract*, above n 198, at clause 8.5(1) and 8.5(3); *Customer Service Code*, above n 199, at clause 5.4.

As discussed in chapter 4, the refusal by an energy or water supplier to agree to an affordable instalment plan may, in fact, constitute a breach of the supplier's legal obligations. Clause 11.2 of the Retail Codes currently obligates energy retailers to *assess a customer's capacity to pay* and offer the customer an instalment plan, if the customer informs the retailer that they may not be able to pay a bill, or the retailer believes that the customer is experiencing payment difficulties.<sup>287</sup> The water *Benchmark Customer Contract* obligates the metropolitan water retailers to offer a customer an instalment plan which is *consistent with the customer's capacity to pay*, if the customer is having difficulties paying their bills or is in arrears.<sup>288</sup>

Despite these provisions suppliers are, clearly, continuing to offer instalment plans that do not reflect customers' capacity to pay. One explanation for this may be the lack of clarity surrounding these obligations in the Retail Codes. Clause 12.2(a) in the Retail Codes provides that, when a retailer offers an instalment plan to a customer, the amount of the instalments 'must reflect the customer's consumption needs and capacity to pay'.<sup>289</sup> However, this allows the retailer to treat capacity to pay at least equally with 'consumption needs', namely the amount actually owed by the customer and likely to be accrued in future. Many customers who experience payment difficulties do so precisely because they do not have the capacity to pay for their consumption needs, whether in lump-sum form or on an ongoing instalment basis. If the customer does not have the capacity to pay for their consumption needs, it is entirely unclear what the retailer is obliged to offer.

Given the stories of the households we interviewed, it appears that energy retailers have determined that in such cases they may offer instalment plans that favour recovery of 'consumption needs' over capacity to pay. However, it is clear that capacity to pay must be taken into account in offering instalment plans. We are thus strongly of the opinion that suppliers are not legally permitted to simply insist on instalment amounts that a customer has clearly stated they cannot afford.

Further, clause 12.2(c) of the Retail Codes states that, when offering an instalment plan, a retailer must 'have in place fair and reasonable procedures to address payment difficulties a customer may face on the plan'.<sup>290</sup> As stated in chapter 4, we consider that if a customer misses a payment on their instalment plan, a procedure that simply allows the retailer to continue to insist on payment of the same amount or disconnect the customer, without the retailer making any inquiry as to why the customer did not make the payment or providing any further assistance if the customer is facing payment difficulties, most likely breaches this obligation under the Retail Codes. Again, however, clause 12.2(c) is ambiguous because it does not impose on energy retailers any specific obligations as to how to deal with customers facing payment difficulties on an instalment plan. It merely provides that retailers must address these payment difficulties under 'fair and reasonable procedures', leaving the decision as to what constitutes a fair and reasonable procedure to the individual retailer.

There are two ways in which these problems may be addressed. First, the ESC must be given appropriate powers to enforce the legal obligations of suppliers under the Retail Codes, particularly, to offer instalment plans that reflect a customer's capacity to pay. At present, the ESC is able, under section 53 of the *Essential Services Commission Act*, to serve an

<sup>&</sup>lt;sup>287</sup> Clause 11.2 has been retained in the *Energy Retail Code*.

<sup>&</sup>lt;sup>288</sup> Benchmark Customer Contract, above n 198, at clause 8.5(1) and 8.5(3). The draft water Customer Service Code, above n 199, would obligate both the metropolitan water retailers and the Regional Urban Water Authorities to make instalment plans available to customers in accordance with the customer's capacity to pay: clauses 5.4 and 5.5.

<sup>&</sup>lt;sup>289</sup> *Electricity Retail Code*, above n 168, and *Gas Retail Code*, above n 171, at clause 12.2(a). Clause 12.2(a) has been retained in the *Energy Retail Code*.

<sup>&</sup>lt;sup>290</sup> *Electricity Retail Code*, above n 168, and *Gas Retail Code*, above n 171, at clause 12.2(c). Clause 12.2(c) has been retained in the *Energy Retail Code*.

enforcement order on a licensee whom it considers has contravened or is contravening the conditions of a licence, if it considers that the contravention is not of a trivial nature. Such an order requires the licensee to comply with the licence condition being contravened or to take actions specified in the order to rectify the contravention.<sup>291</sup> A licensee who does not comply with such an order can be the subject of an application by the ESC to the Supreme Court of Victoria and is liable to a maximum penalty of \$511,250 (\$500,000 before 1 July 2004) plus a maximum \$51,125 (\$50,000 before 1 July 2004) for each day after service of the order that the contravention continues.<sup>292</sup> However, the process for the issuing of an order and the enforcement of the order is lengthy and cumbersome.<sup>293</sup> Further, we are unaware of any occasion in which the ESC has exercised its powers under section 53. It would therefore appear to have been of little practical use.

A further penalty available to the ESC to apply to an energy retailer or metropolitan water retailer that breaches its obligation to offer an instalment plan that takes into account the customer's capacity to pay, is to withdraw the retailer's licence to operate in Victoria, a penalty manifestly out of proportion to the breach. The practical reality is that the ESC would never exercise this power on the basis of breaches of one retail obligation - the consequences of withdrawing a licence would be enormous, not least for the hundreds of thousands of customers of each of the retailers who rely on these retailers for supply.

We therefore strongly support the Victorian Government's announcement that it will introduce new laws that will require energy retailers to pay consumers \$250 for each day they are off supply after a disconnection in breach of the *Energy Retail Code*, including a breach of clauses 11.2 or 12.2(a).<sup>294</sup> However, the imposition of small penalties on energy retailers in individual cases may not necessarily provide a sufficient incentive to change the retailers' overall behaviour with regard to this issue. The Victorian Government should also give the ESC the power to impose financial penalties directly on energy retailers (and water suppliers) that breach retail obligations, possibly through the power to issue infringement notices. This would allow the ESC to pursue systemic breaches and apply more significant penalties where appropriate. There is no doubt that such powers are overdue as the refusal to offer affordable instalment plans to customers in hardship has been documented for many years, including in the *Switched Off* <sup>295</sup> and *An Unfair Deal* reports in 1995 and 1998 respectively.<sup>296</sup> This is a serious and systemic issue that requires a systemic remedy.

Secondly, we strongly recommend clarification of suppliers' obligations in relation to dealing with customers with payment difficulties, particularly regarding offering instalment plans that take into account a customer's capacity to pay. A standard should be agreed or, better still, mandated, stating maximum amounts that retailers may request certain groups of customers to pay under instalment plans. In particular, any person who receives government income support and has a debt to an energy or water company should be on an instalment plan with a standardised and published upper threshold. The UK scheme 'Fuel Direct' already operates in this fashion, with an upper weekly threshold of instalment amount permitted and deducted from social security payments.<sup>297</sup>

Financial and Consumer Rights Council Inc, 1998 at 28-29.

<sup>&</sup>lt;sup>291</sup> Essential Services Commission Act 2001, above n 190, at sections 53(1), 53(2).

<sup>&</sup>lt;sup>292</sup> As above at sections 53(8), 53(9), 54.

 $<sup>^{293}</sup>$  See as above at section 53(5), 53(6).

<sup>&</sup>lt;sup>294</sup> I Haberfield, *Power cut-off penalty*, Sunday Herald-Sun, 12 September 2004 at 17; M Ketchell, *Power, gas companies under fire*, above n 208.

 <sup>&</sup>lt;sup>295</sup> J Benvenuti and D Walker, Switched off: Case Studies of consumers' experiences with energy and water utilities, Consumer Advocacy and Financial Counselling Association of Victoria Inc, June 1995.
 <sup>296</sup> B Kliger, An Unfair Deal: A consumer audit of the electricity, gas and water industry reforms,

<sup>&</sup>lt;sup>297</sup> Fuel Direct involves an automatic weekly deduction from the consumer's income support to the relevant gas or electricity company.

There seems to us to be no good arguments for why Victorian consumers in energy or water debt and receiving government income support could not be placed on instalment plans tied to the Centrepay system.<sup>298</sup> Such an arrangement would ensure that customers in financial hardship are not required to spend unacceptable proportions of their income on energy or water, alleviating the diminished living standards that this imposes as funds are diverted from other essential goods and services. Not all energy and water retailers currently offer Centrepay arrangements to their customers, and the main reason provided is that their current billing systems are unable to manage the arrangement. Interestingly, none of the disconnected consumers we interviewed were paying their bills through Centrepay at the time of disconnection, although some explicitly told us that they would have liked this option.

Further, as discussed in detail section 5.3.2 earlier, the best way to limit the ambiguity of the obligation to offer affordable instalment plans, essentially a late assistance measure, is to implement earlier and clearer regulation of what is meant by this obligation. We have proposed that energy and water suppliers be required to adopt hardship policies that comply with stated minimum standards set out in a *Hardship Policy Guideline*. This *Hardship Policy Guideline* should be imposed by the ESC as a licence condition or mandatory code.

**Recommendation:** That the ESC be given the power to impose financial penalties directly on energy retailers (and water suppliers) that breach retail obligations, possibly through the power to issue infringement notices.

**Recommendation:** That suppliers' obligations in relation to offering instalment plans that take into account a customer's capacity to pay be clarified, preferably under a mandatory *Hardship Policy Guideline*.

#### 5.6.2 Prepayment meters

Prepayment meters are meters that require payment for energy or water services before these services are supplied (similar to the manner in which prepaid mobile phones operate). Methods of prepayment depend on the prepayment meter technology used. One method involves the use of electronic funds transfers by the customer to the customer's energy account to put the meter into credit while other technology allows the customer to continually put funds onto, or "recharge", a card that is placed in the meter.<sup>299</sup>

Prepayment meters are used for energy services, particularly electricity, in the UK and other overseas jurisdictions. Prepayment meters are not currently widespread in Australian jurisdictions, although prepayment meters are now used by many Tasmanian households to purchase electricity and there are indications that prepayment meters may be introduced into New South Wales. Victorian energy retailers are not currently permitted to introduce prepayment meters without the ESC's prior approval, which has not been given.<sup>300</sup> Victorian water suppliers are also unable to use prepayment meters, as both the current *Benchmark Customer Contract* for metropolitan water retailers and the proposed water *Customer Service Code* for both metropolitan water retailers and the RUWAs provide that customers have

<sup>&</sup>lt;sup>298</sup> Centrepay is a free bill paying facility through which recipients of government income payments may direct Centrelink (the Federal Government agency that administers social security payments) to deduct a nominated amount directly from the recipient's income payment each fortnight and pay this amount to a private company for services such as rent, energy, water or telephone: see Centrelink, *Centrepay: Pay your bills the easy way*, Brochure, July 2002 available from the Centrelink website at www.centrelink.gov.au.

<sup>&</sup>lt;sup>299</sup> See KPMG, *Consumer issues with pre-payment meters: Final report*, Essential Services Commission of South Australia, April 2004 at 15-17 and 90-93.

<sup>&</sup>lt;sup>300</sup> See clause 10.1 of the various electricity retail licences and clause 11.1 of the various gas retail licences issued by the ESC.

various rights with regard to receiving bills and subsequent payment, which are inconsistent with the use of prepayment meters.<sup>301</sup>

However, some energy retailers have been promoting prepayment meters as a measure for Victorian consumers to better manage expenditure. For example, in a submission to the ESC, Country Energy advocates that prepayment meters have the capacity to enhance demand side management. Country Energy argues that a prepayment meter trial in their distribution area (in New South Wales) will demonstrate whether the product will meet its two key objectives, which they state are:

'Firstly, to incentivise [sic] customers to change their consumption patterns and consume electricity at more efficient periods during the day at cheaper electricity prices and secondly to offer an alternative in the ways customers purchase electricity.'<sup>302</sup>

This makes us question how prepayment meters can cause enhanced demand side management in a way that is different to, and better than, interval meters (which the ESC is currently proposing to roll out).<sup>303</sup> After all, a key objective of interval meters is to:

<sup>•</sup>Provide the capacity and incentive for customers to manage their electricity consumption more efficiently. If customers are made aware of different pricing of electricity at different times, and the impact of those price differentials on their electricity bills, they could make informed choices about when they use electricity.<sup>304</sup>

In regards to Country Energy's second objective for introducing prepayment meters, we are uncertain as to how offering an alternative method for customers to purchase electricity is an objective in itself. We can only assume that Country Energy must perceive some benefits to this alternative purchasing method to be conducting test trials of prepayment meters. However, assuming it does perceive benefits, Country Energy certainly does not state what these benefits may be, nor is it clear whether any benefits of using prepayment meters would flow to customers or to the retailer.

Aurora Energy has set out its views on the benefits on prepayment meters more clearly.<sup>305</sup> In addition to allowing customers to budget, manage expenditure and 'leverage time of use tariffs', also argued by Country Energy,<sup>306</sup> Aurora Energy also states that prepayment meters will eliminate the need for meter reads or bills, will reduce bad debt, will reduce calls to the retailer's customer service centre and will result in advanced cash flow to the company.<sup>307</sup> Apart from the ability of customers to use prepayment meters to budget and manage expenditure, therefore, we consider that all of the benefits of prepayment meters perceived by Aurora Energy flow to it and not its customers.

 <sup>&</sup>lt;sup>301</sup> See *Benchmark Customer Contract*, above n 198 at clauses 7 and 8; Draft *Customer Service Code*, above n 199 at clauses 4 and 5. Prepayment meters for water services are not used in Australia.
 Prepayment meters for water are now illegal in the UK as well, and their usage is currently most widespread in South Africa.
 <sup>302</sup> Country Energy, Submission on Draft Decision - Review of Electricity and Gas Retail Codes - A

<sup>&</sup>lt;sup>302</sup> Country Energy, Submission on Draft Decision - Review of Electricity and Gas Retail Codes - A Draft Energy Code, February 2004 at 3. See also, for example, Aurora Energy, Submission to the Review of Electricity and Gas Retail Codes, January 2003 at 2; both available from www.esc.vic.gov.au/electricity587.html.

 <sup>&</sup>lt;sup>303</sup> See ESC, Mandatory Rollout of Interval Meters for Electricity Customers, above n 231.
 <sup>304</sup> ESC, Mandatory Rollout of Interval Meters for Electricity Customers, Draft Decision, March 2004 at 11.

<sup>&</sup>lt;sup>305</sup> Aurora Energy, Submission, above n 302.

 <sup>&</sup>lt;sup>306</sup> Although, again, it is not specified how prepayment meters would 'leverage time of use tariffs' in a manner different to, or better than, interval meters: see Aurora Energy, Submission, above n 302 at 2.
 <sup>307</sup> Aurora Energy, Submission, above n 302 at 2.

The benefits listed by Aurora Energy may indeed be significant. Credit management is an essential operation for industry, and prepayment meters may be a legitimate credit management tool. We argue strongly, however, that in recent debates prepayment meters have been disguised as a budgeting tool with the function of assisting consumers to manage expenditure, when instead energy retailers are promoting them because of their nature as an effective business tool to secure cash flows and reduce credit risk.

As the negative impacts of prepayment meters on low-income consumers have been well outlined and argued in recent reports, we will not dedicate a detailed discussion to their impact here.<sup>308</sup> Rather, we present an indication of the concerns raised and focus on why we consider prepayment meters to be an inappropriate measure to meet the objective of assisting consumers to manage expenditure.

VCOSS policy analyst Angela Savage has stated that 'Proponents of [prepayment meters] say they prevent people from accruing debts. But this is because they prevent people from having access to electricity and gas in the first place unless they can pay for it in advance'.<sup>309</sup> Andrea Sharam concluded in a recent study that '[Prepayment meters] are predicated on selfdisconnection that is removed from public scrutiny and social policy measures...In Victoria alternatives have been successfully developed that provide benefits to customer and utility alike'.<sup>310</sup> In other words, one of the principal concerns regarding prepayment meters is that households unable to pay for their energy service will, by the very nature of prepayment meters, disconnect themselves. This "self-disconnection" occurs in the absence of protections to ensure households in financial hardship remain on supply and is hidden from view as it is done by the household, not the retailer. Given that electricity, gas and water services are essential for all households and that, as a consequence, no Victorian household should be disconnected from these services based on incapacity to pay alone, it is anathema to introduce measures that naturally tend towards this occurring.

In the UK, research by the University of Warwick, which does not recommend the restriction of prepayment meters in the UK, nevertheless also points out challenges for the government and the regulator in dealing with 'prepayment meter effects'. These challenges include:

'Measures to prevent self disconnection and self rationing need to be carefully directed at the minority of low income users for whom these are a (sometimes major) problem, in order to avoid restricting choices for the majority who perceive little difficulty'.<sup>311</sup>

In addition to the problems of self-disconnection and self-rationing, as households with prepayment meters were likely to have fewer energy efficiency measures, the report outlined a dilemma for improved energy efficiency:

'Increasing the number of energy efficiency measures amongst flat dwellers and prepayment meter users would help alleviate fuel rationing, but raises the question of biasing the choice between payment methods in favour of prepayment'.<sup>312</sup>

<sup>&</sup>lt;sup>308</sup> See, eg, A Sharam, Second Class Customers: Pre-Payment Meters, the Fuel Poor and Discrimination, Energy Action Group, 2003; A Savage, Prepayment meters and why they won't do for the fuel poor, VCOSS Noticeboard, September 2003; KPMG, Consumer issues with pre-payment meters: Final report, above n 299.

<sup>&</sup>lt;sup>309</sup> A Savage, *Prepayment meters and why they won't do for the fuel poor*, above n 308 at 10.

<sup>&</sup>lt;sup>310</sup> A Sharam, Second Class Customers: Pre-Payment Meters, the Fuel Poor and Discrimination, above n 308 at 20.

<sup>&</sup>lt;sup>311</sup> Centre for Management and Regulation, University of Warwick and Centre for Competition and Regulation, University of East Anglia, *Fuel Poverty: Low Income, Prepayment meters and Social Obligations*, March 2001at 3.

 $<sup>^{312}</sup>$  As above.

The study recommended that the government and regulator clarify their guidance to retailers about their social obligations to prepayment meter customers.

The existence of prepayment meters in the UK has caused additional challenges for Ofgem, the energy market regulator, in promoting and ensuring that competition benefits all consumers. The NAO stated in 2001 that 'Ofgem need to continue to protect customers who pay by prepayment meter until the market is competitive'.<sup>313</sup> The report referred to a 2000 survey which found that it was less common for prepayment meter customers to change supplier than other customers. As financial gain is the main incentive for a household to switch supplier, this indicates that households with a prepayment meter have less opportunities to save money on payment for their energy services than other households. The cause for concern for the NAO was that research also shows that prepayment meters in the UK are concentrated amongst lower income households. Consequently, low-income households in the UK are not benefiting from competition as much as other customers.<sup>314</sup>

We are aware that some research in the UK has demonstrated that consumers themselves are receptive to prepayment meters.<sup>315</sup> We do not believe, however, that UK research on this issue is applicable in the Victorian context. First, many low-income customers in the UK do not have bank accounts and are therefore facing expensive and time consuming alternative payment options to prepayment meters, as well as being unable to sign up for direct debit or an equivalent of Australia's Centrepay arrangements.<sup>316</sup> Secondly, a large portion of the UK's prepayment meter customers have inherited these meters through default by renting properties within a certain rental range, the majority of which already have prepayment meters installed.<sup>317</sup>

Some research has also suggested that Australian prepayment meter customers have expressed satisfaction with this form of payment arrangement.<sup>318</sup> However, in Tasmania, where there has been a large demand for prepayment meters, they have been delivered in conjunction with time of use tariffs. A recent report published by the South Australian energy regulator, the Essential Services Commission of South Australia, argued that on the basis of the Tasmanian package:

'[I]t is difficult to separate whether consumers are attracted by the pre-payment feature or by the time-of-use feature of the offering'.<sup>319</sup>

 <sup>&</sup>lt;sup>313</sup> NAO, *Giving Domestic Customers a Choice of Electricity Supplier*, January 2001 at 35.
 <sup>314</sup> As above at 35, 39.

<sup>&</sup>lt;sup>315</sup> See, for example, a survey conducted on behalf of the UK's trade association for the electricity industry: Electricity Association, *Affording Gas and Electricity. Self-disconnection and Rationing by Prepayment and Low Income Credit Customers and Company Attitudes to Social Action*, March 2001. <sup>316</sup> There is no precise figure on how many households are without access to bank accounts in the UK but one estimate by the UK Office of Fair Trading is 14%. On the other hand, research is quite clear on who the 'unbanked' are. The British Bankers Association found that they are predominantly poor and recipients of means tested social benefits, the largest group being over retirement age. For more information about the 'unbanked' and the implications for payments of utility bills in the UK, see the report to HM Treasury by Policy Action Team 14, *Access to Financial Services*, November 1999. <sup>317</sup> An Offerm gunyay in 2000 demonstrated that areas 40% of financial Services, November 1999.

<sup>&</sup>lt;sup>317</sup> An Ofgem survey in 2000 demonstrated that over 40% of prepayment meter customers inherited their meter when moving into their current dwelling: NAO, *Giving Domestic Customers a Choice of Electricity Supplier*, above n 313 at 36.

<sup>&</sup>lt;sup>318</sup> A survey conducted by the Tasmanian electricity retailer, Aurora Energy, found that 94% of Tasmanian prepayment meter customers were satisfied: KPMG, *Consumer issues with pre-payment meters: Final report*, above n 299 at 114.

<sup>&</sup>lt;sup>319</sup> KPMG, *Consumer issues with pre-payment meters: Final report*, above n 299 at 18. The paper also points out that there are separate issues pertaining to prepayment meters in contestable markets (where switching of retailer is possible) and that Tasmania has a non-contestable electricity market.

That said, the research indicates that some households do prefer prepayment meter arrangements, although there is a lack of exploration as to why.<sup>320</sup> However, we are of the view that improvements to current arrangements can offer the benefits of prepayment meters without exposing low-income and disadvantaged Victorian households to the unnecessary risks inherent to prepayment meters.

We believe that some households may be attracted to prepayment meters because they allow payments to be made in smaller amounts rather than less regular, lump-sum payments; this is the budgeting or management of expenditure aspect of prepayment meters. However, there are various measures that allow households to budget for their energy payments other than prepayment meters, including, in particular, the offering of flexible payment arrangements by suppliers, discussed in detail in section 5.6.1 above. Payment arrangements that allow regular instalment payments towards energy (or water) services in advance, not only to recover accrued debt, allow households to budget for their energy or water use and pay a regular amount that constitutes additional payment when usage is lower, offsetting periods of higher usage. This is known as smoothed billing. Importantly, a household that is unable to make a payment to a prepayment meter will be disconnected, whereas a household that is unable to make an instalment payment under a smoothed billing arrangement is able to negotiate with their supplier and remain on supply until able to pay, particularly if that supplier is under certain obligations with regard to dealing with households in financial hardship.

We note that current discussions between Victorian energy retailers, customer representatives and the ESC are focussed on identifying customers in hardship and determining what obligations the retailers should have towards various customer groups, including customers in hardship. Victoria should perhaps consider itself fortunate that it does not have to deal with further customer group distinctions based on meter types nor the prepayment meter effects on low-income households outlined above.

In summary, we cannot see what positive contribution prepayment meters would deliver to low-income households facing problems of affordability or disconnection in relation to energy or water services. Prepayment meters would not help households in financial hardship any more than affordable instalment payment plans or Centrepay. On the other hand, prepayment meters would assist suppliers to avoid the need to deal directly with customers in financial hardship. In other words, prepayment meters discourage suppliers from improving their processes for dealing with customers in hardship as they are able to disengage from these issues. This is discussed further below in section 5.7.2 in relation to vouchers. Given the central role played by the supplier's conduct in the affordability of energy and water services for many of the households we interviewed, limiting their customer contact in this way would be highly undesirable.

If suppliers are of the opinion that the provision of alternative or flexible payment arrangements is a worthy objective in itself, they should ensure that the flexibility and range of alternative payment plans, billing cycles and payment methods offered by them are optimal and meet the demands of customers before embarking on such risky changes as the introduction of prepayment meters.<sup>321</sup>

**Recommendation:** That the Victorian government and/or the ESC preclude the use of prepayment meters in Victoria. Rather, suppliers should ensure that they offer a range of alternative payment plans, billing cycles and payment methods to assist households to manage expenditure on energy and water services.

 $<sup>^{320}</sup>$  As above at 'Appendix C – Experiences with prepayment meters in other countries', which refers to various surveys (mostly conducted by industry associations) of consumer perception.

<sup>&</sup>lt;sup>321</sup> It is possible that the Victorian Government may ban the use of prepayment meters in Victoria: M Ketchell, *Power, gas companies under fire*, above n 208.

#### 5.7 Objective 6: To provide assistance for consumers unable to pay

The measures furthest to the right on the 'timing' and 'application' dimensions (Figure 5.1) are efforts to assist households who are unable to pay for energy or water services already consumed and are subsequently under threat of disconnection, perhaps even despite the provision of concessions or low consumption of services by the household. Such measures have appeal because they are not "wasted" on those not in need, by virtue of being targeted to households clearly in hardship at a time when assistance in clearly required. Measures such as concessions or price regulation, which are earlier measures and are less targeted, will in theory assist people who are not, strictly speaking, in need of assistance. Such measures may therefore be labelled as waste or market distortion.

This claim would, of course, depend on how one chooses to interpret 'need'. If imminent disconnection is the sole assessment criterion for being in need, it is right to claim that measures such as concessions and price regulation may potentially assist many non-needy households. As discussed in chapter 1 and demonstrated in chapters 3 and 4, however, disconnection is simply one manifestation of the problem of a lack of affordability of energy or water services. The key issue for many low-income households is therefore to have ongoing and predictable assistance that addresses affordability and not simply disconnection. The case studies analysed in this Report illustrate the severe impact that affordability problems can have on consumers and their household.

Furthermore, for those households which 'fall through the cracks' of earlier assistance measures and require assistance at a very late stage, the result is all the more severe, namely imminent or actual disconnection. This has been recognised in relation to EWOV and the URG scheme, as suppliers are not permitted to disconnect or restrict customers who have commenced either process. We consider that it is eminently preferable to implement measures that assist households to avoid this situation in the first place.

That said, we remain strongly supportive of late measures that provide assistance to households unable to pay their energy or water bill for two reasons. First, it is inevitable that some households will continue to require assistance at a late stage, regardless of the quality of earlier assistance measures that are available – some households will always 'fall through the cracks'. Secondly, the severity of the problem facing households who require assistance to pay a bill already incurred is too great to ignore. Given that we do not consider it acceptable to allow households to be disconnected for incapacity to pay alone, we consider that there must be measures in place to assist households facing this very situation. We discuss some of these measures below.

Energy and water suppliers sometimes argue that because households often pay their bill as soon as they are disconnected from supply or receive a disconnection warning, it proves that these households could actually afford to pay their bill and should be considered "won't pays" rather than "can't pays".<sup>322</sup> This argument only demonstrates a failure or unwillingness to understand how essential energy and water services are. Suppliers of essential services possess a very powerful credit management tool in the ability to threaten disconnection. Households will take extreme steps to avoid disconnection or to get reconnected quickly,

<sup>&</sup>lt;sup>322</sup> "Won't pays" are usually defined as customers who have the capacity to pay but for whatever reason refuse to do so. "Can't pays", on the other hand, are those customers who are unable to pay due to lack of financial resources. The ESC distinguishes between customers who "can't pay" and customers who "won't pay": see, for example, ESC, *Project Brief: Disconnection and Financial Hardship Performance Indicators*, June 2003 at 2.

including foregoing expenditure on other bills or on food, borrowing money and underconsuming.<sup>323</sup>

Some households in hardship may also approach an emergency relief agency for assistance when disconnection from energy or water is imminent. Emergency relief agencies often assist by providing funds to pay the outstanding bill or by providing other assistance, particularly food or food vouchers, that free up the household's funds to pay the bill.<sup>324</sup> According to figures collected by the St Vincent de Paul Society Victoria, demand for emergency relief to cover utility costs increased by 80% in 2003/04, for St Vincent de Paul's program alone. Assistance with utility bills was the second largest area of assistance in dollar figures after relief assistance relating to food.<sup>325</sup> Such assistance is commendable, however it gives the false impression to the supplier, regulators and government that the household was able to afford the bill in question. We consider that the implementation of measures that assist households to pay for consumed energy and water services is necessary both to avoid households being disconnected or taking drastic steps to avoid disconnection and to prevent emergency relief agencies from having to 'foot the bill' for unaffordable services.

#### 5.7.1 Utility Relief Grants (URGs)

The URG scheme is 'a program that provides once-off assistance to concession cardholders who are unable to pay a utility bill due to an unexpected and temporary financial crisis, and who are at risk of disconnection'.<sup>326</sup> The URG scheme is consequently at the very end of the 'timing' and 'application' dimensions and will only assist a small number of households.

As the URG is a 'once-off' grant of financial assistance, consumers who have already received an URG are unlikely to be eligible for assistance via a second URG. In 2001-02, 8496 Victorian concession cardholders received an URG, while the approval ratio for URG applications fell to a four year low of 66%. The low approval ratio was partly due to the 'once-off' criteria for approval of an URG as many concession cardholders had already received an URG within the previous five to seven years.<sup>327</sup> In 2002-03 the approval ratio for URG applications increased to 70%, although the total number of URGs granted fell by 5 per cent to 8,051 with 11% fewer applications received.<sup>328</sup>

In a submission to the ESC on the draft *Energy Retail Code*, Jindara analysed 12 case studies of households that had received high energy bills. The submission pointed out that amongst the case studies it examined:

 <sup>&</sup>lt;sup>323</sup> See, for example, Kate's and Mark's stories in chapter 4. See also Brotherhood of St Laurence, *Electricity, gas and water – Costs and choices for vulnerable households,* Changing Pressures, Bulletin No 5, February 1998; WREAG, *Powering Poverty: A report on the impact of the 2003-2004 electricity price rises on 12 low-income households in South Australia,* above n 211 at 8-9.
 <sup>324</sup> See, eg, VCOSS, "Unplugged": Utility demand on Victorian Emergency Relief Agencies, June

<sup>&</sup>lt;sup>324</sup> See, eg, VCOSS, "Unplugged": Utility demand on Victorian Emergency Relief Agencies, June 1995; WACOSS, Would You Like a Bit of Heat with that Trickle of Water? - A report on the results of research into the cost of essential services to Emergency Relief Agencies and their clients, above n 215; see also WREAG, Powering Poverty: A report on the impact of the 2003-2004 electricity price rises on 12 low-income households in South Australia, above n 211 at 13.

<sup>&</sup>lt;sup>325</sup> Figures compiled and provided by the St Vincent de Paul Society Victoria's Policy Officer, Gavin Dufty. The utility component refers to electricity, gas, water and telephone, but as there has been no change in demand for Telstra vouchers, Gavin Dufty advises that the increase must be in the energy and water area. 81.74% of St Vincent de Paul's assistance was food related whilst 5.62%, the second largest component of the assistance program, was directed towards utilities.

<sup>&</sup>lt;sup>326</sup> Concessions Unit, DHS, *State Concessions 2002-2003*, above n 236 at 23.

<sup>&</sup>lt;sup>327</sup> Concessions Unit, DHS, *State Concessions 2001-2002*, above n 240 at 23.

<sup>&</sup>lt;sup>328</sup> Concessions Unit, DHS, *State Concessions 2002-2003*, above n 236 at 23.

'In most instances the URG payment represented no more than 25 to 33% of the total debt. Financial counsellors were not able to negotiate the one third partial waiver advocated by DHS and agreed to by some retailers in negotiations with the Concessions Unit.'<sup>329</sup>

Further, the submission stated that the case studies highlighted that 'if the bill is larger than two billing cycles or six months usage an URG will not be sufficient to solve the problem'.<sup>330</sup> This experience is also borne out by Sue's story in chapter 4. In fact, Sue specifically raised with us the issue that if an URG does not clear the entire debt owed, the household is left in the same position as before, namely owing a debt that it is unable to pay. This led us to question whether the URG scheme was meeting its underlying purpose, given that URGs are intended to relieve a household's temporary financial crisis, which is not achieved if the household is still in financial crisis after the provision of the URG.

As there is mounting concern about the URG scheme's capacity to assist households in hardship effectively, due to increasing energy and water debts and the 'once-off' criteria, a review of the URG scheme and its relationship with other programs and measures in promoting energy and water affordability would be useful.

One suggestion put forward has been to require suppliers to take more responsibility in regards to households with large debts and at risk of disconnection. As argued above in relation to hardship policies, however, this would necessitate anchoring any such arrangements in regulatory instruments such as the *Energy Retail Code*. For example, Jindara suggested the following in its submission:

'It is submitted that Clause 6.2 of the Retail Code be strengthened by the addition of a Clause 6.2(e) that provides that a retailer must allow a partial waiver to the amount above six months usage, or exceeds an unpublished maximum of \$700-\$800, for customers in receipt of Centrelink payments, a health care card or a successful application for an URG'.<sup>331</sup>

Although we are supportive of the URG scheme as a social policy tool to assist people in severe financial hardship, we believe that Victorian energy and water suppliers should assume more responsibility in ensuring that their customers stay connected to essential services. As argued earlier in the Report, energy and water suppliers operate within the broader context of providing services essential for all Victorian households. It is therefore irrelevant whether affordability problems are fuel driven or poverty driven, as the ultimate goal is to ensure that all households retain access to energy and water services regardless of incapacity to pay alone.

**Recommendation:** That the Utility Relief Grant scheme be retained but that government undertake a review of the scheme and its relationship with other programs and measures in promoting energy and water affordability.

#### 5.7.2 Waivers and vouchers

Waivers by an energy or water supplier of a household's energy or water debt clearly have significant potential to improve immediate affordability problems for households in hardship and remove the imminent threat of disconnection. We would not expect that suppliers automatically waive energy or water debts in every case, however, we consider that the use of waivers may be appropriate in some instances, particularly where the supplier has played

<sup>&</sup>lt;sup>329</sup> McMillan and Nelthorpe, Submission to the Essential Services Commission on the Draft Energy Retail Code – High Customer Bills, above n 212 at 5.

 $<sup>^{330}</sup>$  As above at 8.

<sup>&</sup>lt;sup>331</sup> McMillan and Nelthorpe, Submission to the Essential Services Commission on the Draft Energy Retail Code – High Customer Bills, above n 212 at 9.

some part in the accumulation of an unusually high bill by a household, for example, by delayed billing or the failure to provide energy efficiency advice. Earlier, we included debt waiver as one of the options that suppliers should consider as part of a formal hardship policy for dealing with customers in financial hardship. It is certainly one of the tools explicitly advocated by Ofgem and Energywatch (the UK energy consumer watchdog and ombudsman) as part of their guidelines to UK energy suppliers regarding dealing with customer debt and disconnection.<sup>332</sup>

The DHS Concession Unit has negotiated an arrangement with Victorian energy retailers in relation to customers who successfully apply for an URG for a high energy bill, whereby the URG covers one third of the customer's energy debt, the energy retailer waives one third of the debt and the customer commits to pay the last third of the debt. This arrangement was referred to in the quote from the Jindara submission above.

For cases in which it is deemed unlikely that the customer's financial situation will improve, this third part waiver arrangement is sensible as it reduces the customer's debt levels and required payments. It is, however, difficult to see how a customer in severe financial hardship, who has already demonstrated that they cannot afford to pay for their energy or water consumption, is supposed to successfully make any debt repayments in addition to ongoing energy or water costs without facing new acute payment difficulties. Colton has analysed several case studies in order to understand why customers may not pay their utility bills and has argued that:

<sup>6</sup>[D]eferred payment plans are not likely to succeed in retiring accrued arrears. Again, if these households have not paid their bills in the past because they cannot afford them, to expect the households to pay their current bills in the future plus some additional increment to retire arrears is unreasonable<sup>333</sup>.

Anecdotal references to the third part waiver arrangement in Victoria suggest that the results are mixed. Clearly the waiver improves the financial situation for some households, but many customers do not qualify for the arrangement (only one customer interviewed for this Project had received a debt waiver) and, as indicated above, Jindara also noted the difficulties in accessing the arrangement. It is not, therefore, a measure of assistance that currently offers consistency or predictability to low-income and financially disadvantaged Victorian households. Enshrining debt waiver in a *Hardship Policy Guideline* as a formal tool to address affordability problems would improve the availability of, and reduce the arbitrariness of, this important measure to assist households unable to pay their energy or water bill.

We encourage energy and water suppliers to investigate further how waivers may be used to assist customers in chronic financial hardship. As pointed out by Colton, by understanding the reasons for non-payment and adopting a range of techniques to address the various problems, suppliers can maximise the receipt of revenue and reduce the cost of debt collection.<sup>334</sup>

Vouchers represent one method of applying debt waiver to a customer's energy or water bills. Vouchers for certain values may be distributed by suppliers for redemption by customers against bill amounts. Commonly, the supplier will distribute vouchers to community or emergency relief agencies for distribution to those agencies' clients as deemed appropriate by the agencies.

<sup>&</sup>lt;sup>332</sup> Ofgem and Energywatch, *Preventing debt and disconnection*, above n 210 at 2, 6.

<sup>&</sup>lt;sup>333</sup> R Colton, Understanding Why Customers Don't Pay: The Need for Flexible Collection Practices, 1991 at 41.

 $<sup>^{334}</sup>$  As above at 2.

However, while helpful as debt waiver for those households that receive them, vouchers encourage suppliers to remain disengaged from the issues faced by customers in financial hardship. In effect, the supplier abrogates its responsibility for dealing with customers in financial hardship by shifting responsibility onto community agencies to identify customers in need and assist them, and onto customers themselves to identify themselves to agencies in possession of vouchers.

The stories reported in chapter 4 highlight the critical effect that an energy or water supplier's conduct has not merely on a household's experience of disconnection but on the actual affordability of energy or water services for a household. A supplier's inflexibility in dealing with a household or lack of understanding of a household's financial situation contributes to rendering the services unaffordable. Vouchers may provide a quick-fix to affordability problems faced by some households, but discourage suppliers from improving their conduct and processes for dealing with households in financial hardship, preventing more sustainable solutions to issues of affordability. We do not, therefore, support vouchers as a measure to meet the objective of assisting consumers to pay, given the detrimental effect they have on affordability overall.

Rather than vouchers, we support considered debt waiver by energy and water suppliers, particularly within the context of the application of formal hardship policies to customer circumstances under a *Hardship Policy Guideline*, as meeting the objective of assisting consumers to pay for energy or water services.

**Recommendation:** That considered debt waiver, but not vouchers, be utilised by energy and water suppliers as appropriate, particularly under a *Hardship Policy Guideline*.

5.7.3 Quality customer service and information provision

Given the above discussion about the importance of supplier conduct, it is clear that we would welcome more supplier involvement in the provision of important information to energy and water consumers about matters relating to affordability. This is particularly so given that it is widely acknowledged that general consumer education campaigns are usually of low value if they do not relate directly to a consumer's current and specific situation. It is suppliers who are most likely to be in a position to provide information to consumers at the time it is relevant to them.

Tom's story, discussed in detail in chapter 4, provides a good example of this principle. The main reason for which Tom was off supply for such a prolonged period of time was that he was unaware of EWOV or the URG scheme. Experiencing payment difficulties for the first time, Tom had no established information source and the communication between him and his retailer was crucial in the outcomes (or lack thereof) experienced by Tom.

In some circumstances, information provision will need to be done over the telephone or even in person, as discussed in section 5.3.2 above. Victorian energy retailers are currently obliged to print information about DHS concessions on all bills and about the EWOV scheme for the resolution of customer complaints on reminder notices. However, they are not obliged to inform customers orally about available assistance. We note that clause 13.2 of the Retail Codes does provide that retailers 'must not disconnect a domestic customer [for non-payment] if the failure to pay...occurs through lack of insufficient income of the customer until the retailer has also complied with clause 11.2, using its best endeavours to contact the customer in person or by telephone...<sup>335</sup> The value of making contact in person with households in

<sup>&</sup>lt;sup>335</sup> *Electricity Retail Code*, above n 168, at clause 13.2; *Gas Retail Code*, above n 171, at clause 13.2 [our emphasis].

hardship is thus recognised. Like other obligations in the Retail Codes discussed earlier, however, this obligation is somewhat ambiguous. It does not actually oblige retailers to contact customers in person in certain circumstances, it merely states that retailers should use their best endeavours to do so. It is also unclear whether retailers must use their best endeavours to contact the customer *both* in person or by telephone or whether attempts to make contact *either* in person *or* by telephone are sufficient.

We realise that it would be difficult to monitor the performance of suppliers with regard to an obligation to inform customers over the telephone or in person of available assistance measures, however it remains clear that printed information is insufficient in many cases. It may be possible to argue that consumers in financial hardship do not spend enough time looking at their bills and that "you can only help people so much", but even if not required by, for example, the *Energy Retail Code*, it would be very easy for suppliers to train their call centre staff to give customers all relevant information. We therefore encourage suppliers to do so, regardless of whether or not this is a formal obligation imposed on them.

We believe that suppliers are genuinely concerned about disconnections and only undertake them as a last resort. However, we would expect that, in this case, all customers faced with disconnection or living in a disconnected household would, at a minimum, be advised of all assistance measures, including URGs and EWOV. After all, it is the suppliers who possess the most information about disconnected households at any given time, and no other agency or organisation has the same ability to identify and assist consumers living in households that are either facing disconnection or living without supply.

Unfortunately, as demonstrated by the stories of the households we interviewed, suppliers often provide little or no information about assistance measures to households facing disconnection. Again, we consider that a formal *Hardship Policy Guideline* that provided for the identification of customers in hardship and better training of supplier staff to deal with issues of financial hardship would establish a framework that Victoria energy and water suppliers could use to improve the quality and consistency of their customer service and information provision significantly. A *Hardship Policy Guideline* could also specify more clearly the minimum circumstances in which contact by telephone or in person would have to be made by suppliers.

**Recommendation:** That a *Hardship Policy Guideline* be implemented that requires energy and water suppliers to better identify households in hardship and to improve the quality and consistency of the information and assistance they provide to households in hardship.

#### 5.8 Conclusion

It is clear that if we are to tackle the problem of affordability of energy and water services, particularly for low-income households or households in hardship, we will need to implement a range of measures. Some of these measures may be relatively targeted towards households in hardship and implemented fairly late, however earlier and less targeted measures are also needed both to attempt to prevent affordability crises from occurring and to improve the implementation of late and targeted measures.

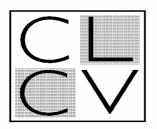
The ESC must recognise that it has a role to play in improving affordability levels and continuous access to supply of essential services for all Victorian households. It is not acceptable for the ESC to argue that, as it cannot tackle the entire problem of affordability, it should not tackle any aspect of the problem. As demonstrated, measures to improve affordability are not limited to greater income support or even price regulation, as energy and water services can also be made more affordable through measures such as appropriate payment arrangements and improved supplier conduct. As evidence suggests that suppliers

do not always offer affordable payment options to customers in hardship or deal with such customers appropriately, we strongly advocate that the ESC mandate requirements to ensure that acceptable practices are implemented, particularly through a *Hardship Policy Guideline*.

Secondly, we also urge Victorian energy and water suppliers to accept responsibility for improving the affordability of energy and water services. With reference to the assistance measures relevant to a utility retail market presented in figure 5.1, we reiterate that late and targeted measures should be primarily delivered by suppliers, given their contact with customers in crisis. That said, in order to achieve the standards necessary at a universal and consistent level, the form of late and targeted measures to assist Victorian households should be stipulated by government and/or the regulator to ensure that any household facing payment difficulties will be entitled to flexible arrangements that secure a continuous supply of essential services.

Lastly, the above measures must be supported by programs aimed at improving energy and water affordability on a long term basis, for example public and private retrofitting programs. In order for this to occur, various government departments and agencies must be involved and they must also engage both industry participants and customer representatives in this important task.

# Appendix A Letter to Survey participants





15 January 2004

Name Address Suburb Vic 3####

Dear #

#### **Research Project: Access to Essential Services**

Our names are May Mauseth from the Consumer Utilities Advocacy Centre (CUAC) and Nicole Rich from the Consumer Law Centre Victoria (CLCV). We are doing a research project on what it is really like for households to be restricted or disconnected from their electricity, gas or water services.

The Energy and Water Ombudsman Victoria (**EWOV**) contacted you in mid-December 2003 to ask whether you would be willing to participate in our research project by discussing your experiences with us. Thank you for agreeing to participate and for giving EWOV your consent to pass on your contact details to us.

We will be calling people who have agreed to participate **between Tuesday**, 27 January 2004 and Tuesday, 3 February 2004, so you can expect to hear from us sometime that week. If we call at an inconvenient time, please let us know and we will arrange to call at a more suitable time.

We also enclose an information sheet about the project that explains your rights as a participant. If you have any further questions about the project, you are welcome to telephone May at CUAC on (03) 9639 7600 or Nicole at CLCV on (03) 9629 6300. If you need to make an STD call, you can call May on 1300 656 767 or Nicole on 1300 881 020.

Once again, thank you for giving your time to contribute to our project.

Yours Sincerely

Nicole Rich Senior Solicitor May Mauseth Policy Officer

Encl.

# Important Information Project Title: Access to Essential Services 15 January 2003

We are the Consumer Utilities Advocacy Centre (**CUAC**) and the Consumer Law Centre Victoria (**CLCV**). We are doing a research project on what it is really like for households to be restricted or disconnected from their electricity, gas or water services. May Mauseth from CUAC and Nicole Rich from CLCV are the two researchers conducting the project.

We want to talk to people who have been disconnected or restricted from electricity, gas or water services and collect their stories. We want to know what we should tell the government about electricity, gas and water services to stop households from being disconnected or restricted just because of financial problems. You do not need to tell us the name of the company you were dealing with, as we want to identify problems with the supply of electricity, gas and water services generally and we do not intend to describe the practices of each company separately.

We are seeking people who have been disconnected or restricted and who are willing to participate in our project by talking to us about their experience. If you are willing to participate in the project, May or Nicole will telephone you to arrange a time that suits you to do a telephone interview. May or Nicole will then telephone you at the arranged time to do the interview with you. The telephone interviews will take approximately 15 to 20 minutes to complete.

No one who gives an interview will be identified in any report on the project. We will report people's stories and comments in the project but we will not disclose anybody's name or any other personal details that could lead to identification.

You do not have to talk to us or participate in our project in any way. If you are willing to talk to us, you do not have to answer any questions in the interview that you do not want to answer. You can withdraw at any stage of the project.

After we have done all the telephone interviews, we may telephone some people to ask them whether they would be willing to give us a more detailed interview in person. If you are telephoned and asked whether you would be willing to give a second interview in person, you can choose not to be interviewed.

You should keep this Important Information sheet for your records. If you have any further questions about the project, you are welcome to telephone May on (03) 9639 7600 or Nicole on (03) 9629 6300. If you need to make an STD call, you can call May on 1300 656 767 or Nicole on 1300 881 020. If you have to leave a message on an answering machine, you can just leave your first name if you wish.

# Complaints

If you have any complaint about the manner in which this research is conducted, please contact the Executive Officer of the CUAC or the Executive Director of the CLCV at:

Executive Officer		Executive Director
Consumer Utilities Ad	vocacy Centre	Consumer Law Centre Victoria
Level 2, 172 Flinders S	St	Level 7, 20 Queen Street
Melbourne VIC 3000	)	Melbourne VIC 3000
Tel : (03) 9639 7600 o	r 1300 656 767	Tel: (03) 9629 6300 or 1300 881 020

Thank you,

May Mauseth and Nicole Rich.

# Appendix B Interview Running Sheet

Interview recorded: Day\_\_\_\_\_ Time\_\_\_\_\_ Interview #

#### Good morning/afternoon/evening.

My name is #. I am the # at the [CUAC/CLCV]. We are doing a joint project with [CUAC/CLCV]. Our project is looking at households that get disconnected or restricted from their electricity, gas or water services.

We are talking to people who have been disconnected or restricted and collecting their stories. We want to know what we should tell the government about electricity, gas and water services to stop households from being disconnected or restricted just because of problems paying their electricity, gas or water bills.

I will ask a series of questions about how you got to the stage of being disconnected / restricted. I will also ask you what it was really like to live without electricity, gas or water.

#### SECTION 1: ABOUT THE DISCONNECTION / RESTRICTION

#### First, a few short questions about when you were disconnected / restricted.

#### 1. Type of utility

**During the last 12 months, have you been disconnected/restricted from gas, electricity or water?** *If experienced more than one disconnection/restriction choose the most recent incident. Do not read alternatives.* 

 $\Box$  Disconnected from gas

□ Disconnected from electricity

 $\square$  Restricted from water

2. Month of disconnection

Do you remember what month you were disconnected?

3. Day of disconnection

What day of the week was it? \_\_\_\_\_

4. Time of disconnection

What time of day were you disconnected / restricted?

# 5. Time off supply

# Do you remember how long you were disconnected / restricted for?

Do not read alternatives.

 $\hfill\square$  Reconnected the same day

- $\Box$  Reconnected the following day
- $\square$  Reconnected after two whole days
- $\hfill\square$  Reconnected after three whole days
- $\Box$  Reconnected after four to six whole days
- □ Reconnected after seven whole days or longer please indicate number of

days\_

 $\Box$  Don't remember

6. Composition of household

At the time you were disconnected / restricted, who was living in your household?

If asked, children defined as 18 years and under. Do not read alternatives.

-		
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Number of adults\_\_\_\_\_ Number of children

□ Couple□ Couple with children

 $\Box$  Single with children

□ Shared household

□ Other – please describe\_\_\_\_\_

7. Name of account holder

Sometimes people's bills are under the name of all the adults in a household and sometimes only one adult has his or her name on the bill. At the time of disconnection, whose name was on the bill in your household?

Do **not** read alternatives.

 $\square$  Respondent

□ Spouse/partner

 $\Box$  Shared household (not in respondent's name)

□ Other, please specify\_\_\_\_\_

8. Special needs

Electricity, gas and water are important for everyone. But sometimes a person has an even more special need for them, for example if you have lung cancer and might need to use a machine to help you breathe that needs electricity to run. Does anyone in the household have any special needs?

Do not read alternatives.

- □ Yes, please specify\_\_\_\_\_
- $\square$  No
- $\Box$  Don't know

9. Previous disconnections

# Have you been disconnected/restricted before?

 $\Box$  Yes

🗆 No

If yes, what utility and how many times: Gas\_\_\_\_\_ Electricity\_\_\_\_\_ Water\_\_\_\_\_

# SECTION 2: THE LEAD UP TO THE DISCONNECTION

# I am now going to ask you some questions to help me understand how the disconnection / restriction happened.

#### 10. Cause of disconnection

In your opinion, what caused the disconnection / restriction?

Do **not** read alternatives. Can tick more than one box. Once interviewer categorises answer, read chosen alternative(s) back to respondent and confirm whether respondent agrees they are accurate.

 $\Box$  You (or the person responsible) forgot to pay the bill [*if this is the only alternative, end interview* – *go to* 43]

 $\Box$  You (or the person responsible) did not want to pay the bill for no particular reason [*if this is the only alternative*, **end** interview – go to 43]

 $\Box$  You (or the person responsible) did not want to pay the bill because you thought it was wrong / contained mistakes [*if this is the only alternative, continue interview but do not ask questions about financial hardship* – *questions 15, 16, 17b, 18, 24, 25 and 26*]

 $\Box$  You did not have enough money to pay the bill

 $\hfill\square$  You could not afford to pay the bill, as other more important payments had to be made

 $\Box$  Other reasons, please

indicate\_\_\_\_\_

 $\Box$  Don't know

#### 11. Payment plan

Were you on a payment plan at the time of disconnection/restriction?

 $\Box$  Yes [go to question 12a]

 $\square$  No [go to question 12b and 12c]

12. Billing

12a. [If question 11 is "yes"] Do you remember how often you had to make payments and approximately how much? [Now go to question 13]

12b. [*If question 11 is "no"*] **Do you remember how often you were getting bills?** 

**Read** alternatives.

□ Quarterly

 $\Box$  Every two months

 $\Box$  Monthly

□ Other, please specify\_\_\_\_\_

 $\Box$  Don't remember

12c. [If question 11 is "no"] How did you pay your utility bills? Do not read alternatives.
Australia Post billpay BPAY Centrepay Cheque/money order Credit card Direct Debit In person (Australia Post) Don't remember
Other, please specify\_\_\_\_\_\_\_\_\_\_\_

# 13. Amount

# How much did the company say you owed it when it disconnected/restricted you? *Do not read alternatives.*

- $\Box$  Less than \$50
- □ Between \$50 \$200
- □ Between \$200 \$400
- □ Between \$400 \$600
- □ Between \$600 \$800
- □ Between \$800 \$1000
- □ More than \$1000, please indicate
- $\Box$  Don't know/don't remember
- 14. Accumulation of debt / billing errors

# 14a. The amount they requested, was it to pay for

#### **Read** alternatives.

- $\Box$  One bill's worth of charges
- □ More than one bill's worth of charges. Specify Months\_\_\_\_\_/ Bills\_\_\_\_\_
- □ Other, please specify\_\_\_\_\_

### 14b. Had you been receiving bills as usual?

- Do not read alternatives.
- $\Box$  Yes [go to question 15]
- $\hfill\square$  No, company failed to bill regularly
- $\Box$  Don't know
- □ Other\_\_\_\_\_

#### 14c. Can you tell me some more about that?

#### 15. Financial difficulties

[Do not ask respondents with billing problems only – see question 10]

People can fall into hardship, often through no fault of their own. Sometimes these problems last for a short time or a long time. I would like to give you some alternatives to see whether any of these apply to you. In the case of this disconnection, would you say this was:

Read alternatives.

- $\Box$  the first time you had problems paying a(n) [electricity/gas/water] bill
- $\hfill\square$  you have had problems once or twice before
- $\hfill\square$  you have had problems every now and then
- $\Box$  you have had problems quite regularly
- $\Box$  you have had problems with most of the [electricity/gas/water] bills you receive
- □ [do not read] other, please specify \_\_\_\_\_

#### 16. Hardship

[Do not ask respondents with billing problems only – see question 10]

You said that [*repeat answer 15*]. As I've said, many people experience payment difficulties, often through no fault of their own. Can you tell me what was going on in your life at that time?

*Record respondent's answer and tick box(es) below if appropriate.* 

Do **not** read:

- $\Box$  Birth of child
- □ Housing problems
- $\Box$  Illness (self)
- $\Box$  Illness (caring for another)
- $\Box$  Job loss
- □ Relationship break-up
- $\Box$  Unexpected expenses
- 17. Dealing with the retailer

17a. Did you contact your [electricity/gas/water] company before you were disconnected/restricted?

Do not read alternatives.

- □ Yes [ask questions 17b and 17c, but skip question 18]
- $\Box$  No [go to question 18]
- □ The company contacted me [*ask questions 17b and 17c, but skip question 18*]
- $\Box$  Other

17b. [Do not ask respondents with billing problems only – see question 10] Did you tell them that you were having problems paying the bill/sticking to your payment plan?

Do not read alternatives.

- $\Box$  Yes
- $\Box$  No
- $\Box$  Other

#### 17c. How would you describe the company's response?

Read each alternative. Can tick more than one box.

Helpful	$\Box$ Yes $\Box$ No
Threatening	$\Box$ Yes $\Box$ No
Understanding	$\Box$ Yes $\Box$ No
Unhelpful	$\Box$ Yes $\Box$ No
Polite	$\Box$ Yes $\Box$ No
Rude	$\Box$ Yes $\Box$ No
□ [do not read] Other	, please specify

#### 18. Did not contact company

[Do not ask respondents who answered "yes" or "they contacted me" to 17a] [Do not ask respondents with billing problems only – see question 10]

There are lots of reasons why a person may not contact the company when they are having trouble paying a bill. What do you think is the main reason you did not contact the company?

Do not read alternatives.

 $\Box$  Didn't know how to

 $\Box$  Didn't know he/she could

 $\Box$  Didn't think it would help

 $\Box$  Tried it before and it didn't help

□ Other

19. Further assistance

Now that you have told me about the circumstances of the disconnection/restriction, I would be interested to hear if you have any suggestions for improvements which you think could have helped in your situation to stop you from getting disconnected.

#### SECTION 3: GETTING RECONNECTED

#### 20. The reconnection

You have told me that you were disconnected / restricted [for [# - see question 5] days]. Could you now tell me a bit about how you went about getting reconnected?

21. EWOV [Do not ask respondents sourced through EWOV]

Did you contact the Energy and Water Ombudsman Victoria about your disconnection/restriction?

Do **not** read alternatives.

 $\Box$  Yes

🗆 No

 $\Box$  Don't know

#### 22. Advice

#### Did you seek advice from anyone?

Do not read alternatives.

 $\Box$  Yes, financial counsellor

- $\Box$  Yes, welfare agency
- $\Box$  Yes, friends/family
- □ Yes, other\_\_\_\_\_

🗆 No

 $\Box$  Don't remember

### 23. Utility payment

# In order to get reconnected/off restrictions, did you pay anything towards the amount the company said you needed to pay?

Do not read alternatives.

 $\Box$  Yes

□ No [go to question 27, skip questions 24, 25, 26]

□ Other, please specify\_\_\_\_\_

24. Financial assistance

[Do not ask respondents with billing problems only – see question 10]

# Did you receive financial assistance from the government or an organisation to help pay this amount?

Do not read alternatives.

□ Yes, I received a utility relief grant (DHS)

 $\Box$  Yes, from a welfare agency

□ No, I did not seek any assistance [*skip question 25*]

□ No, I tried \_\_\_\_\_ but did not receive anything [*skip question* 

25]

□ Other\_\_\_\_\_

25. Size of financial assistance

[Do not ask respondents with billing problems only – see question 10]

# I am going to read you some alternatives. Would you say this amount was: *Read* alternatives.

 $\Box$  Substantial and helped a lot

□ Small but still helpful

□ Small and not very helpful

□ A good amount but still didn't help much

□ [do not read] Other, please specify

26. Money source

[Do not ask respondents with billing problems only – see question 10]

# How did you get the [rest of the] money to pay?

Do not read alternatives. Can tick more than one box.

- $\square$  Paid it from normal income
- $\Box$  Used savings

□ Money from family/friends (borrowed)

- $\Box$  Money from family/friends (given)
- $\Box$  Used a payday lender
- $\hfill\square$  Went to a pawnbroker
- $\Box$  Extra work
- $\Box$  Credit card
- □ Other\_\_\_

### 27. Waived debt

# Did the [electricity/gas/water] company waive any part of the amount they said you owed?

Do not read alternatives.

 $\Box$  Yes

 $\Box$  No [*skip question 28*]

□ Other, please specify\_\_\_\_\_

### 28. Size of waiver

# I am going to read you some alternatives. Would you say this amount was: *Read* alternatives.

- $\Box$  Substantial and helped a lot
- □ Small but still helpful
- □ Small and not very helpful
- □ A good amount but still didn't help much
- □ [do not read] Other, please specify\_\_\_\_\_

### SECTION 4: ABOUT BEING DISCONNECTED / RESTRICTED

### 29. Their story

You had no [electricity/gas/water] for [#] days. Can you tell me in your own words what that was like?

# SECTION 5: AFTER THE DISCONNECTION / RESTRICTION

Thank you for telling me about the disconnection/restriction. I now want to ask you a few short questions about what you have been doing since you were reconnected/taken off restrictions.

🗆 No

□ Other, please specify\_\_\_\_\_

#### 32. Changes Since the disconnection/restriction, have you been doing anything differently? *Do not read alternatives*.

□ Yes,

 $\square$  No

□ Other, please specify\_\_\_\_\_

# SECTION 6: BACKGROUND INFORMATION

I want to ask you a few last questions, just to help me understand your home and yourself better. Feel free to tell me if you do not want to answer any of them. They just help us to get a better idea of who is being affected by disconnections/restrictions.

33. What is your postcode (to help us to distinguish between metropolitan, rural and regional consumers)?

# 34. What type of dwelling do you live in?

Do not read alternatives.

 $\Box$  Free standing / separate house

□ Semi-detached / townhouse / villa unit / duplex

🗆 Flat

🗆 Caravan

□ Other, please indicate\_\_\_\_\_

# 35. How many bedrooms are there in your home?

# 36. **Do you own or rent your home?**

Do not read alternatives.

- $\Box$  Own home outright
- $\Box$  Own home (mortgage)
- $\Box$  Private rental
- $\Box$  Rent public housing
- □ Other, please specify\_\_\_\_\_

### 37. Are you eligible for concessions?

#### Do not read alternatives.

□ Yes, I have a Pensioners' Card (aged pensioner)

- □ Yes, I have a Pensioners' Card (non-aged pensioner)
- $\Box$  Yes, I have a Health Care Card
- □ Yes, I have a Repatriation Health Card
- $\Box$  Yes, but I do not hold a card
- $\square$  No
- $\Box$  Don't know

### 38. Which of the following age groups do you belong to?

Read alternatives.

- □ Between 16-18 years
- □ Between 19-24 years
- $\Box$  Between 25-39 years
- □ Between 40-54 years
- □ Between 55-70 years

 $\Box$  Over 70

### 39. Are you working?

Do not read alternatives. Can tick more than one box.

- $\Box$  Yes, full time
- $\Box$  Yes, part time
- $\Box$  Yes, casual
- $\Box$  Retired
- □ Student

□ Study, part-time

 $\Box$  No [*skip question 40*]

# 40. What is your main occupation?

41. **Approximately, what is your total household income [if living in shared household, ask about respondent's income] after tax per week** (alternatively per fortnight, month, annum)

Week	
Fortnight	
Month	
Annum	

# Alternatively, what weekly income bracket (after tax) would your household belong to?

less than \$300
\$301-500
\$501-700
\$701-900
\$901-1100
\$1101-1300
\$1301-1500
More than \$1500

### 42. Gender

□ Male□ Female

### 43. Conclusion

Thank you very much for your time. In case you missed it, my name is ..... from the [Consumer Law Centre Victoria / Consumer Utilities Advocacy Centre]. We will keep your name and phone number together with your survey answers until we have processed the information. After we have processed the information, we will remove your contact details and will no longer be able to identify your own responses.

Interview length\_\_\_\_\_

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