12 August 2026

By email: reg.reform@dtf.vic.gov.au

Department of Treasury and Finance
1 Treasury Place
Melbourne VIC 3002

Dear Department of Treasury and Finance,

Submission: Essential Services Commission Act Review

We welcome the opportunity to provide our submission to the Department of Treasury and Finance (**DTF**) in response to their Essential Services Commission Act (**The ESC Act**) Review.

Consumer Action Law Centre (**Consumer Action**) strongly supports the continuation of the Essential Services Commission's (**ESC**) role as the independent regulator for Victoria's energy, water and transport industries. Our experience with the ESC is that they are an effective regulator of the sectors that fall within their remit.

Due to the ESC's proven effectiveness as a regulator, we do not propose that the ESC Act should be changed substantially, though we do have recommendations to strengthen the ESC's ability to regulate essential services in Victoria.

Additional funding to the ESC is required to enable them to effectively use all the tools at their disposal to ensure that the organisations providing essential services to Victorians are compliant with all their obligations.

The Government should also more actively leverage the independent expertise of the ESC to ensure the Utility Relief Grant Scheme (**URGS**) continues to remain fit for purpose for Victorians experiencing financial difficulty.

We welcome the opportunity to discuss our submission further.

Please contact **Kane Johnson** at **Consumer Action Law Centre** on (03) 9670 5088 or at kane@consumeraction.org.au if you have any questions about this submission.

Yours sincerely,

Jean Skeat | Director of Policy and Campaigns
Consumer Action Law Centre

Recommendations

1. The ESC should continue to regulate Victoria's energy, water and transport sectors as well as overseeing the local government Fair Go Rates system and regulating the Victorian Energy Upgrades program.

2. The ESC's regulatory powers should be consistent across all sectors under their remit to ensure there is adequate oversight and consequences when organisations fail to meet their obligations to consumers, particularly those experiencing hardship.

3. The ESC should continue to both develop and enforce the codes and standards required to regulate the sectors under their remit to continue consumer-focused regulation, and retain existing governance mechanisms to ensure this is done fairly.

4. The ESC should receive additional resourcing to ensure that they are able to anticipate, investigate and respond to breaches of regulatory frameworks as effectively as possible.

5. The ESC should have oversight of the Utility Relief Grant Scheme, which would involve consistent reviews to ensure the scheme remains fit-for-purpose for consumers experiencing hardship.

6. Any considerations to make specific changes to the ESC's regulatory powers in order to cut red tape should be consulted on with consumer organisations who work directly with the consumers and can provide frontline insights about who changes could potentially adversely impact.

7. The ESC Act should be updated to promote principles-based regulation, ensuring all organisations who are regulated by the ESC are making decisions that focus on providing reliable, affordable and safe products and services to consumers.

INTRODUCTION

Consumer Action is an independent, not-for-profit consumer organisation with direct knowledge of people's experience of modern markets. We work for a just marketplace, where people have power and business plays fair. We make life easier for people experiencing vulnerability and disadvantage in Australia, through financial counselling, legal advice, legal representation, policy work and campaigns. Based in Melbourne, our direct services assist Victorians, and our advocacy supports a just marketplace for all Australians.

Consumer Action is the sole operator of the National Debt Helpline (**NDH**) in Victoria. The NDH is a free and confidential financial counselling service available to Victorians. In FY2025/26, our financial counselling practice serviced 8,471 clients over the phone and 4,980 clients through online chat.[1]

Our experience servicing the NDH provides us with valuable frontline insights into numerous sectors that are regulated by the ESC. In fact, for every year since at least 2019, energy debts have been one of the top five most common issues consumers present with when calling the NDH. Water is also a common and increasing presenting issue for consumers calling the NDH. We have maintained an effective relationship with the ESC and routinely sharing frontline insights has allowed us to spotlight the issues that are having real world impacts on Victorian consumers, particularly those that are experiencing vulnerability and financial hardship.

ESC'S PROVEN RECORD OF EFFECTIVE REGULATION

The ESC has been timely and responsive in receiving these insights by way of written submissions, identified and de-identified case studies, systemic complaints & data snapshots. The ESC has been proactive in acting on the information shared with them and launching independent investigations based on this information where necessary. In some cases, these investigations have resulted in substantial enforcement action taken against energy retailers.

Case Study

In 2025, Consumer Action made a systemic complaint to the ESC regarding the failings of Engie to meet their obligations under the Energy Retail Code of Practice (**ERCoP**). As part of this complaint, we shared several case studies with the ESC which outlined numerous instances where Engie had failed to provide adequate assistance to customers of theirs that were experiencing significant vulnerability. These failures contravened several requirements under the Payment Difficulty Framework set out in the ERCoP.

The ESC investigated Engie's conduct. These investigations led to the ESC issuing substantial fines (approximately $1.2 million to date) and pursuing legal action against Engie.

This case study illustrates the effectiveness of the ESC in meeting its objective laid out in the Essential Services Commission Act to promote the long-term interests of Victorian consumers.

[1] Consumer Action also services Queensland consumers through the online chat

The ESC has shown a real commitment to a consumer-focused approach that addresses the barriers that are faced by the most vulnerable cohorts of the community.

For example, ESC's Getting to Fair strategy outlines the importance of supporting vulnerable consumers to ensure just outcomes and equitable access to essential services for all Victorians. This commitment to advancing equity is leading to positive outcomes for Victorians navigating a range of sectors.

This commitment is also evident through the ESC's recently developed First Nations Self-Determination Framework. This framework spotlights the importance of the ESC working directly with First Nations consumers and organisations to understand the impacts of service delivery models on First Nations communities and finding ways to ensure that the sectors the ESC regulates are working in ways that are culturally safe and appropriate to the needs of First Nations people and communities. This was an initiative that Consumer Action called for as part of our Money Yarns, Stronger Futures report.

Removing the regulation powers of the ESC to any of these sectors would risk a loss of focus on supporting vulnerable consumers.

Recommendation:

1. The ESC should continue to regulate Victoria's energy, water and transport sectors as well as overseeing the local government Fair Go Rates system and regulating the Victorian Energy Upgrades program.

CONTINUED REGULATION OF WATER SECTOR

Our frontline data shows a 103% increase from FY2025/26 compared to the previous year in callers presenting to the NDH with debts owing to their water providers. The reasons for this large increase are that more consumers are struggling to meet their general cost of living expenses, an increase in water prices during that period and continued impacts on consumers affected by Greater Western Water's system upgrades in 2024.

EWOV have also recently reported large increases in the number of complaints they have received against water corporations. While EWOV acknowledges that complaints against Greater Western Water have been a large driver of this increase, their statistics also show an increase in water complaints even when Greater Western Water is completely removed from the equation.

We expect the number of consumers struggling to meet their ongoing water costs will continue to trend upwards, so it is critical that this sector has strong and effective regulation moving forward. For this reason, we support the ESC continuing to regulate the water sector. Further to this, the issues that arose from Greater Western Water's system upgrade, which led to a dramatic increase of complaints to both the ESC and the Energy & Water Ombudsman Victoria (**EWOV**) speaks to the importance that this sector is effectively regulated.

Despite water corporations being publicly owned entities, it is important that the ESC holds the same level of enforcement tools as they do with the sectors involving privately owned companies. Effective regulation is vital for the water sector given water corporations enjoy a monopoly of customers who live within the geographical area that they service. Unlike with most energy contracts, consumers do not simply have the option to move to a more suitable water provider if they are dissatisfied with their current provider. In the absence of any competition, and the 'halo' effect of being government owned, effective and independent regulation is even more important to ensure consumers are protected from poor conduct from their water provider.

Giving the ESC fewer enforcement tools for specific sectors under their remit leads to inconsistent penalties for similar conduct. From a consumer point-of-view, it is imperative that all companies, regardless of their sector or ownership structure, are meeting their obligations in supporting those experiencing vulnerability and/or financial hardship. Allowing the ESC consistent enforcement tools across all regulated industries will ensure appropriate penalties can be given out when these obligations are not met and consumers are harmed.

Recommendation:

2. The ESC's regulatory powers should be consistent across all sectors under their remit to ensure there is adequate oversight and consequences when organisations fail to meet their obligations to consumers, particularly those experiencing hardship.

ESC GOVERNANCE

Consumer Action supports the current system that allows the ESC to both develop and enforce codes and standards related to the sectors that they regulate. As outlined above, the ESC has proven themselves to be an effective regulator in terms of both developing codes that support all Victorians to navigate essential services and in enforcing these codes when necessary.

Money collected from the ESC from the fines and penalties that they issue do not go into their own operating budget. These funds are treated as administered revenue and are paid directly into the Victorian Government's Consolidated Fund managed by the DTF, so there is no conflict of interest with the ESC enforcing the standards that they set. As there are no ethical reasons for the ESC to be stripped of either of these powers, the consideration should be solely based on the ESC's effectiveness as a regulator in both of these roles.

In addition, it is common practice for regulators to play a key role in outlining the detail of the regulatory obligations they oversee. A regulator's expertise, broad cross-sector engagement, and experience generally makes them far better placed than government departments to set out technical obligations within an overarching legislative framework.

Case Study

Since 2024, the ESC have been conducting a review of the ERCoP to ensure it contains adequate protections for Victorian electricity and gas customers.

After reviewing submissions into potential energy reforms at the end of 2024, the ESC have already made changes to the ERCoP to reflect a wide range of reforms, including:

- A requirement for energy retailers to switch customers experiencing financial difficulty to their best offer (commencing 1 October 2026)
- Increasing the minimum debt disconnection amount from $300 to $1000 (commencing 1 October 2026)
- A requirement for energy retailers to ensure customers on older contracts are paying a reasonable price for energy

Stage 2 of the ERCoP review sought advice around whether updates should be made to the ERCoP to require energy retailers to ask customers whether they identify as Aboriginal and/or Torres Strait Islanders.

Consumer Action, along with many other consumer organisations, strongly recommended that these questions should only be asked if self-identifying would lead to positive outcomes for First Nations consumers, and that retailers improving their cultural safety practices needed to be prioritised in the first instance.

While the ESC is yet to release their draft decision on stage 2 of the ERCoP review, they have confirmed that, due to this feedback, non-regulatory approaches to improve outcomes for First Nations consumers will be enacted rather than prescriptive changes to the ERCoP.

The effectiveness of ESC's current model of both developing and enforcing regulatory standards is reflected in the Victorian government's ongoing stance of deferring Victoria's transition to the National Energy Retail Customer Framework on the basis that there are less regulatory protections available to consumers on a national level when compared to the ESC's framework.

The Australian Energy Regulator (**AER**) undertook a review of payment difficulty protection in the National Energy Customer Framework in 2024-25 which concluded that the obligations for energy retailers on a national level were no longer fit-for-purpose and that an alignment to the Payment Difficulty Framework laid out in the ERCoP was necessary to ensure consumers had adequate protections when experiencing financial difficulty. The federal regulator aligning with the ESC on such vital consumer protections demonstrates the effectiveness of the ESC as a regulator.

Recommendation:

3. The ESC should continue to both develop and enforce the codes and standards required to regulate the sectors under their remit to continue consumer-focused regulation and retain existing governance mechanisms to ensure this is done fairly.

REGULATORY TOOLS

Consumer Action is generally satisfied with the regulatory tools that the ESC currently possesses to enable them to prevent, investigate and respond to breaches of regulatory frameworks. However, we are not confident that they have the adequate resourcing to effectively use these tools. ESC has reported an inability to investigate specific concerns we have raised with them due to a lack of resourcing. While there will always be a need for the ESC to work effectively by prioritising impact, investigating systemic issues or consistent poor conduct, when known, shouldn't be constrained by resourcing.

We also consider that the ESC could be given a valuable role in the administration of the Utility Relief Grant Scheme (**URGS**) to ensure that it remains fit for purpose for Victorian consumers. URGS are currently administered by the Department of Families Fairness and Housing (**DFFH**). The maximum grant cap available under URGS has not changed since 1 July 2018, when it was increased from $500 to $650 per utility type (electricity, gas and water). Our financial counsellors report that this cap is no longer adequate to support consumers due to general cost-of-living pressures and increasing energy costs.

If the ESC were to have oversight of this scheme, similar to the role they have with setting and reviewing the Victorian Default Offer (**VDO**), it would ensure that, at the very least, there were a formal review process set up to ensure that the scheme remains fit for purpose for consumers experiencing financial difficulty. Since 2018, it is not clear when, or if, URGS has been subject to a transparent and consultative review by DFFH.

Recommendations:

4. The ESC should receive additional resourcing to ensure that they are able to anticipate, investigate and respond to breaches of regulatory frameworks as effectively as possible.

5. The ESC should have oversight of the Utility Relief Grant Scheme, which would involve consistent reviews to ensure the scheme remains fit-for-purpose for consumers experiencing hardship.

PRINCIPLE-BASED REGULATION CAN REDUCE RED TAPE

Consumer Action is not opposed to the ESC cutting unnecessary red tape to make it easier for organisations to meet their obligations. However, first and foremost, the focus of this review needs to be ensuring that the ESC is set up to support consumers in navigating essential services. Often, safeguards are required to ensure organisations are providing this support to their customers, particularly those who are experiencing vulnerability. It would be a major failing of this review if consumers were to lose essential protections in the name of cutting red tape.

To do this effectively, Consumer Action recommends updating the ESC Act to include overarching objectives focused on consumer outcomes (otherwise called a consumer duty. This would promote principles-based regulation within the ESC, ensuring organisations that fall under their remit are making decisions with obligations to consumers in regards to safety, reliability and affordability front of mind. Principle-based regulation can support regulators adapt effectively to mitigate the red tape of prescriptive legislation.

In the ESC's current review into the ERCoP, an issue was identified that while energy retailers are required to have a family violence policy, there is currently no firm requirement that the retailers must comply with this policy. While the ESC will likely take steps to update the ERCoP to remedy this oversight, having an overarching obligation in the ESC Act that would require all organisations to ensure that customer outcomes are fair and that they are keeping their customers safe would eradicate the need for prescriptive standards for common sense scenarios like this.

The issues paper for this review mentions on numerous occasions the general importance of cutting unnecessary red tape for businesses, but no specific suggestion of what cuts are suggested for the ESC. Any considerations to make specific changes to the ESC's regulatory powers in order to cut red tape should be consulted on with consumer organisations with frontline insights and directly with the consumers who these changes could potentially impact.

Recommendations:

6. Any considerations to make specific changes to the ESC's regulatory powers in order to cut red tape should be consulted on with consumer organisations who work directly with the consumers and can provide frontline insights about who changes could potentially adversely impact.

7. The ESC Act should be updated to promote principles-based regulation, ensuring all organisations who are regulated by the ESC are making decisions that focus on providing reliable, affordable and safe products and services to consumers.