VICTORIAN

Energy Market

REPORT

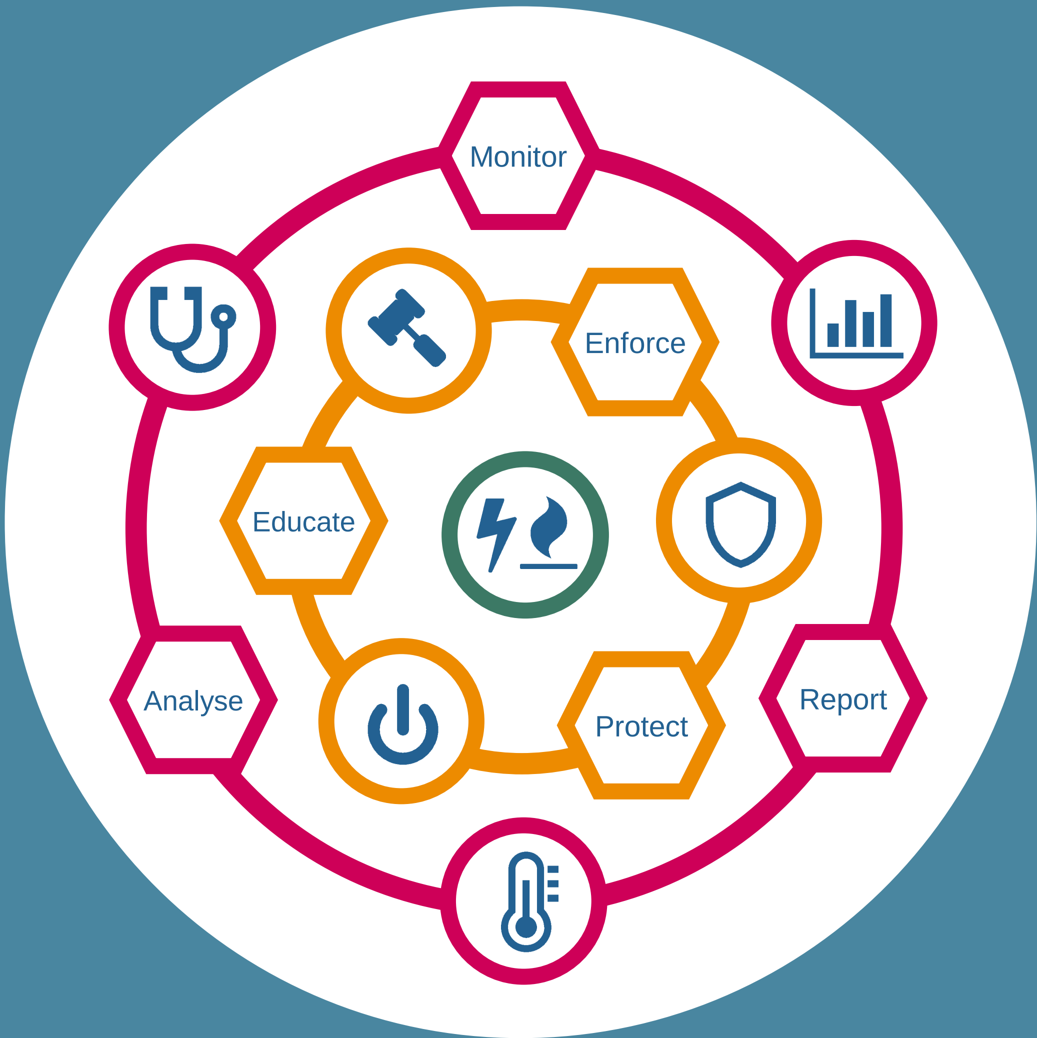
2021–22

Supporting energy consumers in payment difficulty

Victorian retail energy market performance

Energy retailers' compliance under the Victorian Energy Upgrades program

Energy in Victoria



ESSENTIAL SERVICES COMMISSION

Acknowledgement
We acknowledge the Traditional Owners of the lands and waterways on which we work and live. We acknowledge all Aboriginal and Torres Strait Islander communities, and pay our respects to Elders past and present. As the First Peoples of this land, belonging to one of the world's oldest living cultures, we recognise and value their knowledge, and ongoing role in shaping and enriching the story of Victoria.

An appropriate citation for this paper is:

Essential Services Commission 2022, *Victorian Energy Market Report: 2021–22*, 30 November

The Victorian Energy Market Report meets our reporting obligations under section 10AA(a) and 10AAB of the *Essential Services Commission Act 2001*; sections 39A and 109A(3) of the *Electricity Industry Act 2000*; sections 47 and 223(3) of the *Gas Industry Act 2001*; and section 67(1) of the *Victorian Energy Efficiency Target Act 2007*.

Contents

Chairperson's foreword

Our role to promote the long-term interests of Victorian consumers with respect to price, quality and reliability of essential services has never been more important. . .

Our seventh annual Victorian Energy Market Report documents an extraordinary year for the energy sector.

The report provides insights into the performance of the Victorian energy market, and consumers' experiences, in a year shaped by the COVID-19 pandemic, extreme climate events across Australia, and a global energy market disrupted by war in Ukraine. The data we have collected captures the movements of an energy market under pressure, with consumers increasingly vulnerable to impacts beyond their control. Our analysis highlights that consumer protections are more important than ever.

What has been happening in the Victorian energy market?

The transition to a lower emissions energy system continued at pace this year. The announced closure of Loy Yang A as early as 2035, and various government commitments to achieve net zero greenhouse gas emissions, signaled a further acceleration away from traditional fossil fuels towards renewables.

At the same time, the market entered a new period of change and volatility. Significant increases in wholesale electricity and gas prices triggered wholesale price caps, market interventions and spot market suspensions. For the first time ever, we saw the Australian Energy Market Operator simultaneously suspend the spot market in all regions of the National Electricity Market.

The commission in turn, expanded our focus on financial resiliency and used our powers to obtain information from retailers in the Victorian energy market as part of an ongoing assessment of the Retailer of Last Resort framework. Our analysis did not indicate any reason for immediate reform however, given the current volatility in the market, the commission will continue to monitor this as a priority over the coming year.

Supporting consumers to navigate the impacts of these events has been a key focus for the commission. We received 852 consumer enquiries from 1 July 2021 to 30 June 2022. The largest number received were about the minimum feed-in tariff and retailer offers and tariffs.

What are we doing in response?

Our role to promote the long-term interests of Victorian energy consumers with respect to price, quality and reliability of essential services has never been more important, as we see the impacts from these events affect consumers' experience in the energy market.

Building consumer confidence and trust and ensuring the energy market delivers positive outcomes for consumers is an ongoing priority. One way we work to build trust is by monitoring and reporting on the energy market to foster an understanding and empower consumers to engage confidently. Another way we aim to build trust is by enforcing Victoria's energy rules.

It was a transformative year for the commission's compliance and enforcement functions as legislative amendments significantly expanded our investigative powers and enforcement options, giving us the tools of an active modern regulator.

We published our new compliance and enforcement policy and remade the Energy Retail Code and Electricity Distribution Code into codes of practice to reflect the commission's new enforcement framework and provide for more robust and proactive processes to best represent consumer interests.

We took more enforcement action in 2021–22 than any previous year with $6.485 million paid in penalties by energy companies. We will continue to use the full suite of regulatory tools available to the commission to deter future non-compliance and prevent consumer harm.

We also rolled out a proactive compliance project to ensure that consumers were appropriately informed when a better energy offer was available to them from their retailer. At the end of 2021–22, approximately 44 per cent of electricity and 62 per cent of gas customers were on their retailer's best offer. This is an increase on the previous year when 27 per cent of electricity and 31 per cent of gas customers were on the retailer's best offer.

Recent legislative reforms in Victoria saw the criminalisation of wrongful disconnection of energy supply to customers. We have reported on our compliance and enforcement activities regarding wrongful disconnections for 2021–22. The new offences send a strong signal to industry that wrongful disconnection of a consumer's essential service is a serious issue and can carry significant consequences.

The commission continued to work with consumers and regulated businesses to better support consumers experiencing vulnerability. This includes progressing the actions outlined in our three-year 'Getting to fair' strategy. We look forward continuing this collaborative approach as we work together to deliver equitable access to essential energy services for all Victorians.

Finally, I am pleased to draw your attention to the release of our interactive Victorian Energy Market Dashboard, available on our website. The dashboard hosts information provided to us by energy retailers, and the Department of Families, Fairness and Housing and replaces the Victorian Energy Market Reports data that we previously published in table form. The dashboard is intended to provide more accessibility, and functionality to our stakeholders.

Kate Symons
Chairperson and Commissioner

Supporting energy consumers in payment difficulty

June 2022

Electricity

Gas

44,656 residential gas customers
on tailored assistance at 30 June 2022

59,606 residential electricity customers
on tailored assistance at 30 June 2022

$1,469
(*cannot* pay ongoing use)

Average arrears
for gas customers receiving tailored assistance

$524
(*can* pay ongoing use)
at 30 June 2022

$1,979
(*cannot* pay ongoing use)

Average arrears
for electricity customers receiving tailored assistance

$722
(*can* pay ongoing use)
at 30 June 2022

19,053 disconnected

residential customers disconnected for non-payment in 2021–22 (electricity and gas)

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> *While the framework has provided necessary protections for consumers, there are still opportunities to help consumers reduce their arrears or avoid getting into new arrears.*

The commission promotes protections for consumers experiencing vulnerability. With energy as an essential service, the payment difficulty framework requires energy retailers to provide support for customers having trouble paying their energy bills.

The framework was first established in 2019 and entitles Victorian energy consumers to minimum levels of payment assistance from their retailer. The framework aims to help customers avoid getting into arrears, make it easier to pay for their ongoing energy or repay their arrears, and to ensure that disconnection for not paying a bill is only a measure of last resort.

In 2021–22 we reviewed the implementation of the framework. We found that the framework has provided a clear basis for customers to receive help when paying their energy bills, especially when they are experiencing payment difficulty.[1]

This article provides an update to the experiences of customers in payment difficulty, with the latest analysis and data to 30 June 2022.

Many of the findings from our review remain – more customers are receiving appropriate assistance, and fewer customers have been disconnected when compared to the peak levels of 2013–14.

While the framework has provided necessary protections for consumers, there are still opportunities to better help consumers reduce their arrears or avoid getting into new arrears.

We continue to find that many customers start receiving assistance with high levels of arrears, and more than half of the customers disconnected had not received assistance beforehand. Our review also showed that these outcomes vary across retailers.

We remain committed to work with the industry and the community sector, as well as to explore better practices that can help support the long-term interests of Victorians, particularly for those experiencing payment difficulty.

The full findings from our Payment Difficulty Framework Implementation review can be found here: www.esc.vic.gov.au/electricity-and-gas/inquiries-studies-and-reviews/payment-difficulty-framework-implementation-review-2021.

[1] Essential Services Commission, *Findings report: Payment difficulty framework implementation review 2022, 31 May 2022*

Figure 1: Number of residential customers receiving assistance between 2017 and 2022 (as at the end of each month)

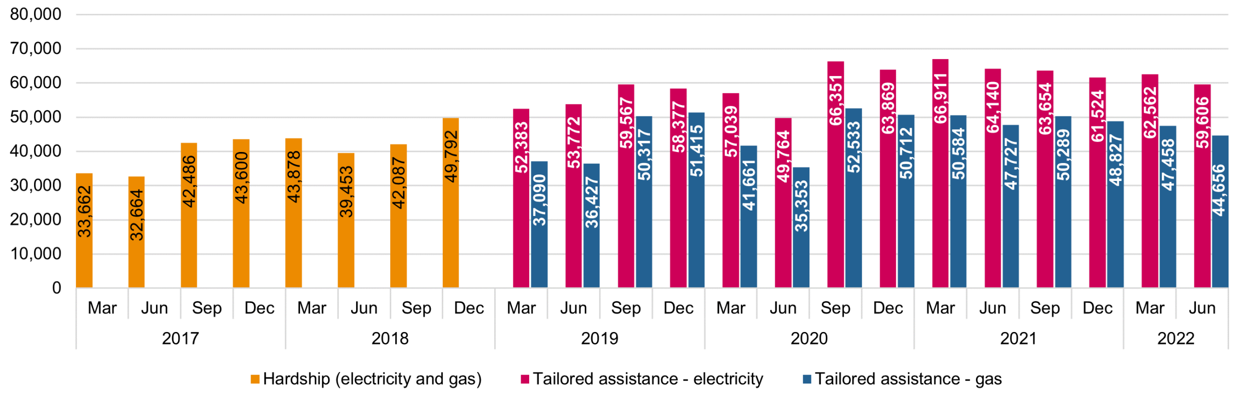


Figure 2: Tailored assistance electricity customers (as at the end of each month)

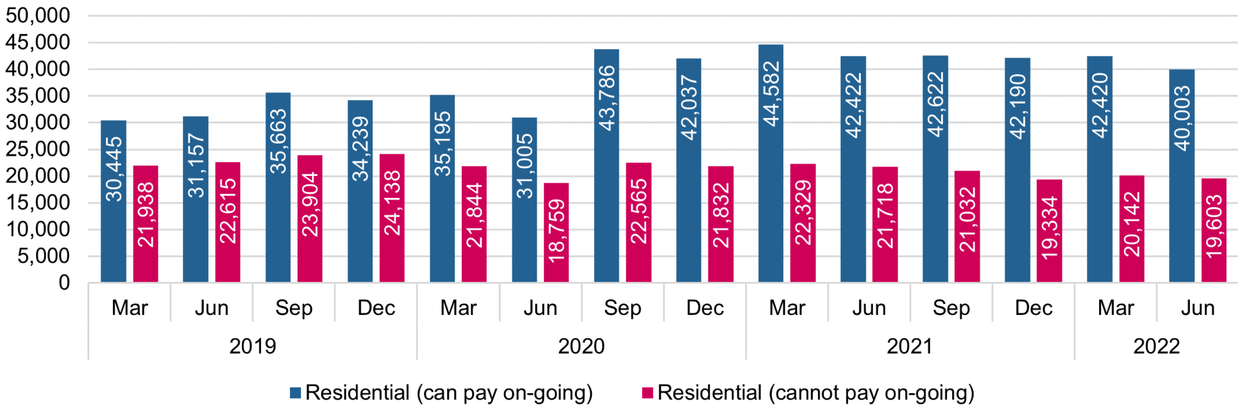


Figure 3: Average arrears of customers receiving tailored assistance who can pay ongoing use (as at the end of each month)

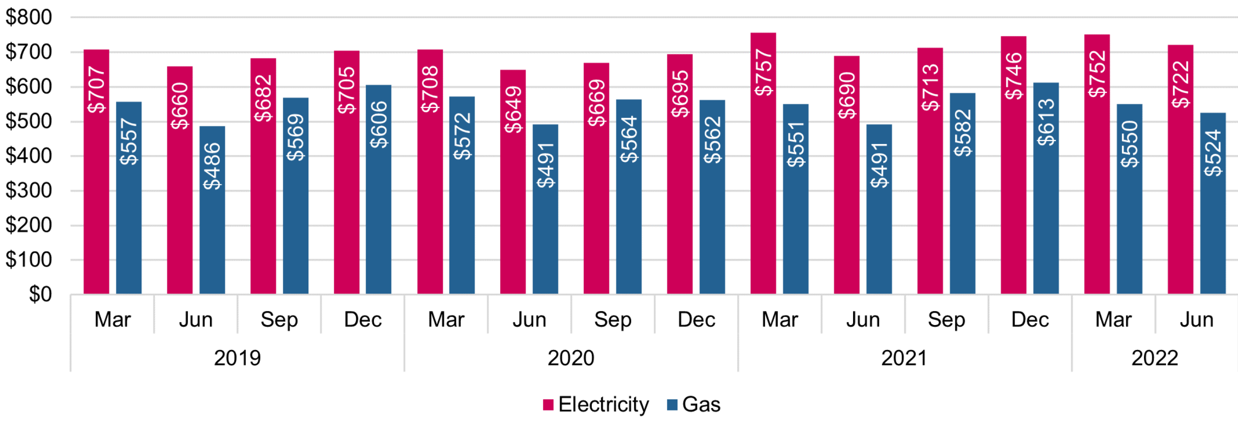
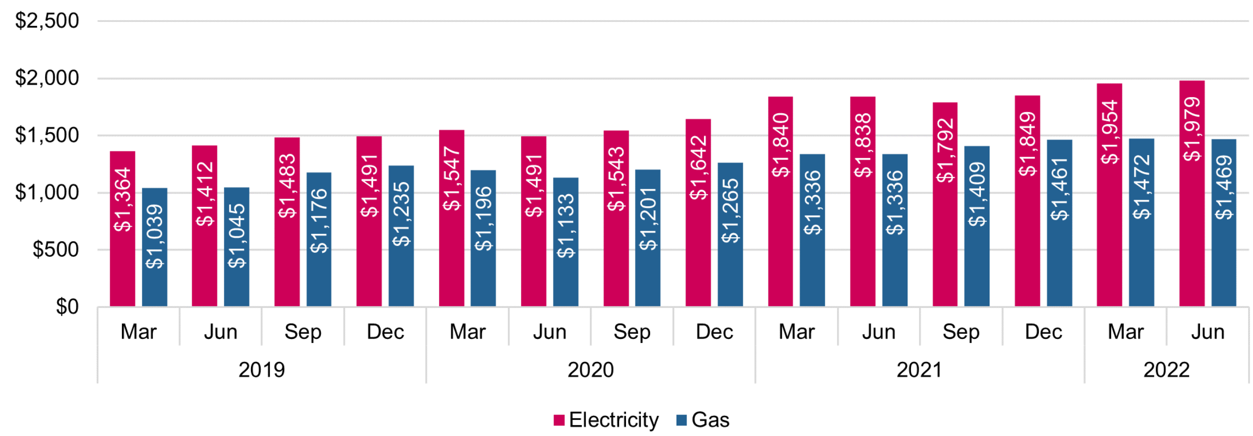


Figure 4: Average arrears of customers receiving tailored assistance who cannot pay ongoing use (as at the end of each month)



More Victorian customers are receiving assistance under the framework

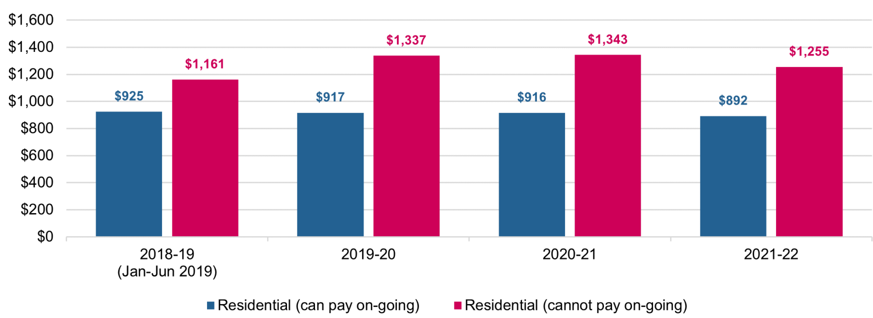
In 2021–22, 60,000 or more electricity customers received assistance each month (Figure 1).[2] While this was lower than last financial year, there are still more customers receiving assistance than those in hardship programs in 2017–18, prior to the framework.

The framework has been designed so that customers can receive timely assistance, with the ability to propose and revise payment arrangements over time. There are two cohorts of customers who receive tailored assistance: those who can pay their ongoing use and those who cannot.

As shown in Figure 2, customers who are receiving assistance and can pay for their ongoing energy use are benefiting the most from the framework. Importantly, these customers' arrears have remained relatively stable over the past few years – at around $722 for electricity and $524 for gas in 2021–22 (Figure 3).

We also note there are fewer customers receiving assistance who cannot pay their ongoing usage with this reducing in 2021–22 compared to the previous year (Figure 2). We also found that these customers' arrears, on average, increased in 2021–22, to around $1,979 for electricity and $1,469 for gas (Figure 4). These customers are likely to be on payment arrangements where the payment amount is less than their ongoing consumption and so, their total arrears is likely to increase over time. In some cases, their arrears can be put on hold to help them catch up with new energy bills.

Figure 5: Average electricity debt on commencing tailored assistance



[2] We note that between March and September 2020, because of the coronavirus pandemic, some retailers offered customers the ability to defer the payment of energy bills, which appears to have resulted in a reduction in tailored assistance customers. Numbers of tailored assistance customers then increased to stable levels in 2021 and then steadily decreased in 2022.

Figure 6: Debt on commencing tailored assistance in 2021–22, percentage of customers by debt-bracket

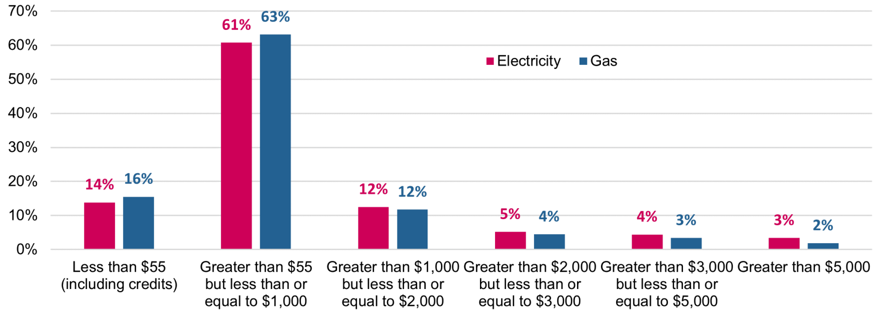
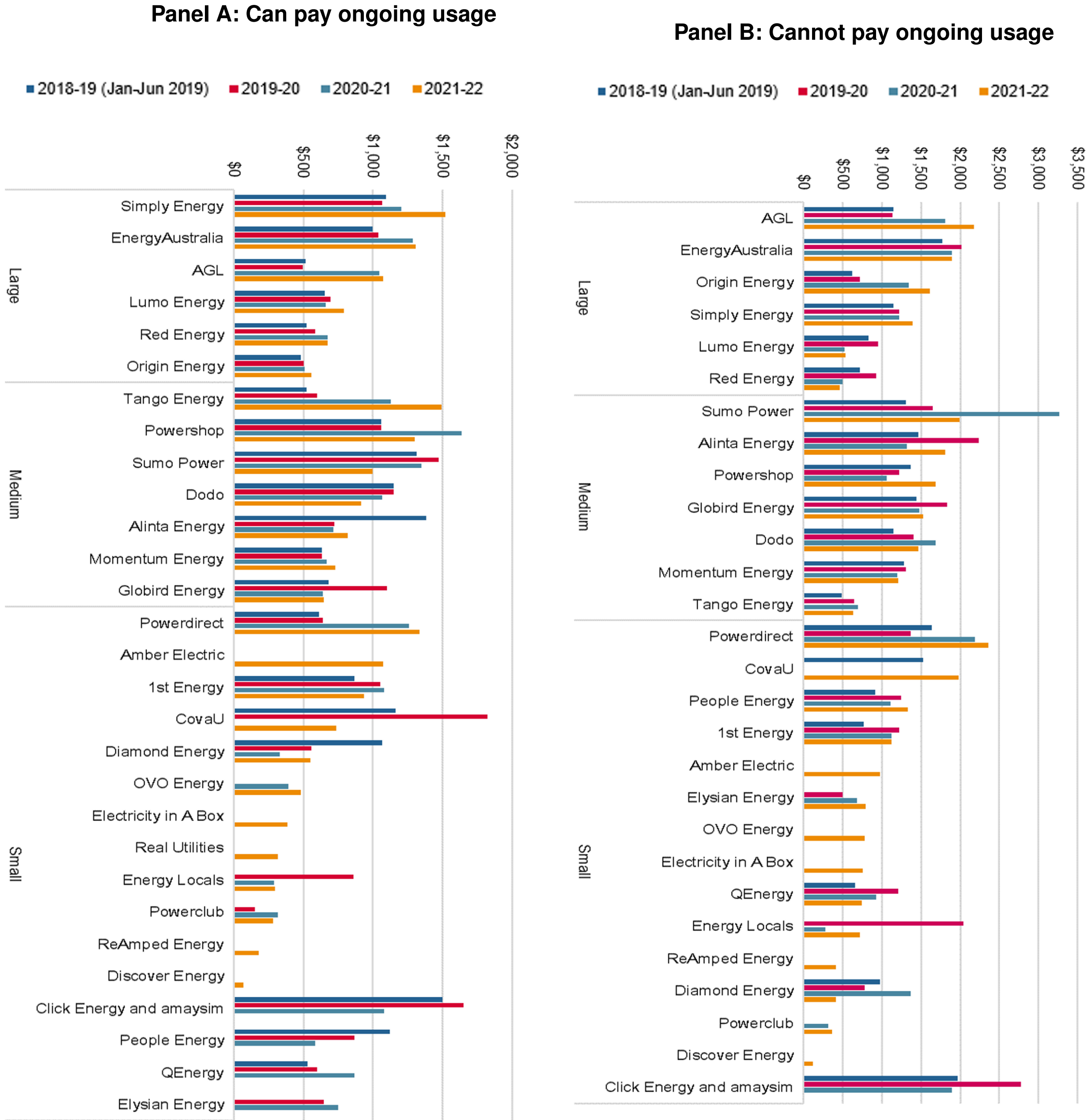


Figure 7: Average electricity debt on commencing tailored assistance, by size of retailer



Lower customer arrears when starting assistance

Early engagement between a customer and their retailer can help them reduce their debt before accumulating high levels of arrears.

Our review found that customers began receiving assistance at varying times, and in some instances with already high debt.

Over the past four years, the average arrears of customers starting assistance who are able to pay their ongoing use has been consistent, and the average across 2021–22 was at $892 (a slight reduction from 2019 levels, Figure 5).

However, the average arrears of customers starting assistance who cannot pay their ongoing use has increased since 2019, with the highest recorded at $1,343 in 2020–21. Following the end of stay-at-home restrictions and the recommencement of disconnection activity, arrears reduced, on average, over the 2021–22 year to $1,255 (Figure 5). However, we continue to monitor the arrears as we observed an increasing trend as the year progressed. Around 61 per cent of customers commenced their assistance with more than $55 but less than $1,000 of arrears (Figure 6).

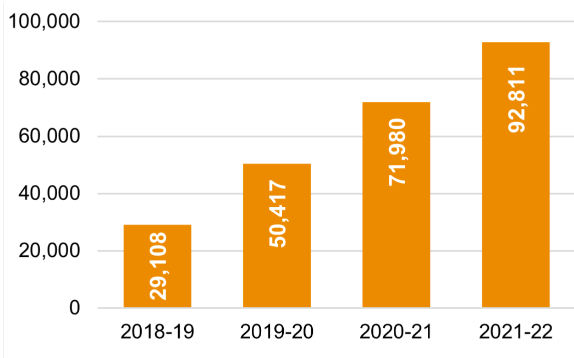
Some retailers may be more effective at intervening early with customers, which reduces financial stress on customers and improves the prospect of successful outcomes (Figure 7 shows customers' average arrears by retailer). The results vary regardless of retailer size, with customer arrears on commencement of assistance ranging from around $500 to more than $2,000 for large retailers.

Households receiving energy concessions peaked in 2021

Around 895,000 Victorian households received annual electricity concessions in 2021–22, or one in three of all residential electricity consumers. This is a decrease of around 11 per cent from the previous year, when the number of households accessing concessions had peaked during the lockdowns.[3]

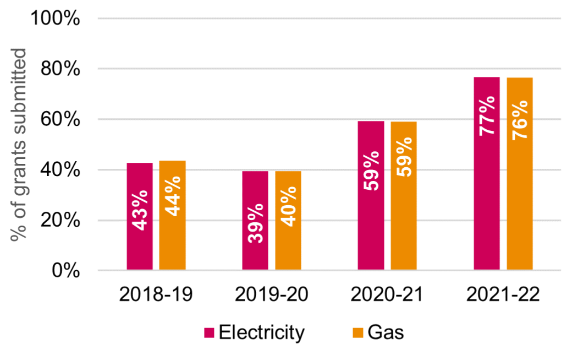
Victorian households can also apply to the Victorian Government for temporary financial assistance with a utility relief grant.[4] The number of households receiving these grants has increased significantly in the last two years, with nearly 92,000 grants provided to residential electricity and gas customers in 2021–22 (Figure 8).[5]

Figure 8: Number of utility relief grants (electricity and gas combined)



Retailers are now required to directly help customers apply for utility relief grants. Before these obligations were placed on retailers, around 39 to 40 per cent of requested application forms for utility relief grants were being completed and submitted for approval. Since the new obligations, this increased to 77 per cent of applications requested being submitted (Figure 9). However, this result could further improve as some retailers completed and submitted up to 97 per cent of applications requested.

Figure 9: Proportion of applications requested that were submitted to the Department of Families, Fairness and Housing Victoria



Despite the large increases in customers receiving utility relief grants over the last two financial years, we have not seen similar increases in tailored assistance customers accessing energy concessions. One in three customers who are receiving assistance and cannot afford their ongoing use did not access concessions in 2021–22. This has been relatively steady over the past two years (Figure 10).

Our 2022 review of the implementation of the framework showed that customer outcomes varied significantly between and within retailers on their approach to supporting customers with information on their eligibility to government concessions or grants.[6]

3 Victorian Government energy concessions provide eligible Victorians with 17.5 per cent off their electricity or gas bills in relevant periods.
4 Utility relief grants provide up to $650 for electricity and gas separately (or $1,300 if a household has only a single source of energy) every two years. These grants are provided by the Victorian Government.
5 In 2021–22, the Victorian Government also approved 28,842 Utility Relief Grant Scheme's water applications.
6 Under the framework, retailers are obligated to check customers' concession status when first receiving tailored assistance, but there is no requirement to regularly check this going forward.

Figure 10: Percentage of customers on tailored assistance and receiving concession (at 30 June)

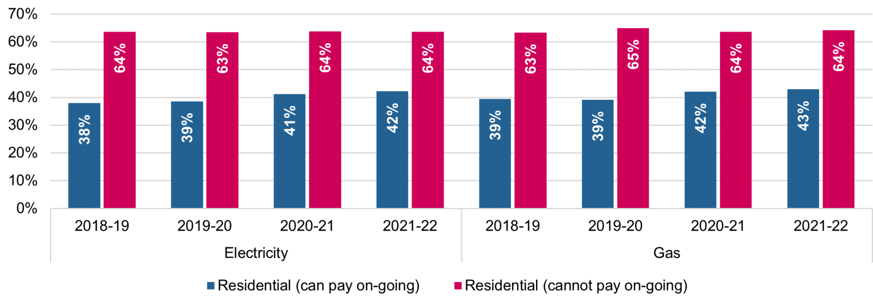
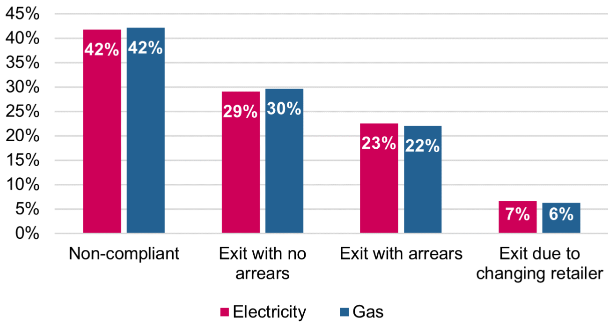


Figure 11: Proportion of energy customers' reason for exiting tailored assistance in 2021–22, by fuel



A third of customers successfully pay off their arrears

Customers receiving payment assistance can stop for a number of reasons, such as having successfully paid off their arrears, or not being able to comply with payment terms.

In 2021–22, more than 165,000 electricity customers stopped receiving tailored assistance. Around 29 per cent of these customers successfully paid off all their arrears and no longer require assistance. However, 42 per cent of customers were unable to comply with their payment terms and ceased receiving assistance, placing them at risk of disconnection (Figure 11).

Disconnections for non-payment remain fewer than in the years prior to the pandemic

Customers receiving tailored assistance are protected from being disconnected.

During the Victorian Government mandated stay-at-home restrictions in 2020, retailers largely ceased disconnecting customers (as shown in Figure 12, with almost no disconnections occurring in 2020). In 2021–22, disconnections have increased, with some retailers recommencing disconnections in 2021 for the first time since the mandated stay-at-home orders. However, the 2021–22 average remains lower than in previous years, particularly when compared to the peak disconnection levels in 2013–14 (Figure 12).

In 2021–22, 64 per cent of customers disconnected were not receiving assistance in the six months leading up to disconnection (Figure 13). This is a higher proportion compared to 56 per cent of disconnected customers in 2018–19.

We also observed that around 55 per cent of electricity customers who were disconnected for non-payment had a debt of more than $1,000 in 2021-22 (Figure 14). This is smaller proportion than in 2020–21 when 65 per cent of customers who were disconnected for non-payment had arrears greater than $1,000.

Figure 12: Trend of disconnections for non-payment over the years

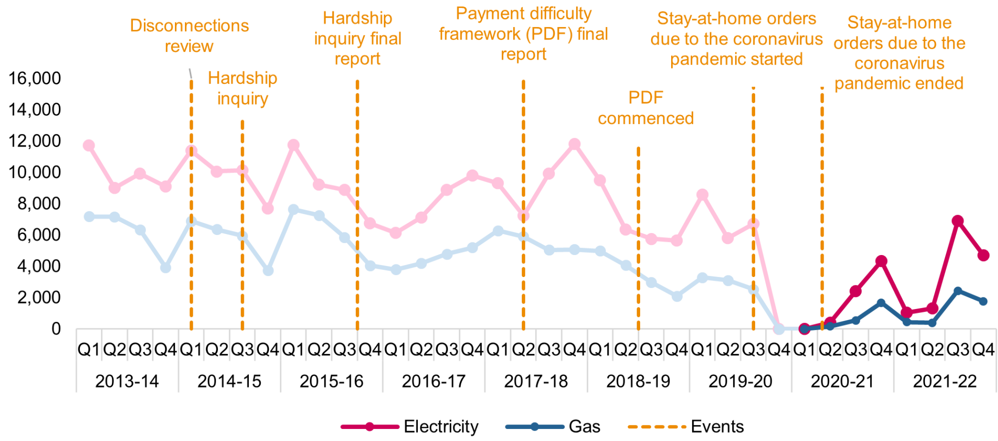


Figure 13: Proportion of residential customers disconnected for non-payment, not receiving tailored or standard assistance in previous six months

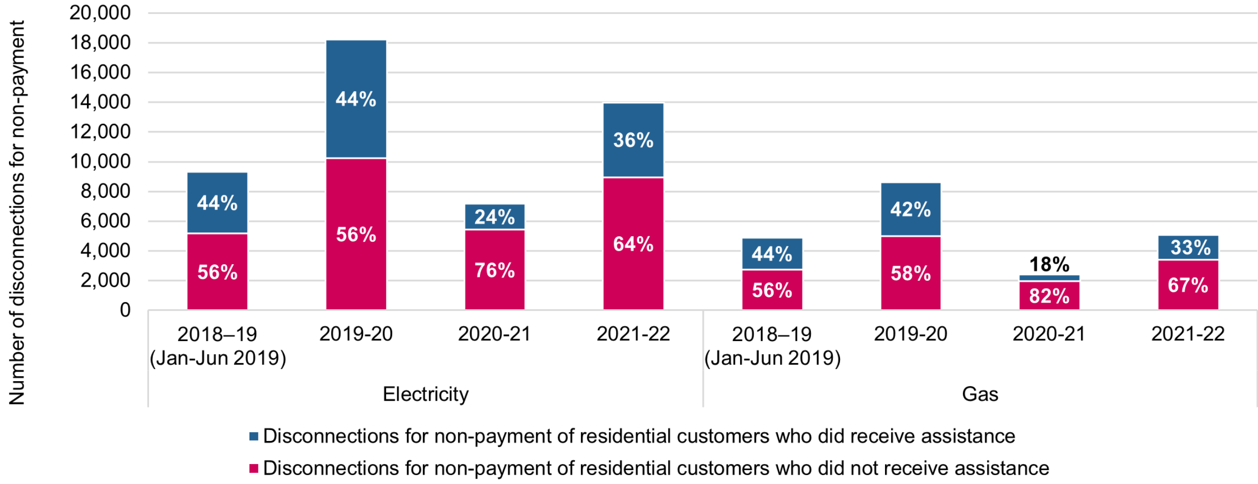


Figure 14: Total arrears of residential customers (accounts) who were disconnected for non-payment in 2021–22

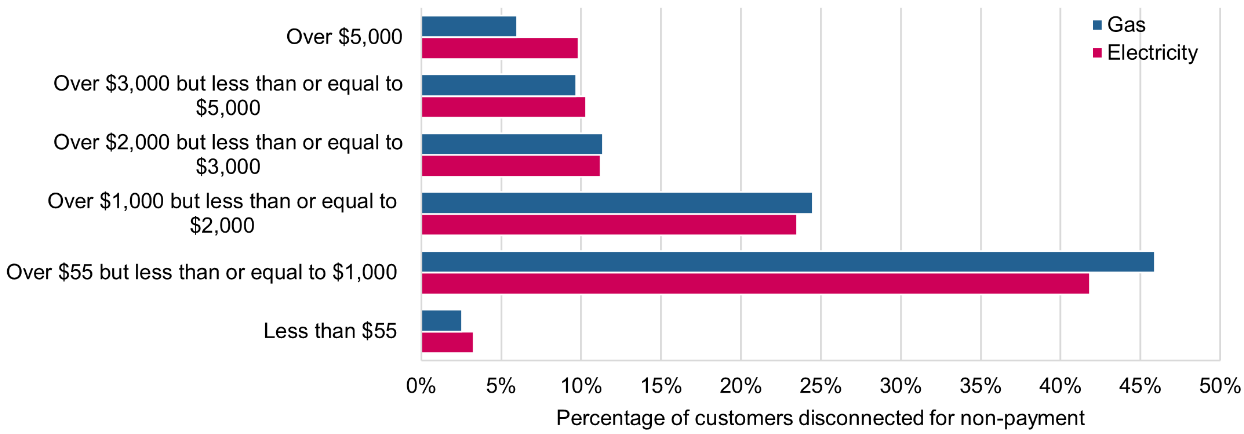


Figure 15: Proportion of residential electricity and gas disconnections for non-payment which were reconnected by the same retailer within seven days

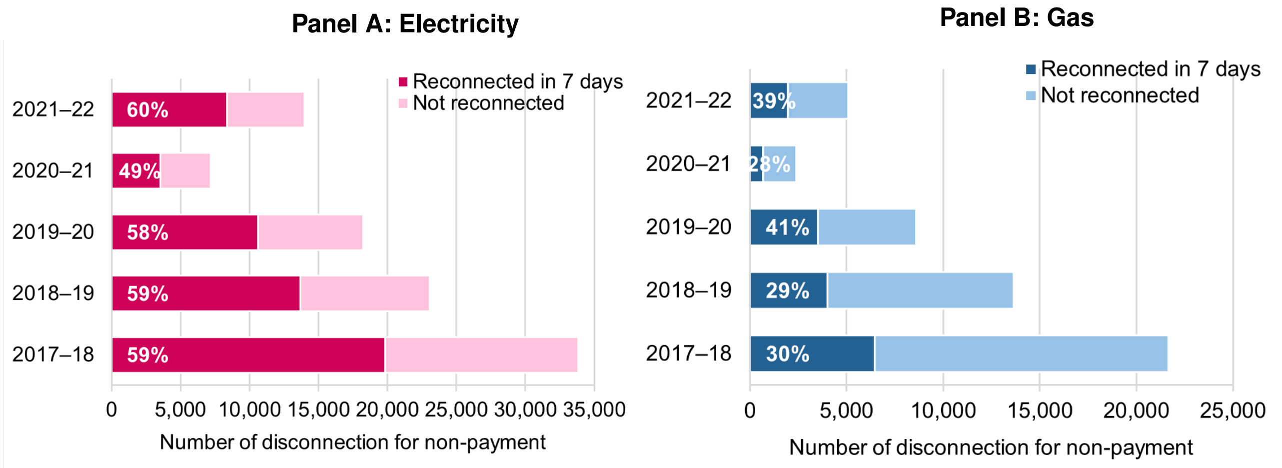


Figure 16: Residential electricity reminder and disconnection warning notices, by quarter

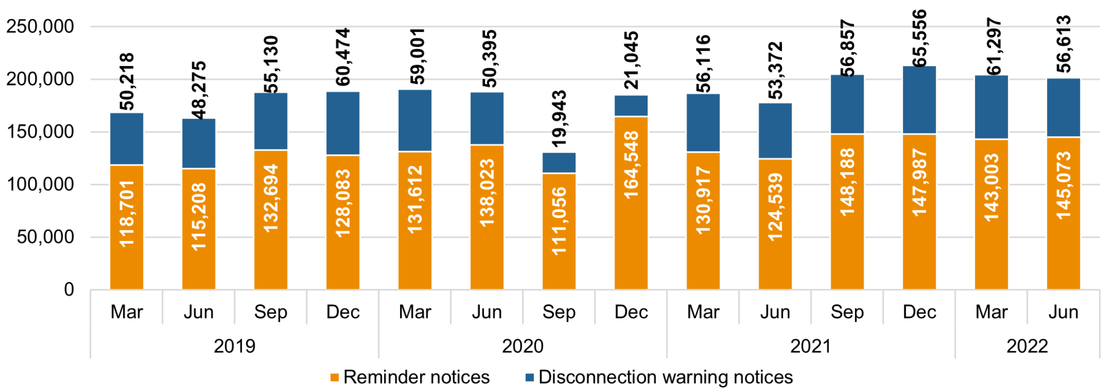


Figure 17: Number of residential electricity reminder notices per 100 electricity customers in 2021–22, by retailer

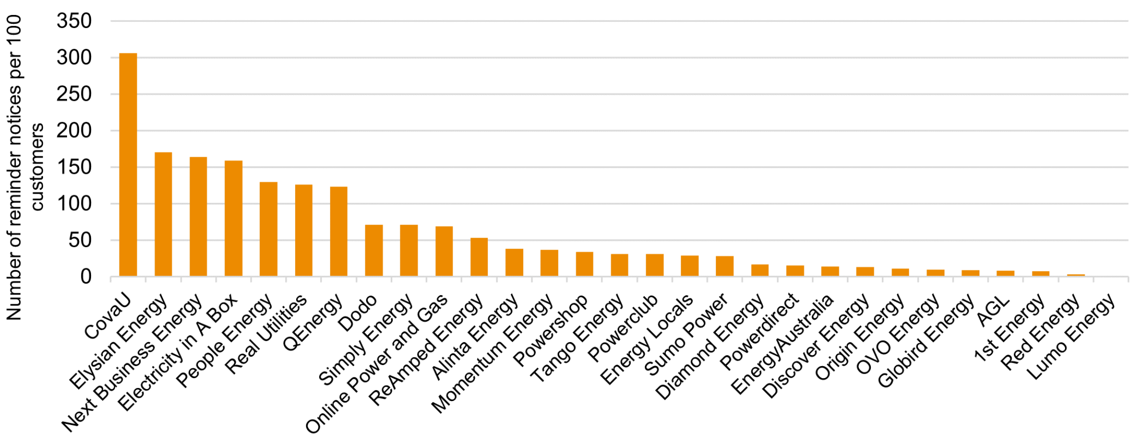
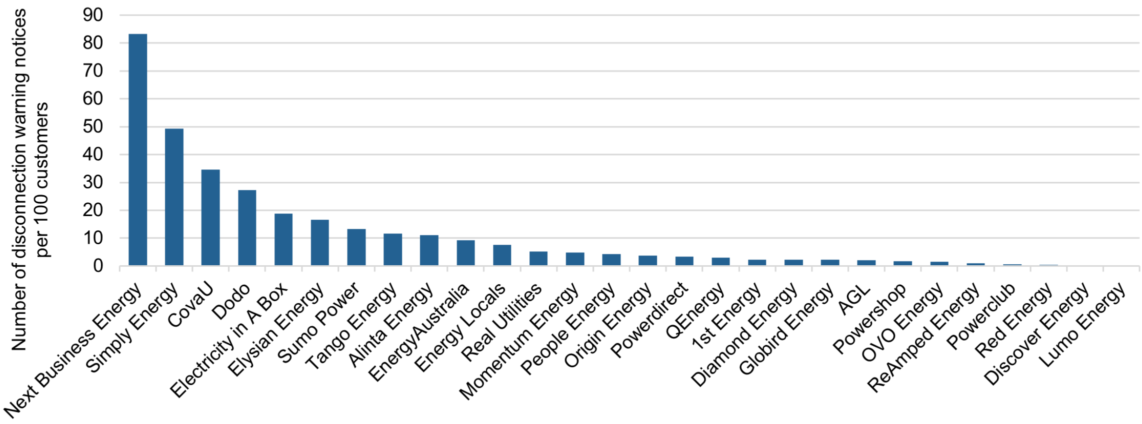


Figure 18: Number of residential electricity disconnection warning notices per 100 electricity customers in 2021–22, by retailer



Reconnections, reminder and disconnection warning notices

If a customer is disconnected for non-payment and subsequently engages with their retailer, a retailer can initiate reconnection of the customer's energy supply. More than half of disconnections for non-payment (almost 60 per cent) were reconnected within seven days of disconnection for electricity customers with the same retailer (see Figure 15). However, less than 40 per cent of gas disconnections were reconnected within seven days with the same retailer.

It should be noted that gas supply can only be physically reconnected at a customer's premises. This is in contrast with electricity which can generally be reconnected more quickly, particularly given most Victorian electricity customers have smart meters that allow for reconnection to occur remotely.

As part of ensuring that disconnection for non-payment is a measure of last resort, the framework requires retailers to send a reminder notice and a disconnection warning notice, which can prompt the customer to engage with the retailer or pay their bill.

In previous years, the number of notices sent to customers appears to have remained stable up to 2021, apart from the decrease in the September 2020 quarter during a long period of restricted movements in Victoria (Figure 16).

Several small retailers sent out proportionally more electricity reminder and disconnection warning notices in 2021–22 compared to other retailers (Figures 17 and 18).

Victorian retail energy market performance

June 2022

Gas best offer

62 per cent

of gas customers are on their retailer's best offer during June 2022

Electricity best offer

44 per cent

of electricity customers are on their retailer's best offer during June 2022

Average call wait time

163 seconds

Electricity and gas customers in 2021–22

Transfers of customers

87,055

Transfers of electricity customers in June 2022

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We observed several retailers advising their customers to find new retailers to avoid increased energy bills.

In 2022, wholesale energy markets experienced a series of market events and increased price volatility. Despite an overall downward trend in wholesale electricity prices between 2018 and 2021, daily weighted average prices increased from $60/MWh for the first three months of 2022 to $240/MWh between April and August 2022.[1] The Australian Competition and Consumer Commission (ACCC) reported significant increases in east coast gas spot prices.[2]

Throughout 2021-22, the price of Victorian residential electricity and gas offers increased by two and 19 per cent, respectively. However, the prices of energy offers have varied significantly throughout 2022. Although residential electricity offer prices decreased between July and December 2021, prices subsequently rose by eight per cent from January to September 2022.[3]

At the end of 2021–22, approximately 44 per cent of electricity and 62 per cent of gas customers were on their retailer's best offer. This was an increase on the previous year when 27 per cent of electricity and 31 per cent of gas customers were on the retailer's best offer. We have been closely monitoring retailers, particularly with the way retailers have been communicating with customers, and on compliance with specific retail price protections we introduced in Victoria.[4]

In June 2022 in particular, we observed several retailers advising their electricity customers to find new retailers to avoid increased bills. At the same time, we found there to be increased transfers of electricity customers between retailers – with close to 90,000 transfers in June 2022 (Figure 1). We also found that more customers generally chose to move to a large retailer. However, this trend was less prominent in 2021–22 compared to previous years, with transfers away from medium-sized retailers being almost evenly spread across all retailer sizes (Figure 2).

By the end of June 2022, some large retailers had net losses in their market share of residential electricity customers compared to the previous year. In contrast, a few medium-sized retailers experienced growth in their residential electricity customers compared to the previous financial year (Figure 3).

1 Australian Energy Market Operator National Electricity Market Aggregated Price and Demand Data, (2022).
2 Inquiry into the National Electricity Market Addendum to the May 2022 report, Australian Competition and Consumer Commission 2022.
3 Essential Services Commission, Victorian Energy Market Report: September 2022, 2022, accessible at www.esc.vic.gov.au/electricity-and-gas/market-performance-and-reporting/victorian-energy-market-report.
4 This includes the requirement of retailers to place a best offer message on energy bills, restrictions to increase retail prices only once a year, and prohibiting unclear pay-on-time discounting practices.

Categories of transfer

Transfers, or switching, of electricity customers is when a customer moves from one electricity retailer to another. The data used for our analysis of transfers is from the Australian Energy Market Operator. There are three categories of transfers:

- **Change retailer:** when a customer has chosen to switch from one retailer to another while remaining at the same property. In 2021–22, around 10 per cent of electricity customers switched retailer, which is slightly more than the previous year.
- **Move-in:** when moving to a different property, a customer chooses to sign up with a different retailer to their previous one. We found that the proportion of customers switching because of moving into a different property has remained stable over the years and was 12 per cent in 2021–22.
- **Other:** this category includes bulk transfers for specific reasons, such as through the failure of a retailer, or through a retailer's acquisition of another retailer. The amount of 'other' switching is likely to change year on year, as it is most effected by once-off events. The proportion of 'other' transfers was at 10 per cent in 2021–22, slightly higher than the previous two years.

Figure 1: Total electricity transfers, by month

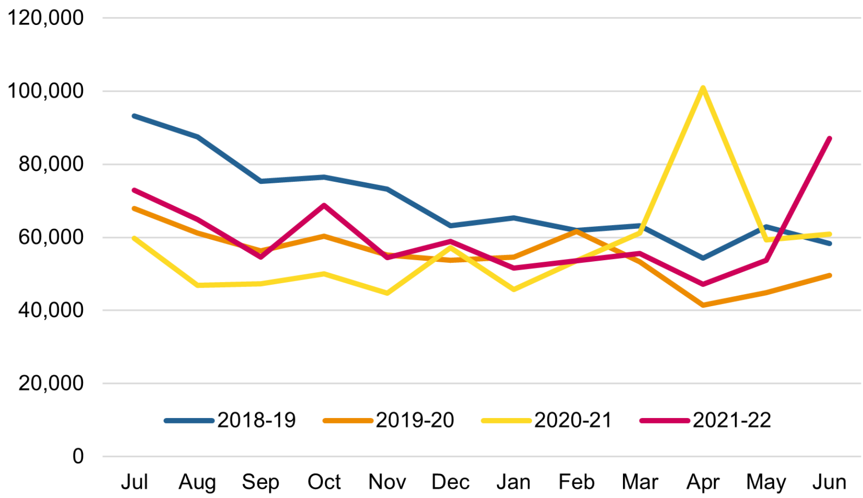


Figure 2: Transfers from retailer, by retailer size 2021–22 (for electricity)

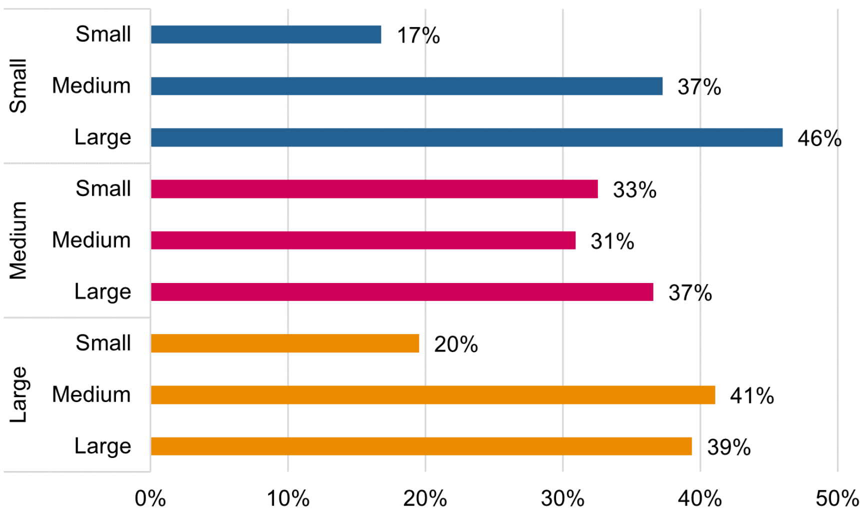


Figure 3: Change in electricity residential customers, ranked by retailer (by size), between 30 June 2021 and 30 June 2022

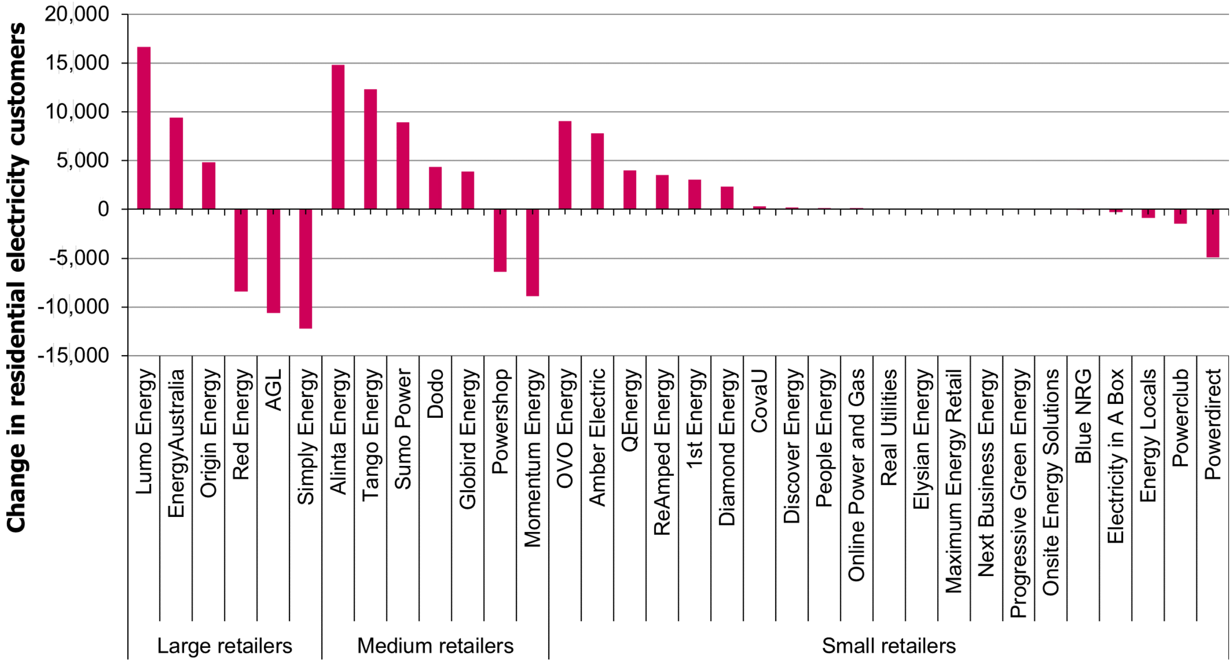


Figure 4: Change in gas residential customers, ranked by retailer (by size), between 30 June 2021 and 30 June 2022

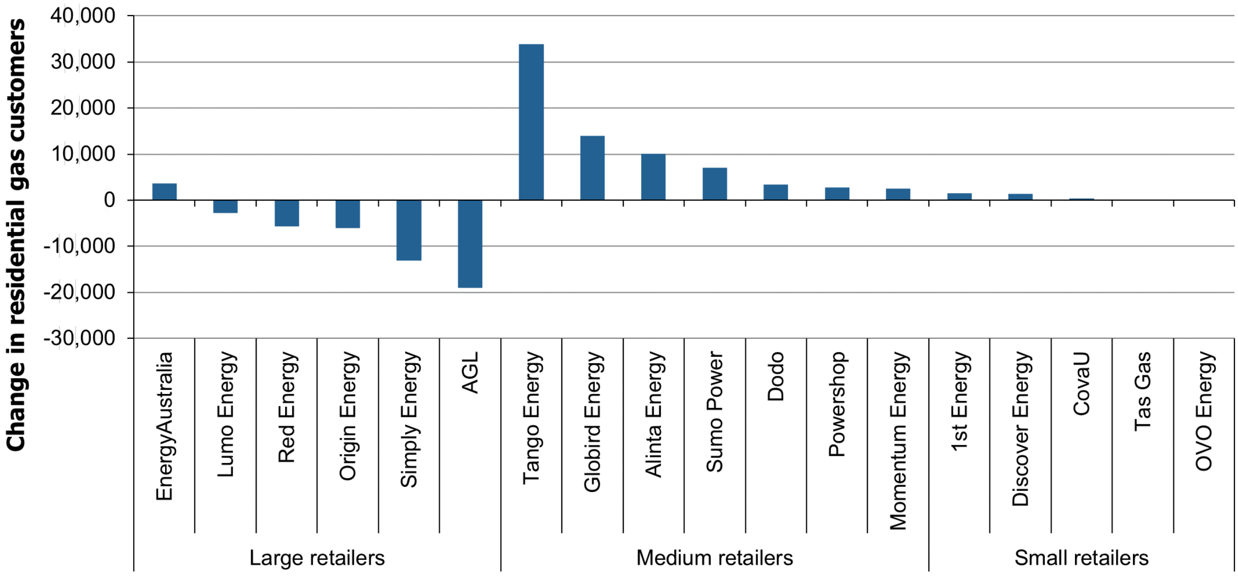


Figure 5: Average customer call waiting times (in seconds) by financial year[5]

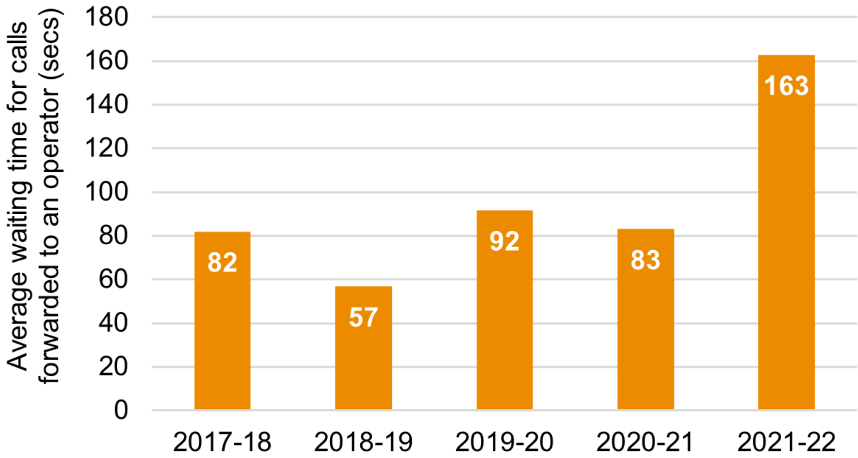


Figure 6: Customer calls abandoned, by financial year

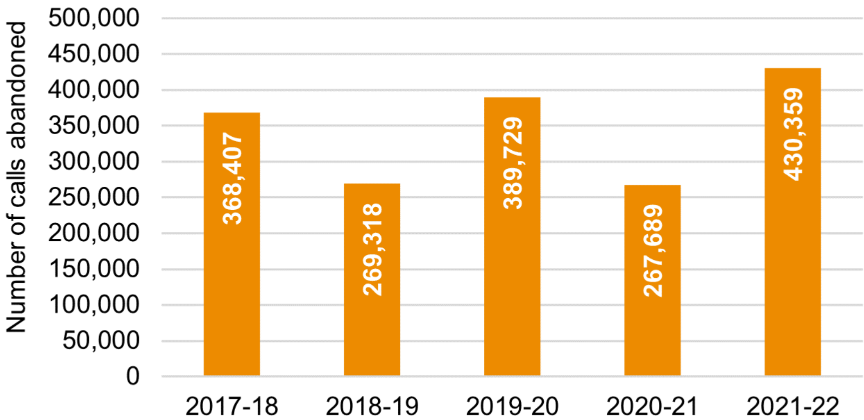
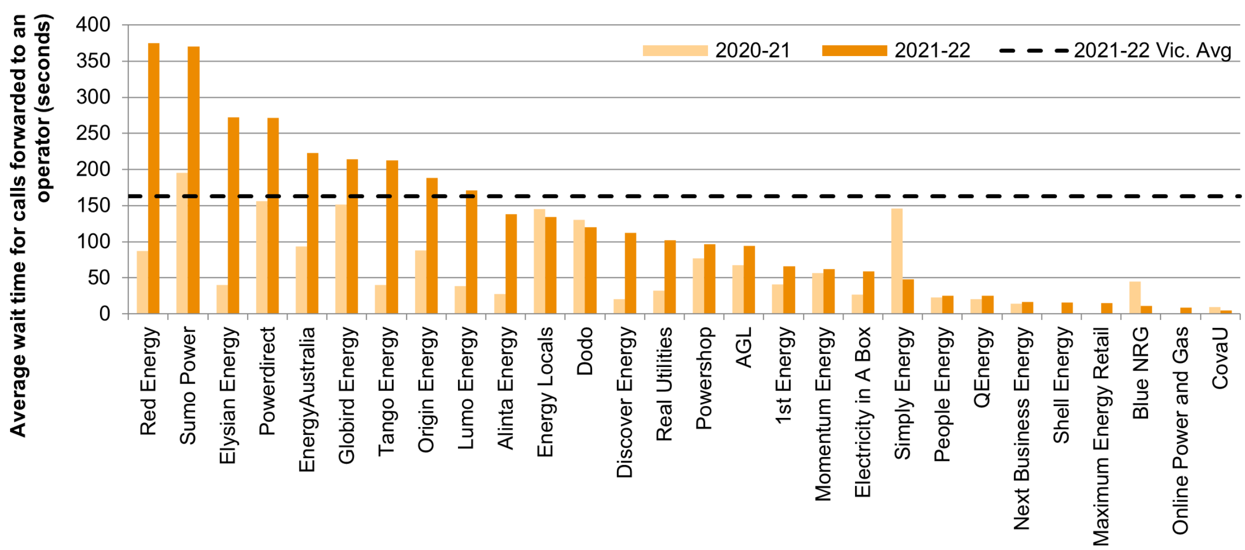


Figure 7: Customer call waiting times by retailer (in seconds), 2020–21 and 2021–22



[5] 2020–21 and 2021–22 call centre numbers exclude retailers Amber Electric, ReAmped Energy and OVO Energy because they operate web-based and other type of enquiry systems instead of call centres.

Victorian Energy Market Performance and Dashboard

We analysed the data provided to us by energy retailers and monitored trends throughout the year.

With this publication, we are also releasing the Victorian Energy Market Dashboard. The dashboard brings the data we previously published as Microsoft Excel tables into a more usable and interactive format. The graphs in the dashboard can be used to get a quick overview of key trends in the energy market.

The dashboard includes summaries of:

- customer numbers and types of contracts that customers are on
- customers receiving assistance to pay their bills, information on government concessions and utility relief grants
- customer service performance metrics such as call waiting times, abandoned calls and customer complaints
- disconnections for non-payment.

The dashboard can be accessed at the following address: https://www.esc.vic.gov.au/energy-market-dashboard

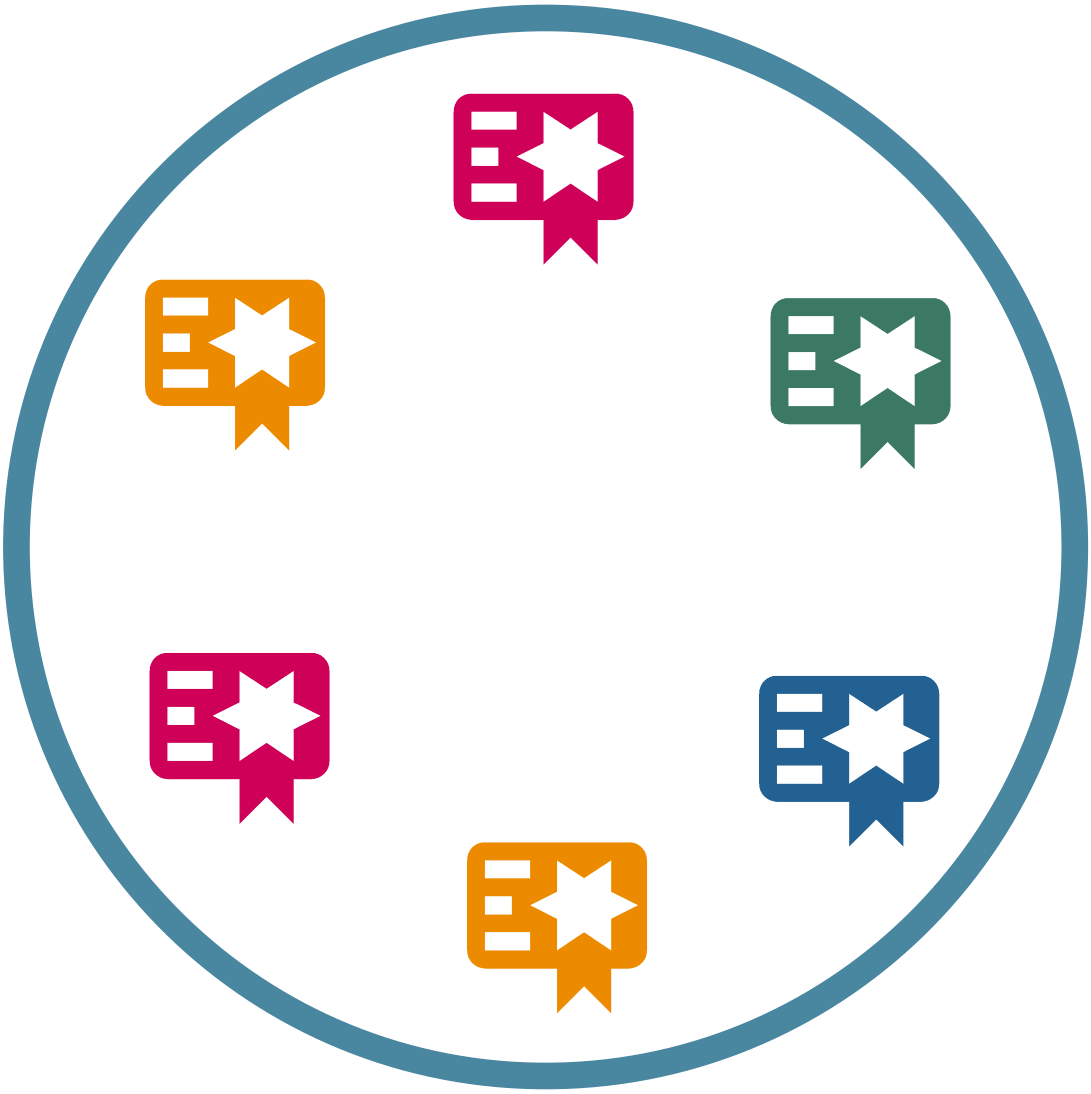
Call waiting times increase

The increase in switching activity also coincided with customers experiencing longer call waiting times with retailers. Customers waited on average 163 seconds for their calls to be answered during 2021–22 – a rise of nearly 50 per cent compared to the previous financial year (Figure 5). Retailers commented that these increased times were due to resourcing constraints due to staff illness, and higher than usual call volumes, with some customers waiting six minutes to speak to an operator (Figure 7).

The number of calls that were abandoned by customers also increased in 2021–22, the highest recorded in the past five years (Figure 6).

Customer service plays a major role in building trust between retailers and customers, and it can also help support the general competitiveness of the retail energy market. We expect retailers to provide positive customer service, particularly as providers of essential services. In 2022–23, we will continue to monitor retailers' performance, particularly given the decline in customer service metrics in 2022 compared to the last five years.

Energy retailers’ compliance under the Victorian Energy Upgrades program



The Victorian Energy Upgrades program helps Victorians reduce their energy bills and greenhouse gas emissions by providing access to discounted energy efficient products and services through accredited providers.

More than two million Victorian residential and commercial premises have benefited from the program since it began in 2009 till the end of 2021, delivering over **70 million tonnes of greenhouse gas emissions (CO2e) savings.** This is the equivalent of taking **21 million cars off the road for a year.**

Accredited providers who deliver upgrades for households and businesses are able to create Victorian energy efficiency certificates under the program. Each certificate represents one tonne of greenhouse gas emissions (CO2e) saved.

Over 6.5 million certificates surrendered by energy retailers under the program for the compliance year 1 Jan – 31 Dec 2021

The *Victorian Energy Efficiency Target Act 2007*, the enabling Act for the Victorian Energy Upgrades program, requires energy retailers (relevant entities) to surrender Victorian energy efficiency certificates if they are either:

- energy retailers with at least 5,000 customers
- energy retailers with scheme acquisitions of at least 30,000 MWh of electricity or at least 350,000 GJ of gas in one compliance year.

Energy retailers were set a certificate surrender target of 6.5 million certificates for the 2021 compliance year (1 January to 31 December 2021).

6,542,681 certificates were surrendered by 33 Victorian energy retailers for the 2021 compliance year.

Table 1 details energy retailers' compliance, including energy efficiency certificate shortfalls, for the 2021 compliance year.

Table 1: Energy retailers' (relevant entities) compliance under the Victorian Energy Efficiency Target (VEET) Act for the 2021 compliance year

Details	Total
Energy retailers identified as relevant entities under the VEET Act	35
Number of relevant entities that surrendered certificates for the 2021 compliance year	33
Number of relevant entities that surrendered sufficient certificates to meet their annual liability	27
Number of relevant entities that had an energy efficiency certificate shortfall	8
Number of certificates surrendered by relevant entities for the 2021 compliance year	6,542,681
Amount of relevant entities' energy efficiency certificate shortfalls:	32,860
Elysian Energy Pty Ltd	10,815
Red Energy Pty Ltd	7,355
QEnergy Ltd	6,136
Weston Energy Pty Ltd	3,764
Mojo Power East Pty Ltd	2,135
Lumo Energy Pty Ltd	1,585
Click Energy Pty Ltd	906
M2 Energy Pty Ltd	164

See the *Victorian Energy Upgrades Performance Report 2021*[1] for more details about the outcomes delivered to consumers by the Victorian Energy Upgrades program in the 2021 compliance year. Further information on the program can be found on our website.[2]

1 https://www.esc.vic.gov.au/victorian-energy-upgrades-program/veu-updates-reports-reviews-and-data/veu-performance-reports
2 https://www.esc.vic.gov.au/victorian-energy-upgrades/about-victorian-energy-upgrades-program

Energy in Victoria

- Compliance and enforcement
- Distributor performance
- Market entry and exit
- Reports and reviews

2021–22

2021–22

Compliance and enforcement

$6.5 million in penalties paid

- Charged prohibited exit fees
- Wrongful disconnections
- Failing to notify customers about planned outages

$5m Origin Energy

$250k Powercor

$955k Origin, Sumo, Simply Energy

$280k AusNet

$710k in **customer compensation** from **518 wrongful disconnections** (retail reported)

Electricity generation licences

5 issued

Market entry and exit

Energy retail licences

5 issued **4** revoked

4 issued **3** revoked

Laws, codes and guidelines

- Land Access Statement of Expectations
- White-labelling Guideline
- Life-support protections
- Advice about payment difficulties support
- Explicit Informed Consent Guideline

Reports and price reviews

- Energy retail licence review
- Payment Difficulty Framework Implementation review
- Victorian Default Offer updated
- Assessed innovation differentiation in retail energy
- Retail energy offer prices analysis

ESSENTIAL SERVICES COMMISSION

Compliance and enforcement activities

A transformative year

The past year has been transformative for the commission's compliance and enforcement functions. Legislative amendments significantly expanded our investigative powers and enforcement pathways. We published our new compliance and enforcement policy which sets out how and when we will exercise these new powers. Our regulatory instruments are being revised and new contraventions have been created. We scaled up our approach to proactive compliance projects and took more enforcement action than in any preceding year.

Changed enforcement landscape

The *Essential Services Commission (Compliance and Enforcement Powers) Amendment Act 2021* commenced on 1 December 2021. The amendments equipped the commission with more investigative tools to obtain information and detect non-compliance.

The commission now has the investigative tools required for a modern regulator. Our increased information-gathering powers and new search and seizure powers mean that we are able to conduct inspections, execute search warrants, and hold compulsory examinations of witnesses under oath. With these tools comes an enhanced ability to protect the long-term interests of Victorian consumers and businesses by regulating the market.

The enforcement pathways available to the commission have also expanded. The commission can continue to issue penalty notices and accept enforceable undertakings, and it may now also commence civil litigation in relation to contraventions of the Victorian energy rules. We can apply for urgent injunctions without notice. Criminal prosecutions have also been enabled for offences relating to wrongful disconnections and life-support protections.

Penalty amounts increased for penalty notices and maximum penalties of more than $11 million per contravention are available by way of civil penalty litigation. These tougher penalties reinforce that non-compliance with consumer protections for essential services poses serious harm to the community, especially where customers may be experiencing vulnerability.

The commission continues to actively monitor the compliance of energy businesses in this landscape of stronger protections. The revised Compliance and Performance Reporting Guideline – which took effect on 1 March 2022 – enhances the commission's capacity to monitor the industry and regulate for the benefit of Victorian energy consumers. We have urged industry to ensure their compliance systems are up to date and fit for purpose for the new regulatory and reporting regimes.

Updated instruments and new contraventions

To further support our enhanced framework, the Energy Retail Code of Practice took effect in March 2022. Subject to some variations, the Energy Retail Code of Practice replicates the rules electricity and gas retailers must follow when selling energy to Victorian residential and small business customers that existed in the preceding Energy Retail Code, but the new Energy Retail Code of Practice operates as a legislative instrument rather than as a condition of licence. The updated Energy Retail Code of Practice aligns with the commission's strengthened enforcement powers, enabling the commission to take civil and criminal action when a retailer or exempt entity (such as an embedded network) engages in contravening conduct. We expect that legislative reforms criminalising wrongful disconnection conduct will send a strong signal to industry and lead to a reduction of wrongful disconnections.

We have also remade the Electricity Distribution Code of Practice, published on 11 August 2022. This code streamlines obligations, removes outdated provisions and aligns with national regulatory frameworks. It took effect from 1 October 2022.

Further, from 31 December 2021, new prohibitions took effect in relation to energy retailer marketing practices including restrictions on save and win-back offers, door-to-door sales and cold-calling. The commission will actively investigate any potential contraventions of these new restrictions.

Renewed compliance and enforcement policy

We published our new compliance and enforcement policy in April 2022. Our renewed policy reflects the focus of our compliance and enforcement resources on assisting regulated entities to comply with the rules and escalating to enforcement action in the case of serious contraventions.

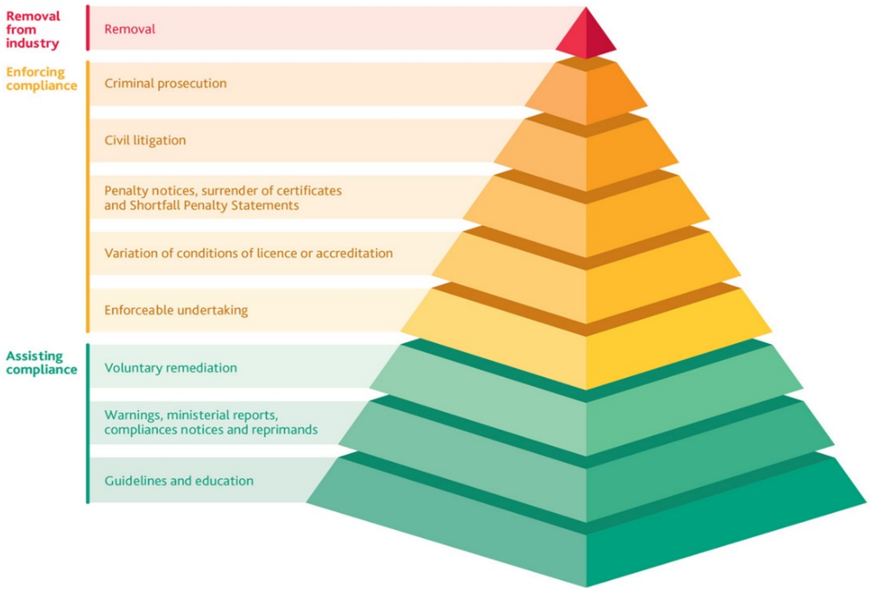
The policy provides that we do this through the provision of information and guidelines, direct educational engagement with entities on specific issues, or more formal means such as a compliance notice or an enforceable undertaking. Where serious or repeated contraventions are involved, we will escalate to use our enforcement toolkit including the use of penalty notices and civil or criminal litigation. In the worst cases, the commission may revoke a licence or deregister an exempt person.

Our risk-based enforcement approach aims to deter contraventions in order to prevent harm to Victorian customers. In doing so, we emphasise our strategic focus on those who may be experiencing vulnerability.

Our approach is summarised in the compliance and enforcement pyramid from our policy (see Figure 1).

The policy also provides guidance on what factors we consider relevant in determining an appropriate compliance and enforcement pathway. This fulfils our commitment to helping energy businesses understand their obligations and our approach under the new rules.

Figure 1: Approach to the commission's compliance and enforcement activities



Compliance and enforcement actions

The commission took a significant number of compliance and enforcement actions in 2021–22, with $6.485 million paid in penalties by Victorian energy companies.

The continued trend of increased enforcement action in recent years demonstrates our commitment to protecting the long-term interests of Victorian energy consumers. Our particular focus on monitoring non-compliance and addressing serious consumer harm resulting from alleged contraventions is evident in our compliance and enforcement actions during 2021–22.

Overview of enforcement actions

We took more enforcement actions in 2021–22 and the largest number of penalties were paid than in any previous year. A total of $5 million in penalties was paid by Origin Energy Electricity Limited (Origin Energy). This penalty amount highlights our concern for poor behaviour within the industry and our aim to deter future non-compliance.

We directly addressed the compliance and enforcement priority areas for 2021–22.

- **Wrongful disconnection of customers:** Sumo Power Pty Ltd and Sumo Gas Pty Ltd (together, Sumo), Origin Energy and Ipower 2 Pty Ltd and Ipower Pty Ltd (trading as Simply Energy) Simply Energy paid penalties totalling $955,000 for the alleged wrongful disconnections of customers. (See our spotlight on wrongful disconnections for more details.)

- **Payment Difficulty Framework:** we accepted a court enforceable undertaking from AGL Sales Pty Ltd (AGL) in August 2022, following allegations that it failed to comply with rules in place to protect customers facing bill stress, and disconnected customers wrongfully. Specifically, it was alleged that AGL applied system controls that restricted customers from receiving application forms for the Victorian Government's Utility Relief Grant Scheme. The grants help people experiencing hardship to pay their bills.

- **Retailers' billing practices:** Origin Energy paid penalties totalling $5 million after allegedly charging prohibited exit fees totalling $489,774 to more than 20,000 gas and electricity small business customers.

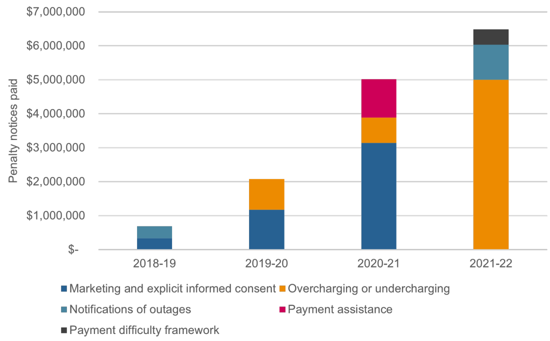
- **Embedded networks:** we worked with embedded networks to bring their processes into compliance. These cases involved either failure of the embedded network operator to obtain membership with the ombudsman scheme or failure to pay their fees. We worked with providers to either join or rejoin the scheme once their fees were paid, so that their customers will have redress to a complaints handling process if needed. We have also worked with embedded networks to improve the content of their bills and make sure they are not charging more than the maximum price for embedded network customers, being the Victorian Default Offer, to ensure that energy consumers are billed appropriately for their energy use.

Wrongful disconnections: Sumo

Sumo paid penalties totalling $500,000 in February 2022, for allegedly arranging the wrongful disconnection of 143 Victorian energy customers on 14 December 2020. The commission had issued a statement of expectations to industry which sought to keep customers connected during the stay-at-home orders of the pandemic. Those orders were lifted in November 2020.
Against this background, it was alleged that:

- Sumo set itself a target of disconnecting more than 1,500 customers between the start of November and Christmas 2020.
- 142 customers were cut-off before the required six-day warning period had expired.
- Sumo failed to act fairly and reasonably towards its customers during the disconnection process as required by the rules.
- Sumo's board and executive management were involved and aware of Sumo's approach to disconnecting customers.

Figure 2: Penalty notices paid since 2018, by type of potential contravention[1]



The commission's growing focus on enforcement action is demonstrated by the trend of penalties paid since 2018–19 (see Figure 2).

Overview of compliance actions

Our primary focus is to actively support voluntary compliance with the rules. In accordance with our compliance and enforcement policy, we continue to monitor and act on non-compliance using various forms of compliance actions.

Some of the actions we have taken to assist compliance and to deter similar future conduct are itemised in Table 1.

Best offer messaging compliance monitoring program

One of our compliance and enforcement priorities[2] is to ensure that retailers are informing customers about whether they are on their best offer when purchasing energy.

Since April 2022, we have been conducting a proactive compliance monitoring program focusing on whether retailers are complying with their obligation to provide customers with best offer messages on bills.

Table 1: Compliance actions in 2021-22

	July - December 2021	January - March 2022	April - June 2022	Total for 2021-22
Warning letters	5	22	9	**36**
Compliance actions[3]	20	12	9	**41**
Customer enquiries	482	165	205	**852**

[1] The 2020-21 figure includes a $2.5m penalty issued to Simply Energy in June 2020, but paid in July 2021
[2] https://www.esc.vic.gov.au/electricity-and-gas/market-performance-and-reporting/compliance-and-auditing-activities/our-energy-compliance-and-enforcement-priorities
[3] Actions to promote compliance, including information requests and requiring remediation plans.

Best offer obligations

Energy retailers are required to regularly display information on customers' bills telling them whether or not they are receiving their retailer's best offer. These requirements are outlined in clauses 108–111 of the Energy Retail Code of Practice (the best offer obligations).

The best offer obligations were introduced in 2019 as part of major reforms.[4]

We obtained information from 17 retailers who collectively provide retail services to most Victorian residential energy consumers about their best offer message practices.

Our analysis

After reviewing the information provided by the retailers, we identified: some instances of non-compliance; several areas for improvement; and some better practice examples.

The key issues are:

- **Appearance and wording of the best offer message:**We identified various issues with the wording retailers use in their best offer messages on bills. We also consider that several retailers could improve the prominence of their best offer messages.
- **Frequency of best offer messages:** We identified that some retailers were not providing best offer messages on customers' bills frequently enough.
- **Calculating the best offer:** Some retailers may not have calculated the deemed best offer check in accordance with the Energy Retail Code of Practice. This can result in incorrect information appearing in the best offer messages given to customers.
- **Identifying the best offer:** Most retailers appear to be pointing customers to the cheapest offers in their best offer messages. However, in some cases, customers were not informed of a potentially cheaper offer.

Where non-compliance has been identified, we are addressing this in line with our compliance and enforcement policy.[5] This ranges from working with retailers to remediate issues and, in more serious cases, potential enforcement action.

Our review has highlighted that to improve compliance across the industry, there may be a need for the commission to provide guidance regarding some aspects of the best offer obligations. In this respect, we are currently developing a guideline to assist energy businesses to comply with these obligations, which will include better practice examples.

Following the publication of this guideline on our website, we will continue to work with retailers to improve their compliance and take enforcement action where warranted.

Guidelines published

We published and updated four[6] guidelines on our website in 2021–22.[7]

- **White-labelling:** Guideline 1 (2022) explains that customers of white-label arrangements are entitled to all protections of the Energy Retail Code of Practice concerning the application of the code to white-label arrangements. White-labelling is where a licensee enters into an arrangement with a third party to sell energy under that third party's branding. The third party is not licensed to sell electricity and gas, and may sometimes be a participant in another industry looking to expand its product offering. Where a licensee arranges its plans under different brands, all plans must comply with the code's customer protections.
- **Life-support protections:** Guideline 2 (2022) concerns 'life-support customer details' and the meaning and application of the term within the Energy Retail Code of Practice. Retailers, distributors and exempt persons (whether they be sellers or distributors) are required to keep a register of life-support customer and life-support resident details for a premise where a life-support customer or resident resides or is intending to reside. This guideline explains what information or details must be obtained with respect to the life-support customer or resident. It also provides guidance concerning the process where a life-support customer may be removed from a register.
- **Clear and unambiguous advice about payment difficulties support:** We published an update to Guideline 3 (2022) about 'clear and unambiguous information or advice for residential customers anticipating or facing payment difficulties'. We

4 https://www.esc.vic.gov.au/electricity-and-gas/inquiries-studies-and-reviews/electricity-and-gas-retail-markets-review-implementation-2018/new-standards-energy-bills-and-marketing-2018

5 https://www.esc.vic.gov.au/electricity-and-gas/codes-guidelines-and-policies/compliance-and-enforcement-policy

6 A fifth guideline addressing how the commission exercises its statutory powers of revocation of licences under the Electricity Industry Act 2000 or the Gas Industry Act 2001 was published in September 2022. This guidance details matters to which the commission will have regard in deciding each case and reiterates that the commission considers revocation of an electricity or gas licence a measure of last resort.

7 https://www.esc.vic.gov.au/electricity-and-gas/codes-guidelines-and-policies/energy-retail-code-practicetabs-container4

updated this guideline to further set out the information to be provided to customers who may have multiple accounts subject to the process that may lead to disconnection.

- **Explicit informed consent:** Guideline 4 (2022) is a comprehensive guide as to the disclosures to be made to customers to ensure compliance with the Energy Retail Code of Practice.

These guidelines assist the industry to voluntarily comply with rules by providing the commission's interpretation of key regulatory obligations.

Enquiries

We received 852 enquiries from consumers over the 12 months from 1 July 2021 to 30 June 2022.

The largest number received was about the minimum feed-in tariff and retailer offers and tariffs. Enquiries received may instigate or feed into compliance and enforcement investigations and are a valuable source of information. Examples of enquiries include:

- complaints of late guaranteed service level payments
- embedded network providers billing above the Victorian Default Offer
- failure of a retailer to meet its obligations to provide payment difficulty assistance to eligible customers.

Specific cases

Simply Energy: marketing and signing up new customers

In June 2021, Simply Energy was served with $2.5 million in penalty notices (these were paid in July 2021) after external sales agents acting on its behalf allegedly impersonated customers consenting to the switch of their energy accounts. The commission considers that this type of conduct has the potential to erode consumers' trust in the energy market. We will continue to take action in relation to this concerning sales practice, particularly with the introduction of banned marketing practices following recent legislation. Simply Energy paid a further $5,000 in penalty notices for the alleged wrongful disconnection of a visually impaired, elderly woman's electricity. This matter highlighted how non-compliance can harm customers, particularly those who may be experiencing vulnerability.

In addition, between January 2019 and January 2020, Simply Energy self-reported several breaches where customers were not provided with accurate information, leading to a lack of explicit informed consent. We requested Simply Energy appoint an external auditor[8] to review key process controls and compliance in relation to explicit informed consent, focusing on telesales and third-party sales channels. Simply Energy accepted and implemented the auditors' recommendations. This resulted in Simply Energy implementing checks that any agent acting on its behalf is trained to obtain explicit informed consent. Simply Energy has also taken steps to improve the quality control processes in relation to the activities of its third-party agents.

> We audit energy businesses to check they are complying with rules designed to protect consumers and in certain cases, actively engage on post-breach remedial actions that support future voluntary compliance.

Sumo: wrongful disconnections

In February 2022, Sumo paid penalties totalling $500,000 for allegedly arranging the wrongful disconnection of 143 Victorian energy customers on 14 December 2020. We issued Sumo with 100 penalty notices in November 2021.

Energy retailers must give a customer (who has missed a bill and been sent a reminder notice) a warning period of six full business days, and take all further required prior steps before a disconnection can occur. Victorian retailers must also act fairly and reasonably towards their customers before arranging a disconnection. In this case, it was alleged that 142 customers were cut-off before the required six-day warning period had expired. Sumo allegedly failed to act fairly and reasonably towards its customers during the disconnection process as required by the rules.

The case raised serious concerns about Sumo's compliance culture. Sumo allegedly set a target of disconnecting more than 1,500 customers between the start of November and Christmas 2020. It was alleged that Sumo's board and executive management were involved in and aware of Sumo's approach to disconnecting customers.

8 https://www.esc.vic.gov.au/electricity-and-gas/market-performance-and-reporting/compliance-and-auditing-activities/simply-energy-audit

Explicit informed consent: EnergyAustralia, Red Energy and Lumo Energy

Continuing this focus on supporting entities' compliance with the rules in 2022–23, on 11 August 2022, the commission accepted enforceable undertakings from EnergyAustralia Pty Ltd, Red Energy Pty Ltd and Lumo Energy Australia Pty Ltd following allegations that they failed to obtain explicit informed consent from customers before signing them up to energy contracts. The alleged contraventions occurred between 24 August 2018 and 31 January 2022.

Origin Energy: exit fees

Origin Energy paid $5 million in penalty notices after allegedly charging prohibited exit fees to more than 20,000 gas and electricity small business customers.

Specifically, it was alleged that between June 2016 and September 2020, more than 77,000 Origin Energy gas and electricity small business contracts wrongly included exit fees. As a result, exit fees adding up to $489,774 were allegedly charged to 22,371 customers.

It is a licence condition under the Electricity Industry Act 2000 and the Gas Industry Act 2001 that a retailer must not enter a contract for the supply or sale of electricity or gas with a small retail customer that imposes an exit fee on the termination of the contract, unless the contract is a fixed-term retail contract and has fixed tariffs, charges and fees for electricity or gas supplied under that contract.

This is the strongest action by the commission against an energy company in Victoria to date. Our actions highlight the importance of having fair energy contracts for customers, which is critical for building trust in the energy market.

Powercor and AusNet: failure to notify of planned outages

In January 2022, Powercor Australia Ltd (Powercor) and AusNet Electricity Services Pty Ltd (AusNet) paid penalties of $250,000 and $280,000 respectively in relation to alleged failures to notify customers of planned outages.

Distributors are required to give customers at least four business days' written notice of a planned interruption to electricity supply.

Powercor reported to the commission that in March 2021 it failed to provide advance notice to 162 customers on the Bellarine Peninsula of a power outage while carrying out planned maintenance work. One of those customers was registered as requiring life-support equipment that relied on electricity supply.

AusNet reported to the commission that in March and April 2021, it failed to provide advance notice for two planned power interruptions to 36 customers in Melbourne's eastern suburbs. Two of those customers were registered with AusNet as requiring life-support equipment that relied on electricity supply. Our actions are intended to ensure that customers are adequately informed of any periods when they will be without power.

Spotlight on wrongful disconnections

This section provides an overview of our compliance and enforcement activities regarding wrongful disconnections for 2021–22.

We have collated data from self-reported breaches and breaches that we have identified through other sources such as our own investigations, consumer complaints, financial counsellors and Energy and Water Ombudsman Victoria referrals.

In summary, our data suggests that for 2021–22:

- 518 customers were impacted by wrongful disconnections (this includes a breach that Origin Energy reported to us that affected 403 customers).
- $709,723 was paid to customers in wrongful disconnection payments.
- A total of 121 breaches of the Energy Retail Code and Energy Retail Code of Practice occurred.
- The most common cause of breach related to the requirement that retailers must arrange a disconnection in line with the customer's request.

The increase identified in quarter 2 and quarter 4 in Figure 4 is attributed to Origin Energy reporting 403 wrongful disconnection breaches against clause 111A of the Energy Retail Code. Clause 111A required that a residential customer must only be disconnected for non-payment as a last resort and following the taking of certain steps, including using a retailer's best endeavours to contact the customer. Origin Energy has previously paid penalties in relation to similar conduct (see below).

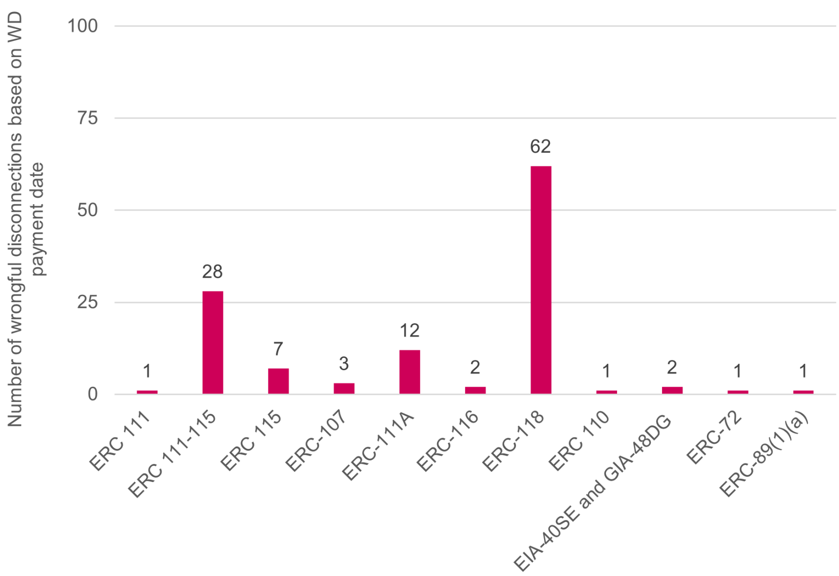
Energy retailers are required to pay an energy customer a prescribed amount of money if they disconnect the supply of energy to that customer in breach of their contract (as per the *Gas Industry Act 2001* and the *Electricity Industry Act 2000*). The total amount of wrongful disconnections paid for 2021–22 was $709,723. Figure 4 provides a breakdown of customers who received payments due to their being impacted by wrongful disconnections.

There were 120 reported breaches related to wrongful disconnections in 2021–22. Figure 3 shows the breakdown of clauses for each breach that occurred. The clause most commonly the subject of a breach report was clause 118 of the Energy Retail Code, which requires retailers to use their best endeavours to arrange for a disconnection of a customer's premises in accordance with any request by a customer.

Table 2: Clauses in the Energy Retail Code (ERC), the Electricity Industry Act (EIA), and the Gas Industry Act (GIA)

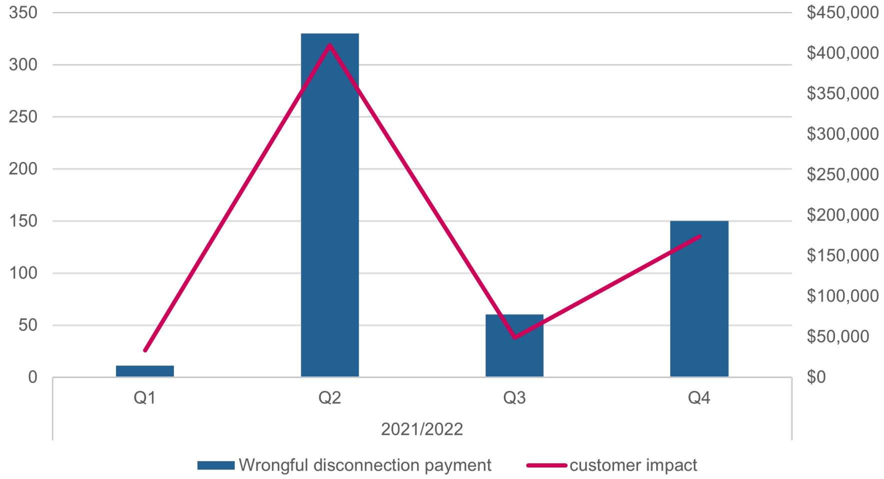
Clause detail	
ERC 111	Disconnections for not paying bill (small customer who is not a residential customer).
ERC 111-115	Process to be followed for disconnection (other than at customer's request).
ERC 115	The circumstances in which a retailer may disconnect a customer for non-notification when moving in or carrying over.
ERC 107	The retailer may only arrange for de-energisation of a customer in accordance with clauses 111 to 115 (other than by customer request).
ERC 111A	Residential customer only to be disconnected as a last resort for nonpayment.
ERC 116	When a retailer may not de-energise a customer's premises.
ERC 118	On request, a retailer must disconnect a customer and finalise the account.
ERC 110	Issuing a disconnection warning notice.
EIA 40SE & GIA 48DG	Disconnection of supply of electricity at premises.
ERC 72	The retailer's requirements when offering a payment plan.
ERC 89(1)(a)	A retailer must: (a) in any dealing with a residential customer under, or in connection with, Division 3 take into account all of the circumstances of the customer of which they are aware and, having regard to those circumstances, act fairly and reasonably.

Figure 3: Wrongful disconnection by clause (2021-22)[9]



[9] Number of wrongful disconnections by clause in the Energy Retail Code 2021–22, as of 7 October 2022. This is based on the date customers were compensated.

Figure 4: Number of customers impacted vs wrongful disconnection payment amounts[10]



Acting to protect customers who have been wrongfully disconnected

We issued 18 warning letters in relation to wrongful disconnections, including nine warning letters for customer requested disconnections. We will continue to work with retailers to improve their processes to prevent re-occurrence of these issues.

In 2021–22, the commission issued wrongful disconnection penalty notices to three retailers:

- On 13 July 2021, Origin Energy paid $450,000 in penalty notices. It was alleged that Origin Energy wrongfully disconnected 349 customers after sending text messages that failed to inform customers about payment help between 7 February 2019 and 13 February 2020. The commission alleged that Origin Energy did not provide clear and unambiguous information to customers about assistance they were entitled to under Victorian energy rules designed to assist customers experiencing payment difficulty.

- Simply Energy paid a $5,000 penalty after allegedly failing to disconnect electricity in accordance with a customer's request.

- In February 2022, Sumo paid $500,000 in penalties for the alleged wrongful disconnection of customers on 14 December 2020. It was alleged that 142 customers were cut-off before the required six-day warning period had expired, and that one customer was cut-off without warning, despite actively participating in a payment plan.

In addition to this, the commission has taken the following actions in 2022–23 for disconnections that occurred in 2022–21:

- Origin Energy paid $36,348 in penalties after investigations were conducted in respect of one customer who was allegedly disconnected on 1 December 2021. Origin Energy self-reported that it did not use its best endeavours to contact the affected customer in line with clause 111A of the Energy Retail Code.

- In August 2022, the commission accepted an enforceable undertaking from AGL following allegations it failed to comply with rules in place to protect customers facing bill stress, and disconnected customers wrongfully in 2021. We were alerted to the alleged conduct by the Victorian Department of Health and financial counsellors who assist customers experiencing vulnerability and provide valuable insights into customer's experiences with retailers.

[10] Number of wrongful disconnection payments compared with customers impacted for 2021–22, as of 7 October 2022. This is based on the date customers were compensated.

Distributor performance

Unaccounted for gas

Unaccounted for gas (UAFG) refers to the difference between the measured quantity of gas entering the gas distribution system from various supply points and the gas delivered to customers. There are various causes for UAFG, including fugitive emissions, metering errors, heating value, data quality and theft. In Victoria, UAFG is managed via a benchmark process and our Gas Distribution System Code sets benchmarks for each Victorian gas distributor.

Retailers are required to purchase enough gas to cover customer consumption and the actual UAFG. Each year, gas distributors and retailers each reconcile the amount of gas purchased against UAFG benchmarks. The latest settled data for class B benchmarks are shown in tables 3 to 7.[11] There is always a lag in the most recently available data to allow for accounts to be settled between distributors and retailers. The latest completed settled data for our gas network is up to 2018, as per the table below.

Connecting electricity to new developments

Due to significant delays in electricity distributors connecting power to housing subdivisions, in 2018 the then Minister for Finance asked the commission to undertake a review to ensure electricity distributors provided faster and more transparent underground connections. Following the review, electricity distributors made commitments to improve their processes and timings for new connections.

Despite improvements, some problems remained and in October 2020 the commission required distribution business to formally establish sets of customer service standards with the development industry in their area to improve the timeliness of these connections.

The standards were based on the prior work and comprised of three components: an overarching customer outcomes statement, the requirement to form a consultative committee made up of industry participants and a performance reporting framework.

In March 2021, the commission also directed AusNet Services, Jemena, Powercor and United Energy (distributors) to report on their performance against these customer service standards.[12] The commission has since received two reports from distributors covering 1 July 2021 to 30 June 2022.

All distributors reported compliance with their customer outcome statements, mostly through process improvements and developing strong relationships with industry participants and all, but Jemena, provided evidence of undertaking an industry participants consultative committee. Jemena preferred to engage with industry stakeholders individually.

Each distributor also developed various performance metrics with their consultative committees, recognising the different industry requirements and processes to connect electricity into new housing developments. The tables below show each distributors' performance against each metric, and the numbers in red indicate where a metric was not met. In general, the main reasons given for not meeting the metrics were staff illness or retention.

Tables 4 to 7 show distributor performance against performance reporting frameworks.

Table 3: Class B UAFG for DTS networks, data and benchmarks

Distributor	2018–22 benchmark	2018 settled UAFG	2019 actual UAFG
AusNet Services	4.6%	4.73%	4.48%
Australian Gas Networks	4.0%	4.19%	4.36% (unsettled)
Multinet Gas Networks	5.3%	5.35%	4.80% (unsettled)

Only unsettled data has been provided for Australian Gas Networks and Multinet Gas Networks for 2019, as settled data was not available at the time of reporting.

[11] Class B benchmarks refer to customers who consume less than 250 Terajoules (TJ) of gas energy per year and generally describes small business or residential customers.

[12] CitiPower has voluntarily reported on its performance.

Table 4: Jemena's performance against performance reporting frameworks

Jemena				
Connection step	Performance measure		Average performance	
	(avg days)	(max days)	Jul to Dec 2021	Jan to Jun 2022
Offer issued	40 days	65 days	50 days	34 days
Master plan reviewed	15 days	20 days	84 days	44 days
Design reviewed	15 days	20 days	34 days	45 days
Pre-commission audit	5 days	10 days	16 days	15 days
Consent to statement of compliance	5 days	10 days	3 days	3 days
Time taken to tie-in	30 days	40 days	36 days	35 days

Table 5: Powercor / CitiPower's performance against performance reporting frameworks

Power/CitiPower						
Connection step	Performance measure		Performance			
	(avg days)	(max days)	Jul to Sep 2021	Oct to Dec 2021	Jan to Mar 2022	Apr to Jun 2022
Master plan reviewed	70% reviewed in 10 days	80% reviewed in 10 days	77%	64%	45%	17.6%
Design reviewed	18 days	16 days	16.1 days	19.2 days	22.2 days	19.9 days
As built plans reviewed	70% in 5 days	70% in 5 days	93%	97%	75%	83.1%
Audit completed	70% in 6 days	70% in 6 days	78%	74%	83%	26.3%
Issued certificate of practical completion	90% in 5 days	90% in 5 days	94.2%	93%	84.4%	93.7%
Time taken to tie-in	90% by agreed date	>95% by agreed date	100%	100%	98%	94.7%

Table 6: United Energy's performance against performance reporting frameworks

United Energy					
Connection step	Performance measure	Performance			
		Jul to Sep 2021	Oct to Dec 2021	Jan to Mar 2022	Apr to Jun 2022
Offer issued	20 days	100%	100%	100%	N/A
Masterplan reviewed	10 days	N/A	N/A	100%	N/A
Design reviewed	20 days	100%	100%	100%	100%
Authority to construct	10 days	100%	100%	100%	100%
Authority to commission	10 days	N/A	100%	100%	100%

Table 7: AusNet Services' performance against performance reporting frameworks

AusNet Services					
Connection step	Performance measure (average days)	Performance			
		Jul to Sep 2021	Oct to Dec 2021	Jan to Mar 2022	Apr to Jun 2022
Design reviewed approvals	90% in <15 business days	92%	95%	88%	97%
As built plan reviewed	95% in <3 business days	100%	100%	100%	100%
Pre-connection audit	95% in business 10 days	100%	98%	98%	98%
Final network audit	95% in 10 business days	99%	93%	93%	97%

Distributors are in the process of negotiating customer outcome statements and performance metrics to apply from 1 April 2022 with their industry consultative committees.

Electricity transmission company land access statement of expectations

The commission developed a statement of expectations on how electricity transmission companies should access private land during any stage of a transmission project. The statement came into effect in June 2022 and sets out key principles designed to facilitate fair and transparent land access. These principles include approaches and processes for communication and engagement with keys stakeholders, and processes when managing the impact of land access.

Since the statement of expectations came into effect, AusNet Transmission Group (AusNet) have accessed 46 parcels of private land for the Western Renewables Link project. We required AusNet to report monthly on their performance against the principles in the statement of expectations. The table 8 summarises the performance of AusNet Transmission Group when accessing land since June 2022.

The commission is closely monitoring the details of these accesses and the circumstances in which s93 notices are issued, and the following table contains key data from AusNet's reporting to date.

Public versions of AusNet's full reports can be found on the commission website at https://www.esc.vic.gov.au/electricity-and-gas/inquiries-studies-and-reviews/electricity-transmission-company-land-access-statement-expectations/reporting-against-electricity-transmission-company-land-access-statement-expectations.

The commission will continue to monitor AusNet's reporting and use the data to inform our consultation to developing a Land Access Code of Practice, which will include enforceable obligations for transmission companies when accessing land.

Table 8: AusNet Transmission Group reporting on land access

Metric (number of)	June-July[13]	Aug	Sept	Oct
Parcels of private land accessed	20	11	15	0
Voluntary access negotiations underway	20	17	17	15
New voluntary access agreements entered into	3	1	0	0
S93 notices issued	2	0	8	1
Times land accessed under s93	0	1	4	0
Compensation claims	0	0	0	0
Complaints made to AusNet[14]	0	0	0	0
Complaints made to Energy and Water Ombudsman Victoria[15]	1	0	1	0

[13] AusNet have provided a combined report for the reporting period of June-July. This was so AusNet had the opportunity to provide a draft report for the June period for feedback from the commission.

[14] AusNet are only required to report on the number of complaints they have received and the number of complaints which are made directly to EWOV in relation to s93 land access. The total number of complaints in relation to the Western Renewables Link project are not captured in AusNet's reporting.

[15] *ibid.*

Market entry and exit

14 licences issued to generate and retail energy in Victoria

Our role in licensing energy businesses

The commission issues licences to energy businesses to operate in the Victorian energy market. This includes licensing energy retailers, energy distributors, electricity transmission companies, electricity wholesalers and electricity generators.

New licences granted

Between July 2021 and June 2022, we issued nine retail energy licences and five electricity generation licences:

- Enel Energy Australia Pty Ltd was issued an electricity retail licence to sell to large customers.
- CleanTech Energy Pty Ltd (trading as Delorean Energy Retail) was issued a gas retail licence to sell to medium and large customers.
- ReAmped Energy Pty Ltd was issued a gas retail licence to sell to all Victorian customers.
- Telstra Energy (Retail) Pty Ltd was issued electricity and gas retail licences to sell to all customers, which also included special conditions to provide additional protections for Victorian consumers, particularly those experiencing vulnerability.
- GEE Power Gas Pty Ltd was issued electricity and gas retail licences to sell to medium and large customers.
- Apsu Power Pty Ltd was issued an electricity generation and sale licence for a solar farm located approximately 33 kilometres north of Shepparton, in the town of Numurkah.
- Diapur Wind Farm Pty Ltd was issued an electricity generation and sale licence for a wind farm with an output of 7.4MW which will produce the equivalent energy usage of around 6,000 households each year.
- Murra Warra II Project Co Pty Ltd was issued an electricity generation and sale licence for stage two of the wind farm. Along with Murra Warra stage 1, the 99 turbines will form one of the biggest wind farms in Australia and will produce enough electricity to power about 420,000 average Victorian homes.
- Hanwha Energy Retail Australia Pty Ltd (trading as Nectr) was issued an electricity retail licence to sell to all Victorian customers.
- Tilt Renewables Retail Pty Ltd was issued an electricity retail licence to sell to medium and large customers.
- Mortlake South Wind Farm Pty Ltd was issued an electricity generation licence for a 157.5MW wind farm that will produce enough electricity to power approximately 117,000 households.
- Berrybank 2 Asset Pty Ltd was issued an electricity generation licence for the 109.2MW second stage of the Berrybank Wind Farm which will produce electricity for about 82,000 homes.

Retailer of Last Resort events

In Victoria, the commission is responsible for administering the Retailer of Last Resort framework. This framework provides arrangements to ensure Victorian's electricity or gas supply continues even if a retailer can no longer provide it.

Weston Energy

On 24 May 2022, the commission initiated the Retailer of Last Resort process to automatically transfer customers from failed gas retailer Weston Energy Pty Ltd (Weston Energy) to other retailers in Victoria to provide for the continued supply of essential gas services.

Weston Energy had its registration as a market participant revoked by the Australian Energy Market Operator (AEMO) for failing to comply with AEMO requirements under the National Gas Rules. As a result, Weston Energy could no longer sell gas in Victoria and approximately 184 large and medium-sized customers with 1,140 sites in Victoria were transferred to other retailers.

We revoked Weston Energy's licence by consent with the licensee effective from 1 July 2022.

Recent Retailer of Last Resort events

Since 1 July 2022, the commission initiated two further Retailer of Last Resort events for retailers that went out of business.

Power Club

On 12 July 2022, the commission initiated a Retailer of Last Resort event to automatically transfer approximately 1,500 customers from failed electricity retailer Power Club Limited (Power Club) to other retailers in Victoria.

Power Club was suspended from the National Electricity Market by the Australian Energy Market Operator and had its registration as a market participant suspended on 12 July 2022 for failing to comply with requirements under the National Electricity Rules.

We revoked Power Club's licence by consent with the licensee effective from 16 September 2022.

Elysian Energy

On 2 September 2022, the commission initiated a Retailer of Last Resort event to automatically transfer approximately 4,900 Victorian customers from failed electricity retailer Elysian Energy Pty Ltd (Elysian Energy) to other retailers.

Elysian Energy was suspended from the National Electricity Market by the Australian Energy Market Operator and had its registration as a market participant suspended on 2 September 2022 for failing to comply with requirements under the National Electricity Rules.

We revoked Elysian Energy's licence by consent with the licensee effective from 10 October 2022.

Regulatory sandboxing

Victoria's regulatory sandboxing framework for the energy market started on 1 June 2022.

The new framework:

- enables innovators to trial new products and services in a controlled setting for a time-limited period
- helps inform future changes to the energy rules on a more permanent basis.

Trial waivers operate alongside licences and exemptions as a distinct authorisation category to enable entry into Victoria's energy market.

Trial Project Guideline

We released our final decision and Trial Project Guideline to support the regulatory sandboxing framework on 29 June 2022. The guideline:

- outlines our approach to the framework
- provides information about the process and requirements
- describes how decisions on trial waiver applications will be made.

We also released supplementary information for trial waiver applications to assist applicants prepare their application.

Energy Innovation Toolkit

The Australian Energy Regulator launched a new website on 11 August 2022 to support the establishment of a regulatory sandboxing framework in the national energy market.

The Energy Innovation Toolkit is a free service offered by the Australian Energy Regulator in collaboration with the commission and other agencies. It contains resources including case studies, market maps and other information to help innovators navigate the regulatory frameworks relevant to their project.

The toolkit also includes an enquiry service that provides a centralised hub for innovators to submit enquiries and seek informal feedback specific to their trial project. It also has an online trial waiver application portal, which enables innovators to apply for a Victorian trial waiver.

Electricity licence exemptions

The commission also has a role in administering the General Exemption Order 2017 which provides a range of exemptions from the requirement to hold an electricity licence in Victoria. Many licence exemptions, such as those for persons selling and supplying electricity in embedded networks, must be registered with the commission. Table 9 shows the number of electricity licence exemptions registered in each of the past four financial years. Between 1 July 2021 and 30 June 2022, the commission registered 337 electricity licence exemptions, down slightly from 2020–21.[16]

General Exemption Order 2022

On 29 September 2022, the Victorian Government published an updated General Exemption Order which comes into effect on 1 January 2023. The revised Order contains a new renewable energy condition which new residential embedded networks will need to meet to operate legally in Victoria.

Table 9: Number of electricity licence exemptions registered

2018–19[17]	2019–20	2020–21	2021–22
2,026	351	354	337

16 This figure, and the figures in the following table, include embedded network sites where the sale and supply of electricity occurs under two exemption categories but has only been counted as one exemption for the purpose of this report.

17 The General Exemption Order 2017 came into effect on 1 April 2018 and required relevant exempt persons to register with the commission. This is the reason why the number of registrations for 2018-19 is significantly higher than subsequent years.

Reports and reviews

Review of Payment Difficulty Framework

On 31 May 2022, the commission published the Findings report evaluating the success of implementation of the Payment Difficulty Framework in meeting its objectives. The report found that:

- Implementation of the framework is broadly meeting its objectives. More customers are receiving more appropriate assistance, and there have been fewer disconnections for non-payment.
- Customer outcomes vary significantly between and within retailers. Average customer arrears vary by retailer, despite assistance aiming to help customers avoid getting into arrears.
- The level and quality of retailer-customer engagement affects customer outcomes, and customers who can pay for their ongoing energy use benefit most. The appropriateness and timing of retailer communication with customers varies, with some retailers more successful in engaging with customers before they build up large arrears.

Victorian Default Offer

In May 2022, the commission set the Victorian Default Offer prices to apply from 1 July 2022 to 30 June 2023. Average annual bills for Victorian Default Offer customers increased by about five per cent for residential and small business customers.

Forecast wholesale electricity prices are driving an underlying increase. Rising wholesale prices for electricity account for almost two thirds of the increase in the default offer for households.

Increase in maximum discount for paying bills on time

On 23 May 2022, the commission increased the amount energy retailers can charge Victorian customers who do not make their payment on time to 5.71 per cent applying to new contracts commenced on or after 1 July 2022.

The cap applies to 'pay-on-time' discounts that are conditional upon the customer paying a bill on or before the pay-by date. Limiting the amount paid for missing a deadline helps reduce bill shock for households and small business.

Energy retail licence review

On 31 January 2022, the commission wrote to energy retail licensees with a proposal to vary retail licences. The changes to the licences were proposed for one of three reasons:

- to reflect recent changes to the regulation of energy in Victoria, including the passing of the Essential Services Commission (Compliance and Enforcement Powers) Amendment Bill 2021, which requires consequential changes to Victorian energy retail licences
- to improve consistency by removing variation that has arisen in licence conditions by reason of there being amendments to standard licence conditions over time that have not been applied to existing licensees
- to remove licence conditions that are no longer required or to promote consistency (where appropriate).

On 12 July 2022, the commission published its final decision on the retail licence review. Variations to energy retail licences took effect from 12 September 2022.

Economic analysis of the Victorian retail energy market

As part of our function to monitor and report on its competitiveness and efficiency of the Victorian retail energy market, previous quarterly editions of the Victorian Energy Market Report have included economic articles examining:

- The 'striking' consumer preference for larger retailers
- innovation, differentiation and consumer choice
- higher wholesale electricity costs driving recent offer price increases.

Electricity distribution licence review

Following engagement with Victoria's electricity distribution licensees, we varied their licences on 3 August 2022 with effect from 1 October 2022. This review was completed to reflect the decision published by the commission on 11 August 2022 implementing the new Electricity Distribution Code of Practice from 1 October 2022.

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