

# **Expansion of Energy and Water Ombudsman Queensland access arrangements**

## **Decision Regulatory Impact Statement**

**17 July 2015**

This publication has been compiled by the Department of Energy and Water Supply.

© State of Queensland, 2015

The Queensland Government supports and encourages the dissemination and exchange of its information. The copyright in this publication is licensed under a Creative Commons Attribution 3.0 Australia (CC BY) licence.

Under this licence you are free, without having to seek our permission, to use this publication in accordance with the licence terms.



You must keep intact the copyright notice and attribute the State of Queensland as the source of the publication.

Note: Some content in this publication may have different licence terms as indicated.

For more information on this licence, visit <http://creativecommons.org/licenses/by/3.0/au/deed.en>

The information contained herein is subject to change without notice. The Queensland Government shall not be liable for technical or other errors or omissions contained herein. The reader/user accepts all risks and responsibility for losses, damages, costs and other consequences resulting directly or indirectly from using this information.

## Summary

High electricity-using small business (HESB) customers are considered to be those businesses that consume more than 100 megawatt hours (MWh) of electricity per annum, but would be classified as a small business if evaluated by the metrics of turnover or employee numbers. Examples of HESB customers include bakeries, laundries, small supermarkets, small food production and manufacturing businesses and other small business customer dependent on high use of electricity for their daily operations. Many not for profit organisations such as community groups and amateur sporting clubs are also considered to be part of this group of high energy using, small operators.

This group of customers are currently not recognised as being able to access the Energy and Water Ombudsman Queensland's (EWOQ) dispute resolution service. While considered 'large' customers under the *Electricity Act 1994*, it is understood that many of these businesses are not considered large enough to have a dedicated account manager with their energy retailer. Many of these businesses do not have the knowledge, sophistication or internal resources to be able to deal with issues and disputes that may arise with their energy accounts.

The Queensland Competition Authority reported 25,584 large electricity customers – those consuming more than 100 MWh per annum – in Queensland at the end of March 2015. It is estimated that approximately 5100 (20 per cent) of these customers consume between 100 MWh and 160 MWh per annum. Of these HESB customers, around 52 per cent are estimated to be based in south east Queensland and 48 per cent based in regional Queensland.

In late 2014, the Department of Energy and Water Supply (the department) prepared a Consultation Regulatory Impact Statement (RIS) to assess the costs and benefits of four options aimed at providing HESB customers with improved access to dispute resolution and arbitration processes for energy matters. Four options were put forward for consultation.

The preferred option (Option 1) would extend access to EWOQ for HESB customers who use between 100 MWh and 160 MWh of electricity per annum. This option is anticipated to provide an additional 5100 businesses with access to EWOQ's free dispute resolution service. These customers would benefit from a specialised energy dispute resolution service which is potentially more accessible to smaller sized businesses than current dispute resolution mechanisms. Under this option, EWOQ's case load is expected to increase by an additional 200 complaints per year. If the number of additional complaints is at the higher end of this scale, an additional investigations officer would be required at an estimated cost of \$93,200 per year. This cost would be divided amongst all EWOQ scheme participants and collected via user-pays fees. It is also expected that three additional retailers would be required to become EWOQ scheme participants at a cost of \$5000 each per year.

Option 2 would allow small business customers consuming more than 100 MWh of electricity but with less than 20 employees or a turnover of less than \$2 million per annum to access EWOQ services. It is not known how many HESB customers would be able to access EWOQ under this option, however for the purposes of the Decision RIS, it is expected to be similar to Option 1 with an additional 5100 businesses with access to EWOQ and an additional 200 complaints to EWOQ's case load. The economic impacts on retailers are expected to be broadly similar to Option 1.

Option 3 would maintain current EWOQ access arrangements and using existing stakeholder consultation forums and working groups to investigate ways of strengthening the provision of information to large/HESB customers about resolving disputes and the large customer electricity market more broadly. This option is not expected to have any economic impact on EWOQ or retailers and is effectively a status quo approach. However, this approach aims to empower HESB customers to become more informed and proactive in the electricity market.

Option 4 would allow all electricity customers access to EWOQ services – similar to the approach taken in Victoria, South Australia and Tasmania. This option is expected to provide up 25,500 additional large electricity customers with access to EWOQ and approximately 270 additional complaints to EWOQ's case load. This will result in an additional investigations officer to be employed at a cost of \$93,200 per year. This cost would be divided amongst all EWOQ scheme participants and collected via user-pays fees. It is also expected that seven additional retailers will be required to become EWOQ scheme participants at a cost of \$5000 each per year. However this option would potentially extend beyond the intended focus of EWOQ in providing access to those customers that need the most support (residential customers and small businesses).

Table 1 provides an overview of the impacts of each option:

**Table 1 – Options summary**

Options	Government (including EWOQ)	Community (electricity customers)	Business (Retailers)
<p><b>1 – Access based on consumption (threshold increased to 160MWh per year)</b></p>	<p><b>Costs/Risks</b></p> <ul style="list-style-type: none"> <li>No direct cost to the Queensland Government or EWOQ</li> </ul> <p><b>Benefits</b></p> <ul style="list-style-type: none"> <li>Possible reduced workload for other dispute resolution mechanisms (i)</li> </ul>	<p><b>Costs/Risks</b></p> <ul style="list-style-type: none"> <li>\$93,200 per year expected to be spread across the customer base (ii) (iii)</li> <li>EWOQ implementation costs (if any) and retail implementation and ongoing complaint management costs also expected to be spread across the customer base (iii) (iv)</li> <li>EWOQ lacks experience conciliating large electricity customer issues and may be restricted in the outcomes it can conciliate for large customers</li> </ul> <p><b>Benefits</b></p> <ul style="list-style-type: none"> <li>5100 additional HESB customers gain access to EWOQ services</li> <li>Less likelihood of HESB customers paying for alternative dispute resolution mechanisms</li> <li>EWOQ is set up to handle electricity-related complaints</li> <li>More time for HESB customers to get on with running their businesses</li> <li>Possible improved retail service levels</li> </ul>	<p><b>Costs/Risks</b></p> <ul style="list-style-type: none"> <li>Possible sub-optimal resolution outcomes due to EWOQ's inexperience dealing with large customer issues</li> <li>Three retailers are expected to become scheme participants at a cost of \$5000 each per year (\$15,000 total)</li> </ul>
<p><b>2 – Access based on small business metrics</b></p>	<p><b>Costs/Risks</b></p> <ul style="list-style-type: none"> <li>No direct cost to the Queensland Government</li> <li>Increased risk of legal/indemnity issues for EWOQ</li> </ul> <p><b>Benefits</b></p> <ul style="list-style-type: none"> <li>Possible reduced workload for other dispute resolution mechanisms (i)</li> </ul>	<p><b>Costs/Risks</b></p> <ul style="list-style-type: none"> <li>\$93,200 per year expected to be spread across the customer base (ii) (iii)</li> <li>EWOQ implementation costs and retail implementation and ongoing complaint management costs also expected to be spread across the customer base (iii) (iv)</li> <li>EWOQ lacks experience conciliating large electricity customer issues and may be restricted in outcomes it can conciliate for large customers</li> </ul>	<p><b>Costs/Risks</b></p> <ul style="list-style-type: none"> <li>Retailer confusion about who is required to become a scheme participant</li> <li>Possible sub-optimal resolution outcomes due to EWOQ's inexperience dealing with large customer issues</li> <li>Three retailers are expected to become scheme participants at a cost of \$5000 each per year (\$15,000 total)</li> </ul> <p><b>Benefits</b></p> <ul style="list-style-type: none"> <li>Retailers protected from</li> </ul>

		<ul style="list-style-type: none"> <li>Customer confusion when determining their eligibility for EWOQ access</li> <li>Possible delays to investigation of complaints while EWOQ verifies customer eligibility</li> </ul> <p><b>Benefits</b></p> <ul style="list-style-type: none"> <li>5100 (approx.) additional HESB customers access EWOQ services</li> <li>Less need for customers to pay for alternative mechanisms</li> <li>EWOQ is set up to handle electricity-related complaints</li> <li>More time for HESB customers to get on with running their businesses</li> <li>Potential for improved retail customer service levels</li> </ul>	possible customer debt and non-payment issues by EWOQ's policy regarding payment of undisputed amounts
<b>3 – Status quo</b>	<p><b>Costs/Risks</b></p> <ul style="list-style-type: none"> <li>No cost to government or EWOQ</li> <li>The department to coordinate discussion and investigate improvements to current information provisions via existing stakeholder forums and working groups</li> </ul> <p><b>Benefits</b></p> <ul style="list-style-type: none"> <li>Possible reduced workload for other dispute resolution mechanisms (i)</li> </ul>	<p><b>Costs/Risks</b></p> <ul style="list-style-type: none"> <li>No cost to the community</li> <li>Small businesses, advocates and peak bodies would be invited to contribute ideas and discussion about how best to deliver relevant information to HESB customers</li> </ul> <p><b>Benefits</b></p> <ul style="list-style-type: none"> <li>Increased awareness of dispute resolution issues and the large customer market generally leading to greater ability to resolve/avoid disputes</li> <li>HESB customers that have their NMI reclassified gain access to EWOQ</li> <li>Greater confidence to engage in the market</li> </ul>	<p><b>Costs/Risks</b></p> <ul style="list-style-type: none"> <li>No cost to business</li> <li>Industry would be invited to contribute ideas and discussion about how best to deliver relevant information to HESB customers</li> </ul> <p><b>Benefits</b></p> <ul style="list-style-type: none"> <li>Possible reduced number of HESB customer complaints</li> </ul>
<b>4 – Access for all electricity customers</b>	<p><b>Costs</b></p> <ul style="list-style-type: none"> <li>No direct cost to the Queensland Government or EWOQ</li> </ul> <p><b>Benefits</b></p> <ul style="list-style-type: none"> <li>Possible reduced workload for other dispute resolution mechanisms (i)</li> </ul>	<p><b>Costs</b></p> <ul style="list-style-type: none"> <li>\$93,200 per year expected to be spread across the customer base (ii) (iii)</li> <li>EWOQ implementation costs and retail implementation and ongoing complaint management costs also expected to be spread across the customer base (iii) (iv)</li> <li>EWOQ lacks experience conciliating large electricity customer issues and may be restricted in outcomes it can conciliate for large customers</li> <li>Very large customers are unlikely to use EWOQ services</li> </ul> <p><b>Benefits</b></p> <ul style="list-style-type: none"> <li>25,516 additional customers gain access to EWOQ services</li> <li>Less need for HESB</li> </ul>	<p><b>Costs</b></p> <ul style="list-style-type: none"> <li>Retailers providing retail services to very large customers only may incur costs unnecessarily</li> <li>Possible sub-optimal resolution outcomes due to EWOQ's inexperience dealing with large customer issues</li> <li>Seven retailers are expected to become scheme participants at a cost of \$5000 each per year (\$35,000 total)</li> </ul>

		<p>customers to pay for alternative dispute resolution mechanisms</p> <ul style="list-style-type: none"> <li>• EWOQ is set up to handle electricity-related complaints</li> <li>• More time for HESB customers to get on with running their businesses</li> <li>• Possible improved retail service levels</li> </ul>	
<p><b>Table notes:</b></p> <ul style="list-style-type: none"> <li>i. Benefits accruing through decreased demand on other dispute resolution mechanisms have not been accounted for.</li> <li>ii. The expected increase in complaints as a result of expanding EWOQ access to HESB customers may require the EWOQ to employ (a maximum of) one additional investigation officer at a cost of approximately \$93,200 per year. This cost is to be recovered from scheme participants via user-pays fees.</li> <li>iii. In addition to user-pays fees, retailers are expected to incur additional costs to implement systems (in the case of new scheme participants) and manage additional complaints. Costs incurred by EWOQ to implement this approach (in addition to costs to employ an investigation officer) expected to be recovered from scheme participants via user-pays fees.</li> </ul>			

This Decision RIS provides an overview of stakeholder responses to the Consultation RIS, discusses issues raised during the consultation process, and confirms the rationale supporting Option 1 as the preferred option.

A total of nine written submissions on the proposals contained in the Consultation RIS were received from electricity retailers, distributors and EWOQ. Two of the nine respondents generally supported the proposal to increase the access threshold to 160MWh per annum (Option 1). The remaining seven respondents did not support this approach. However, two of the respondents that did not support this approach stated that if a regulatory approach was deemed necessary by Government, then increasing the consumption threshold for access to EWOQ would be preferable compared to the proposed alternatives.

The EWOQ was always intended to be available to those customers that need the most support, such as residential and other small business customers. Option 1 is considered to meet this objective by providing approximately 5,100 additional small business customers with access to EWOQ services at the least cost to the community, business and Government of all the proposed regulatory options. By providing support to HESB customers, Option 1 aligns with the Government’s core policy aims around support for small business to facilitate job creation and a diverse economy. More specifically, Option 1 will give HESB customers access to an energy service-specific arbitrator, confidence in their ability to have issues resolved, and the qualitative benefits that come with spending time running their business rather than dealing with disputes. Option 1 is also consistent with Ombudsman approaches in other jurisdictions, and provides a consistent framework for ombudsman dealings with small businesses. This is appropriate as Queensland moves to national, harmonised consumer protections for other types of energy customers under the National Energy Customer Framework.

## Table of contents

<b>Introduction .....</b>	<b>1</b>
<b>Issues statement .....</b>	<b>1</b>
Limitations inherent in existing dispute resolution mechanism and services.....	2
A comparison of HESB customer's access to an Ombudsman in other jurisdictions.....	3
Conclusion .....	3
<b>Policy objectives .....</b>	<b>3</b>
<b>Options and alternatives .....</b>	<b>4</b>
Option 1 – Expand access using a HESB customer definition based on consumption.....	4
Option 2 – Expand access using a HESB customer definition based on small business metrics.....	5
Option 3 – Maintain the status quo and investigate ways to strengthen the provision of information to HESB customers.....	5
Option 4 – Allow all customers access to EWOQ services.....	6
<b>Impact assessment .....</b>	<b>6</b>
Restrictions on competition.....	7
Impacts of Option 1 – Expand access using a HESB customer definition based on consumption.....	7
Impacts of Option 2 – Expand access using a HESB customer definition based on small business metrics.....	8
Impacts of Option 3 – Maintain the Status Quo and investigate ways to strengthen the provision of information to HESB customers.....	8
Impacts of Option 4 – Allow access to EWOQ for all customers.....	8
<b>Response to questions raised through consultation.....</b>	<b>9</b>
<b>Preferred option .....</b>	<b>11</b>
Changes to proposals, costs and benefits.....	12
Consistency with other policies and regulation.....	13
Implementation, evaluation and compliance support strategy.....	13
<b>Summary .....</b>	<b>14</b>

## Table of tables

Table 1 – Options summary .....	ii
Table 2 – EWOQ's 2013-14 user-pays fee schedule .....	6

## Introduction

The department welcomed submissions from a range of stakeholders in response to the Consultation RIS. The Consultation RIS was released for targeted consultation for a period of 57 calendar days from 19 December 2014 to 13 February 2015. It was published on the department's website, on the *Get Involved* website, and on the Queensland Competition Authority (QCA) website. Direct emails were sent to around 30 key stakeholders and media outlets to notify them of the publication of the Consultation RIS.

Prior to this, preliminary discussions occurred with retailers, the Chamber of Commerce and Industry Queensland and the Energy and Water Ombudsman Queensland (EWOQ) in relation to potential expansion of the EWOQ service to small businesses that use high amounts of electricity.

A total of nine written submissions on the proposals contained in the Consultation RIS were received from electricity retailers, distributors and EWOQ. An overview of key themes in their responses is below.

## Issues statement

Over the last three years, the department has received, on average, around 190 complaints from large customers. As outlined in the Consultation RIS, the department recorded a total of 253 complaints from electricity customers consuming more than 100 MWh per annum in 2012-13 (approximately 33 per cent of all complaints received). This represented an increase of approximately 14 per cent from the previous two financial years (217 complaints in 2011-12 and 218 complaints in 2010-11) and an increase of approximately 66 per cent from 2009-10 (85 complaints). The department received 175 large customer complaints in 2013-14 and 144 in 2014-15.

While not all of these large customer complaints will be from HESB customers, it is reasonable to expect that a significant number are. It is also likely that there is a proportion of HESB customers which have not lodged complaints with the department, due to lack of awareness, time or other factor but these incidences are not reflected in these numbers.

This is consistent with anecdotal evidence provided by peak industry bodies including the Chamber of Commerce and Industry Queensland (CCIQ) and energy brokers which also supports the assessment that a number of business customers are encountering issues that they are unable to resolve with their retailer.

For example, findings from the CCIQ 2013 Energy Survey pointed to growing concern that small business customers receive less attention and support compared to large business and residential customers. Specifically, the survey found that respondents experienced difficulty speaking to their energy retailer, poor understanding of business contracts and tariffs, long waiting times when making phone calls and delays in attending to enquiries and disputes over services and bills. Likewise, in a 2014 CCIQ survey, small businesses respondents identified energy pricing issues as a key ongoing concern.

Despite this it appears that, where small businesses are unable to resolve disputes with their retailer in the first instance, they often do not pursue the matter via other dispute resolution mechanisms. This is evidenced by the minimal numbers of disputes fielded by other available mechanisms such as the Queensland Civil and Administrative Tribunal (QCAT), which has heard around 30 electricity-related matters in the minor civil disputes jurisdiction since its establishment in 2009. Other organisations that may provide dispute resolution services to HESB customers, such as the Department of Justice and Attorney General's (DJAG) Dispute Resolution Centres (DRCs), have advised anecdotally that they facilitate the resolution of minimal disputes, if any.

However, the incidences of disputes between small business customers and their retailers may be more significant than current data suggests. A Queensland-based energy broker has advised the department that it facilitates the resolution of 20 to 50 billing disputes per month on behalf of its clients. There are indications that HESB customers are experiencing retail energy issues but lack the resources, time or specialised knowledge to effectively self-advocate.

One retailer has suggested that the rise in large customer complaints in 2012-13 may be attributed to the removal of notified prices for large customers in south east Queensland in 2012, as well as issues resulting from one retailer adopting a new billing system around the same time. While this argument may have some merit given the decline in complaints received by the department in 2013-15, the evidence outlined above is nonetheless considered to make a clear case for the need to provide HESB customers with improved access to dispute resolution and arbitration processes for energy matters.

## **Limitations inherent in existing dispute resolution mechanism and services**

As set out in the RIS, HESB customers have a number of existing dispute resolution mechanisms and services available to them if they are unable to resolve a dispute with their retailer. However, in considering the appropriateness of these mechanisms for small business, there are limitations associated with each of these. Especially as most small businesses are time poor and do not have dedicated resources to manage energy related issues.

1. QCAT provides small businesses with an avenue to resolve energy disputes and can issue interim orders preventing disconnection while a case is being heard. It can also deal with issues of law and the application fees are reasonable, though not inexpensive (up to \$569.20). However, QCAT officers may not have the specialised knowledge required to effectively and efficiently conciliate or resolve energy-related disputes. Furthermore, the process can be lengthy and requires customers to have an understanding of court-type processes in order to effectively present a case.
2. DRCs provide voluntary mediation between the energy entity and customer. The advantage of this is that it allows for improved understanding of the issues between both parties. However, this process is voluntary and can be costly for the customer. An intake and assessment of a dispute costs \$124.20. A mediation session with two mediators costs \$222.50 per hour for up to four hours. Under this process, no binding decisions can be made.
3. The court system is considered a last resort option by the majority of HESB customers. There are perceptions from customers that going to court may inflame a situation and result in disconnection or debt collection from their retailer. Additionally, the cost of legal fees and court expenses is likely to be prohibitive for many small business customers. Energy entities have also identified that court is not a preferred option because it is expensive and time consuming.
4. Energy brokers also provide a range of services to assist HESB customers. For example, energy brokers can check the accuracy of bills and review/negotiate market contracts on behalf of customers to ensure they are on a suitable deal and being correctly charged. Engaging an energy broker may benefit customers that have difficulty understanding complex energy tariffs and contracts. It may also prevent disputes arising in the first place. However, these services come at a significant (often on-going) cost and HESB customers would need to make a business decision about how appropriate engaging a broker is for their business needs.
5. The department's Energy Consumer Policy team also provides information, and where possible, assistance to HESB customers to help them respond to identified issues with their retailer. Currently, when approached by HESB customers, the department attempts to resolve complaints

through an informal process. This approach is dependent on the nature of the issue and is considered on a case-by-case basis. If an outcome is unable to be achieved, the department refers customers to the most appropriate dispute resolution mechanism available, and provides information about energy efficiency measures. The department also provides information about a possible reclassification of the NMI under which, if eligible, a HESB customer could be reclassified as a small customer, allowing them access to EWOQ services and the protections afforded to small customers under the regulatory framework.

## **A comparison of HESB customer's access to an Ombudsman in other jurisdictions**

All other jurisdictions, except for the Northern Territory and Australian Capital Territory, have an energy ombudsman scheme that handles customer disputes with energy entities. While states have different rules regarding who can access their schemes, a cross jurisdictional comparison shows that HESB customers in other jurisdictions have better access to their respective ombudsman's services.

- Western Australia limits the application of its scheme to small customers, but many HESB customers would be able to access the scheme as energy legislation sets the consumption threshold for a small customer at less than 160 MWh (rather than 100 MWh).
- In South Australia, Victoria and Tasmania, the schemes are open to any retail customer (with the exception of those customers who are on-supplied electricity), regardless of consumption.
- In New South Wales, small customers, on-supply customers and small business customers – defined as businesses with less than 20 employees or a turnover of less than \$2 million – have access to EWON services.

## **Conclusion**

EWOQ was always intended to be available to those customers that need the most support (residential customers and small businesses). Because of their energy consumption requirements, HESB customers do not have comparable access to dispute resolution services currently offered to other small businesses. It is proposed that action be taken to address this gap in the level of assistance for small businesses that use high amounts of electricity to support general productivity and growth of HESB customers and ensure appropriate assistance is available to enable them to carry out their day to day operations that include energy related matters.

## **Policy objectives**

Key policy objectives are relevant to the options around improving support for HESB customers, including:

1. Alignment with Queensland Government core aims

The Government has committed to the creation of jobs and strengthening a diverse economy. There are now over 400,000 small businesses operating in Queensland, and small business enterprises are recognised by the Government as a significant contributor to the State's economic and jobs growth, and as a backbone of regional economies.

2. Cost efficiency

In ensuring appropriate dispute resolution services are available for small businesses, another key objective is identifying the option that best represents the most cost effective way to increase support for HESB customers.

## Options and alternatives

The Consultation RIS proposed four options aimed at providing HESB customers with access to appropriate dispute resolution and arbitration process for energy matters:

- **Option 1:** Allow non-residential electricity customers consuming between 100 MWh and 160 MWh of electricity per annum to access EWOQ services.
- **Option 2:** Allow small business customers consuming more than 100 MWh of electricity but with less than 20 employees or a turnover of less than \$2 million per annum to access EWOQ services.
- **Option 3:** Maintain current EWOQ access arrangements and utilise existing stakeholder consultation forums and working groups to investigate ways of strengthening the provision of information to large/HESB customers about resolving disputes and the large customer electricity market more broadly.
- **Option 4:** Allow all electricity customers to access EWOQ services.

### Option 1 – Expand access using a HESB customer definition based on consumption

Under this option, the EWO Act would be amended to reflect access to EWOQ for a new group of customers – high energy-using small business customers (or similar). These customers would include non-residential customers that consume between 100MWh and 160MWh of electricity per annum. The same investigation, dispute resolution and enforcement processes as currently employed by EWOQ would apply to these customers.

This proposal is not intended to alter the operational arrangements or funding structure of the EWOQ, nor is it intended to change other regulatory obligations for the protection of electricity customers.

The proposed action requires a minor legislative amendment and would leverage existing infrastructure, systems and processes to provide around 5,100 additional small businesses with access to dispute resolution services not currently available to them (but available to other small businesses).

A small business customer category based on consumption – rather than small business metrics – is expected to make it easier for HESB customers to determine their eligibility for access to EWOQ services and for retailers to determine if they are required to be a scheme participant.

#### Results of consultation

In response to Option 1, two of the nine respondents generally supported the proposal to increase the access threshold to 160MWh of electricity per annum. The remaining seven respondents did not support this approach. However, two of these respondents stated that, if a regulatory approach was deemed necessary by the government, then increasing the consumption threshold for access to EWOQ would be preferable to the proposed alternative options.

Retailer submissions noted that in jurisdictions where an ombudsman scheme investigates HESB customer complaints, the approach to dispute resolution often does not reflect the large customer market dynamic. In addition, retailers maintained that the nature and complexity of commercial contracts that govern the HESB customer/retailer relationship requires each HESB customer's commercial agreement to be reviewed whenever a complaint is lodged thereby increasing EWOQ resource requirements.

Given individual agreements can vary substantially, some respondents were concerned that EWOQ does not possess the legal expertise to interpret and determine disputes under such commercial arrangements. However, in its submission, EWOQ stated that its operational staff would undertake

the necessary training to ensure they have an understanding of the HESB customer electricity market when negotiating and conciliating a resolution.

Stakeholders raised concerns that the proposed expansion of the EWOQ scheme would be limited in its effectiveness as Ombudsman staff would need to have the ability to interpret contract terms and conditions for large energy users. However, it is not intended that the scope of current Ombudsman functions be extended beyond its core objective to a third-party contract negotiation role.

While no submissions were received from individual businesses, HESB customer representatives or small business advocacy bodies, the CCIQ (as the peak industry body representing 25,000 small businesses), recently re-confirmed their position in support of Option 1.

## **Option 2 – Expand access using a HESB customer definition based on small business metrics**

Under Option 2, the EWO Act would be amended to include a HESB customer definition based on small business metrics. This would include non-residential customers consuming more than 100 MWh of electricity per annum, with less than 20 full-time equivalent staff or less than \$2 million annual turnover.

Consideration was also given to a potential need for the Ombudsman to apply discretionary powers to accept referrals from small businesses that may not meet the above criteria at a point in time due to seasonal or other circumstances that may affect eligibility.

### **Results of consultation**

Four of the nine submissions received clearly stated they did not support Option 2 as a viable option. No other respondents specifically identified support for Option 2.

Respondents identified Option 2 as more complex to administer due to requirements to assess eligibility and validate business characteristics. It was deemed that attempts to apply a business metric in this way would be confusing for both customers and retailers. Privacy implications were also raised in terms of verifying an organisation's credentials, such as employee size.

## **Option 3 – Maintain the status quo and investigate ways to strengthen the provision of information to HESB customers**

Option 3 proposes to maintain existing EWOQ access arrangements (where customers consuming more than 100MWh per annum would not have access to EWOQ services).

Using existing stakeholder forums and working groups, the department would investigate ways of strengthening the delivery of information to HESB customers about dispute resolution and the large customer electricity market more broadly. In particular, the department would work with stakeholders to inform HESB customers about relevant issues in a more timely way so that customers have a better understanding of options available to them, not necessarily triggered through a dispute arising with their retailer.

Providing HESB customers with more relevant and timely information about the large customer energy market, existing dispute resolution mechanisms, energy efficiency measures and the NMI reclassification process may help raise awareness of these issues, help HESB customers avoid disputes in the first place and ultimately, build customer confidence to engage in the market.

### **Results of consultation**

While some retailers expressed support for this option, they did not provide enough detail in relation to the costs and/or benefits underpinning their position. In addition, one respondent acknowledged that some complaints may be 'falling through the cracks' at present, and that more effective internal resource allocation by retailers could in turn improve internal retailer dispute resolution mechanisms.

## Option 4 – Allow all customers access to EWOQ services

Option 4 proposes to amend the EWO Act to provide all electricity customers in Queensland with access to EWOQ services. Consideration is also given to the maximum amounts that can be awarded to a customer under a 'final order' to ensure they adequately capture potential monetary disputes made by HESB customers against their service providers. This proposal is not intended to alter the scope of matters the EWOQ can investigate.

### Results of consultation

There was little support for this option, on the basis that this approach moves beyond the stated policy intent of EWOQ to provide support for small customers, and is a disproportionate response in light of the other resources available to large businesses (including their own internal resources and ability to self-advocate).

## Impact assessment

### Background

To assess the costs and benefits of each option on relevant stakeholder groups, it is important to first understand the EWOQ's funding model. Each year EWOQ's budget is approved by the Minister for Energy and Water Supply. This effectively limits EWOQ's expenditure to the approved amount. If any additional funds are necessary, supplementary Ministerial approval is required.

Once the budget for a given financial year is approved, funds are collected from industry via participation and user-pays fees. Participants providing connection and/or retail services to small customers pay \$5000 each year for each service they provide. User-pays fees are collected in advance of each quarter and vary depending on the level of investigation required to resolve a given dispute. EWOQ's user-pays fee schedule for the 2013-14 financial year is set out below:

**Table 2 – EWOQ's 2013-14 user-pays fee schedule**

Billable Case Types	Price per complaint for advance invoicing only
Referral back to Supplier	\$307.00
Referral to Higher Level	\$451.00
Investigation Level 1	\$1322.00
Investigation Level 2	\$2403.00
Investigation Level 3	Investigation Level 2 price + price per minute (approximately \$8) while investigated at Level 3
Final order	Investigation Level of the case when the investigation ceased + \$4000

**Note:** the fee schedule is indicative and used for the purposes of advanced invoicing only. Actual costs per complaint will vary depending on EWOQ's approved budget and the number of complaints received (see below)

Before the end of each quarter, the Ombudsman must work out each participant's user-pays fees for the upcoming quarter and invoice the participant accordingly. In order to calculate the user-pays fees in advance, a forecast of each participant's likely performance is undertaken. In preparing the forecast, factors such as participants' user-pays fees for the current and previous quarters are taken into account.

User-pays fees are reconciled at the end of December and June each year to reflect actual participant complaint numbers (including the level of investigation required) and EWOQ's actual expenditure. This reconciliation includes an adjustment to the price per complaint to ensure revenue collected does not exceed actual expenditure as by law, the EWOQ cannot collect a surplus. The amount of user-pays fees paid by a scheme participant therefore will depend on its performance and EWOQ's expenditure during the financial year. There is no set fee for a complaint.

If EWOQ's jurisdiction is expanded to include HESB customers it is expected that there will be an increase in complaints, however, because the amount of fees EWOQ can collect is limited by the size of its approved budget, the costs to industry will not necessarily increase. For example, if EWOQ received 50 per cent more complaints than predicted for a given financial year, the total amount recovered from scheme participants via user-pays fees would remain the same but the fee for each complaint would be reduced.

## **Restrictions on competition**

There are no restrictions on competition. Existing energy ombudsman scheme membership requirements in other jurisdictions (with the exception of Western Australia) are arguably more prohibitive from an administrative, compliance and cost perspective than Option 1.

Any retailer already trading in one of these jurisdictions with plans to expand operations into Queensland could reasonably be expected to have some level of involvement in dealing with a jurisdictional ombudsman scheme (which operates similarly) about large customer issues, and would therefore possess a level of familiarity with associated processes and responsibilities. Furthermore, the financial impact on new entrants of this proposal is expected to be nominal.

## **Impacts of Option 1 – Expand access using a HESB customer definition based on consumption**

### **Community**

Under this option, around 5100 businesses will benefit from access to EWOQ's free dispute resolution service. This means these customers will no longer face the time and cost imposts associated with seeking resolution to a dispute via alternate mechanisms.

### **Business**

The total cost to business under this option is expected to be minimal. However, the numbers of expected additional complaints (200) will require an additional EWOQ investigations officer would be employed at a cost of \$93,200 per year. This cost would be divided amongst all EWOQ scheme participants and collected via user-pays fees. In addition, it is believed that three additional retailers – not currently EWOQ scheme participants – would be required to become scheme participants at a cost of \$5000 each (\$15,000 in total).

However, given scheme participation fees do not alter EWOQ's approved budget, the fees collected from new participants may in fact reduce the financial impact of Option 1 on existing scheme participants. This is because although an additional \$93,200 in user-pays fees would be recovered from industry, the \$15,000 in fees collected from new participants would come out of EWOQ's approved budget, thereby reducing the overall cost impact for business.

Scheme participants are also expected to incur administrative and/or other costs to put systems in place to become compliant with their new responsibilities under the EWO Act (for those entities that aren't already scheme participants) and to manage an increased number of disputes. Initial discussions with retailers indicate that these costs would be reasonably low. No further information was provided regarding the quantity of these costs during the Consultation RIS process.

### **Government (including EWOQ)**

As EWOQ is industry funded, there will be no direct economic impact on the Queensland Government. However, Government will have a role in communicating eligibility to eligible HESB customers.

## **Impacts of Option 2 – Expand access using a HESB customer definition based on small business metrics**

### **Community**

The economic impacts of Option 2 on the community are expected to be broadly similar to Option 1. However, any additional costs incurred by retailers (as a result of EWOQ system changes and staff training) are expected to be passed through to customers.

### **Business**

The economic impacts on business of Option 2 are expected to be broadly similar to Option 1. However, given the EWOQ is expected to incur additional implementation costs to manage assessment of the small business metrics that may put upward pressure on its approved budget, scheme participants can expect to incur some additional cost to the extent that implementation costs increase EWOQ's approved budget.

### **Government (including EWOQ)**

The approach taken to implementing Option 2 will ultimately be a decision for the Energy and Water Ombudsman. The specific costs of any system and process changes and/or costs to train and educate staff will depend on what the Ombudsman determines to be most appropriate. Any implementation costs may be factored into the EWOQ budget with flow-on to business and the community.

## **Impacts of Option 3 – Maintain the Status Quo and investigate ways to strengthen the provision of information to HESB customers**

This approach is not expected to have any economic impact on the community, business, government or the EWOQ, but would have benefits in terms of improved understanding of small businesses concerning their dispute resolution options and the large customer electricity market more generally.

## **Impacts of Option 4 – Allow access to EWOQ for all customers**

### **Community**

All large customers stand to benefit from access to EWOQ's free dispute resolution service. These customers would have the option to access a specialized energy dispute resolution service, potentially reducing time and cost imposts associated alternate mechanisms.

As with Options 1 and 2, those customers assisted by the EWOQ also stand to benefit from any financial compensation received as a result of having disputes resolved via the EWOQ process. However, without comparable data, potential financial benefits to these customers cannot be determined.

Scheme participants are expected to recover any additional costs incurred as a result of this proposal from the customer base. As noted above, the extent to which customers are impacted by the pass-through of additional costs will depend on the implementation approach taken by the EWOQ and retail businesses.

### **Business**

As an additional investigation officer may need to be employed by EWOQ, in addition to implementation costs resulting from system process changes and staff training, businesses are expected to incur around \$93,200 in additional user-pays fees (across the industry). The economic impact on business as a result of additional EWOQ implementation costs will depend on the approach taken by the EWOQ to implement this option.

Based on current data, 7 additional retailers will be required to become EWOQ scheme participants under this approach, at a total cost of \$35,000 (\$5000 for each participant). As with Option 1, these fees may offset the impact of additional user-pays fees resulting from EWOQ implementation costs.

Scheme participants will also incur additional costs to become compliant with their responsibilities under the EWO Act (for new participants) and/or to manage any complaints brought to them via the EWOQ. Initial discussions with retailers indicate that these costs would be reasonably low.

## **Government (including EWOQ)**

Option 4 will provide 25,516 additional large electricity customers with access to EWOQ services and an estimated additional 270 customer complaints per year. As with Options 1 and 2, the EWOQ would need a maximum of one additional investigation officer to manage the expected increased workload at a cost of around \$93,200 per year.

Under this approach, the EWOQ may also incur some implementation and training costs. The specific costs of any system and process changes and/or costs to train and educate staff to implement Option 4 will depend on what the Ombudsman determines to be most appropriate. Any implementation costs may be factored into the EWOQ budget with flow-on to business and the community.

## **Response to questions raised through consultation**

All stakeholders welcomed the opportunity to make a submission in response to the Consultation RIS. One stakeholder stated the RIS was comprehensive in its evaluation of the four options proposed.

While no submissions were received from individual small businesses or consumer representatives, the CCIQ did reconfirm its position in support of Option 1 (as outlined above).

The Consultation RIS contained a number of direct questions to stakeholders aimed at seeking more specific information and data about the costs and benefits of the proposed options. Analysis of stakeholder submissions received in response to these questions revealed several common themes of interest to stakeholders. The department's response to these issues is outlined below.

### **1. Retailer concerns about financial impacts (resourcing, case load, cash flow)**

In response to the RIS, retailers raised concerns about the extension of EWOQ to HESB customers, suggesting that an expected increase in case load, case management fees and time required to report on and address additional complaints may have negative impacts for retailers.

While retailers also identified that existing dispute resolution provisions in contracts would need to be reviewed, it is considered that a review of existing contract provisions to reflect new dispute resolution arrangements would be a one-off activity. Retailers also raised the resourcing associated with complaints handling as an issue, but it is not expected that this will be greatly affected by the changes in the EWOQ threshold. This is considered to be the case because large retailers already have dedicated processes and account managers in place to service small business customers, which suggests that additional resource requirements would not increase significantly. While retailers suggested that an increased focus on improving current customer engagement would be a better use of resources, it is considered that the expansion of the EWOQ may more formally serve to deliver this outcome.

Furthermore, retailers would already have processes in place to manage escalated disputes as a result of their participation in ombudsman schemes in other jurisdictions.

The Consultation RIS also addressed a previous concern regarding extended non-payment issues and a recent change to EWOQ processes. This change has the effect that customers are only excluded from paying amounts that are the subject of a dispute under consideration by EWOQ. In response to the Consultation RIS, stakeholders raised concerns that this policy does not provide a sufficient safeguard for retailers where an entire bill is the subject of a dispute. However, as put forward in the RIS, the approach to undisputed amounts recently implemented by EWOQ appears to reduce retailers' risk.

As a related issue, retailers also expressed concern about the time taken to resolve disputes for HESB customers, arguing it may impact on cash-flow. However, depending on complexity, the majority of investigations are completed by EWOQ in approximately 28 days. It is expected that dispute resolution undertaken via EWOQ will be quicker than through other mechanisms available to HESB customers, as overall volumes of disputes are lower.

### **2. Concerns that the Ombudsman's remit does not extend to contractual law disputes**

Stakeholders have suggested that, given the nature and complexity of commercial contracts that govern the relationships between HESB customers and their retailers, issues raised by HESB customers are likely to be contractual in nature and, potentially better dealt with through court and tribunal processes if unable to be resolved with their retailer in the first instance. Stakeholders have also argued that EWOQ staff would need to have the ability to interpret contract terms and conditions for HESB customers, which would fall outside EWOQ's main purpose and its area of expertise.

It has also been suggested that extending the Ombudsman's remit to cover HESB customers may not be appropriate on the grounds that large customers are not subject to Queensland's energy regulatory framework, and most large customer disputes relate to issues that are excluded from EWOQ's jurisdiction (e.g. tariff setting and connection and retail contract issues). This argument in fact illustrates the unique position that HESB customers occupy, as they may consume large amounts of electricity but are not 'large customers' in reality, and need a similar level of dispute resolution support as small customers.

While disputes between HESB customers and energy entities may be contractual in nature, EWOQ will still be able to provide valuable advocacy, investigation and information services to HESB customers, and may be effective in assisting HESB customers to resolve disputes with their retailer before matters progress to litigation over contractual issues. Extending the EWOQ scheme to cover HESB customers will provide these customers with an effective, independent mechanism to address business community issues, and would also bring Queensland into line with other jurisdictions which currently allow small businesses access to Ombudsman services. EWOQ has also advised that officers will undertake the training needed to provide advice to HESB customers within the scope of EWOQ's current services.

### 3. Concerns around adequacy of monetary orders allowable under the EWOQ scheme

Under Option 1, existing provisions in the EWOQ legislation that set out the maximum amounts that can be awarded to a customer under a 'final order' may also need to be assessed to ensure they adequately capture potential monetary disputes made by HESB customers against their electricity service providers. It is not intended that any changes to the current amounts would alter the scope of matters EWOQ can investigate.

The Consultation RIS asked stakeholders whether the current restriction on the amount that the Ombudsman can award under a final order (i.e. \$20,000 or \$50,000 by agreement) is set at an appropriate level. Responses were mixed, with some stakeholders suggesting that the current levels were appropriate because similar restrictions exist in jurisdictions whose ombudsman schemes can be accessed by HESB customers. Others, including the EWOQ, suggested that the current restrictions may not be adequate due to HESB customers' larger scale operations and potential for higher usage rectification payments.

It is not considered appropriate to increase these amounts at this point in time for a number of reasons. A firm alternative amount for final orders has not been identified and final orders are only made in exceptional circumstances. This would suggest that increasing the final order amounts is not needed at this stage, though this could be revisited if EWOQ found itself having to make final orders frequently for disputes involving HESB customers.

The current limitations on final orders are also consistent with the final order amounts in other Australian Energy Ombudsman schemes. For example, the services of the Energy Ombudsman in Victoria and Tasmania are accessible to any retail customer, regardless of consumption, but the Ombudsman can only award the same amounts as in Queensland (\$20,000, or \$50,000 by agreement). Likewise, in South Australia, any retail customer can access the dispute resolution services of the Energy Ombudsman, who can only make a binding decision of a dispute up to the value of \$20,000.

In addition, it should also be noted that the Queensland Civil and Administrative Tribunal caps awards relating to consumer and trader disputes at \$25,000 (as well as for other types of disputes). It is not considered appropriate for the Energy Ombudsman to have authority that exceeds this amount.

### 4. Customer engagement and awareness issues

Expansion of Energy and Water Ombudsman Queensland access arrangements, Decision Regulatory Impact Statement, Department of Energy and Water Supply, 2015.

Some retailers also indicated that focusing on ways to improve current customer engagement and understanding of dispute resolution processes would deliver a more effective and efficient outcome for both customers and retailers than options to increase HESB customer access to EWOQ. While it is clear that improving the awareness of dispute resolution processes is necessary to ensure all customer types are best placed to resolve their energy related disputes, it is considered that the expansion of EWOQ to provide services to HESB customers does not preclude this from occurring. Retailers are therefore encouraged to take action to improve HESB customer awareness of all dispute resolution mechanisms that are available, including options internal to the retailer, general dispute resolution processes, and access to EWOQ under Option 1. The implementation of Option 1 is expected to support improved customer awareness and engagement, as education and awareness is an important factor associated with access to the services of EWOQ.

## Preferred option

While the Consultation RIS identified Option 3 as a possible viable alternative, Option 1 is preferred because it is considered to provide the greatest benefit to HESB customers at the least cost to business, government and the community.

Queensland HESB customers are currently unable to access free, energy-specific dispute resolution services through EWOQ. This is a suboptimal arrangement that does not align with the support available to the same sorts of customers in other jurisdictions.

Key issues for higher energy using businesses include billing and service issues. Over time, HESB customer bills are expected to become even more complex as tariff structures change from consumption-based to demand-based. This is likely to create more confusion for HESB customers, many of whom lack the resources, time or specialised knowledge to engage in protracted disputes and effectively self-advocate.

With regards to service levels, including protracted waiting times and lack of energy information, it is considered that EWOQ will be able to facilitate outcomes and provide guidance to small business on how to negotiate with their retailer on these issues. Furthermore, it provides an opportunity for retailers to improve services for these small business customers to help them better understand and manage their consumption.

The EWOQ was always intended to be available to those customers that need the most support such as residential and other small business customers. Option 1 is expected to meet this objective by providing approximately 5,100 additional small business customers with access to EWOQ services at the least cost to the community, business and government of all the proposed regulatory options. Option 1 also aligns with and aims to achieve the key policy objectives identified above:

### 1. Alignment with Queensland Government core aims

Extending access to EWOQ to HESB customers consuming up to 160 MWh of electricity per annum (Option 1) ensures the electricity system is fair and appropriate for small business, and provides a greater opportunity for businesses to have control in managing their energy costs. By establishing a relevant and convenient mechanism for resolution of energy issues, small businesses can focus on their core operations and the efficient use of their own resources. In this way, extending EWOQ access for small businesses progresses one of the Queensland Government's core aims of creating jobs and a diverse economy. Extending EWOQ access to HESB customers under Option 1 will also capture a range of small, not-for-profit organisations and sporting clubs, as well as more traditional HESB enterprises.

There are now over 400,000 small businesses operating in Queensland, and small business enterprises are recognised by the Government as a significant contributor to the State's economic and jobs growth, and as a backbone of regional economies.

Option 1 reflects the Government's commitment to creating jobs and strengthening the economy by providing those small businesses who consume up to 160 MWh of electricity per annum with an additional mechanism for resolving disputes that relate to one of their greatest business costs – the consumption of electricity.

Expansion of Energy and Water Ombudsman Queensland access arrangements, Decision Regulatory Impact Statement, Department of Energy and Water Supply, 2015.

Option 1 maintains the core of the Ombudsman's current role of facilitating dispute resolution for energy and water customers who require support. It delivers an inherent consumer rights advantage by allowing the Ombudsman to assist and guide small businesses to better understand their rights, and to provide advice on matters that will help them resolve disputes with their retailer. This is important as most small businesses lack the time and resources needed to engage in protracted disputes.

## 2. Cost efficiency

Option 1 is also considered to be the most cost effective implementation mechanism to provide support to HESB customers, and is supported by EWOQ. Cost impacts for existing EWOQ scheme participants are expected to be minimal. If an additional investigations officer is required, this will add an extra \$93,200 to the EWOQ budget which will be recovered from EWOQ scheme participants via user-pays fees. This is outlined in more detail in the Impact Assessment section.

In addition, under Option 1 it is believed that three additional retailers would be required to become scheme participants at a cost of \$5,000 each. However, given EWOQ scheme participation fees do not add cost to EWOQ's approved budget, the fees collected from new participants may in fact reduce the financial impact of Option 1 on existing scheme participants. This is because although an additional \$93,200 in user-pays fees would be recovered from industry, the \$15,000 in fees collected from new participants would come out of EWOQ's approved budget, reducing the overall cost impact for business.

Stakeholder submissions did not include any further information around any expected administrative and/or other costs to become compliant with their new responsibilities under the *Energy and Water Ombudsman Act 2006* (the EWO Act). However initial discussions with stakeholders indicated that these costs would be reasonably low.

## 3. Additional specific benefits to HESB customers

Option 1 also achieves additional specific benefits for HESB customers. Expanding the consumption threshold up to 160 MWh for access to EWOQ by HESB customers is expected to yield the greatest net benefit because it is free (unlike existing dispute resolution mechanisms detailed above). Applicants do not have to go through a proceedings process to get an outcome and if a dispute cannot be resolved via mediation or conciliation, EWOQ can make a binding decision. This provides additional certainty for business. Further benefits for HESB customers under Option 1 include access to an energy service-specific arbitrator, confidence in having issues resolved, and the qualitative benefits that come with spending time running their business rather than dealing with disputes. Furthermore, it provides an opportunity for retailers to improve services for these small business customers to help them better understand and manage their consumption.

Option 1 is also consistent with Ombudsman approaches in other jurisdictions, and provides a consistent framework for ombudsman dealings with small businesses. This is appropriate as Queensland moves to national, harmonised consumer protections for other types of energy customers under the National Energy Customer Framework.

It is therefore recommended that Option 1 be implemented, expanding the access of EWOQ to HESB customers consuming up to 160 MWh of electricity per annum. On balance, it is considered that this change will provide additional protections and benefits to these customers without a significant regulatory or overly burdensome financial impact on retailers.

## Changes to proposals, costs and benefits

The following changes to Option 1 have been identified as necessary as a result of stakeholder consultation throughout the RIS process:

- As a result of stakeholder submissions to the Consultation RIS, Option 1 has been amended to specify that access to EWOQ services for HESB customers does not extend to HESB customers who are Government entities which are large operations and not in alignment with the policy intent of being small operators. It is understood that these entities have the

resources, funds and expertise to handle their energy disputes through alternative means such as the Courts.

- The specific machinery of these changes will be developed during the legislative drafting process.

Additional costs have been considered in relation to the following issues raised in stakeholder consultation:

- At present, the Ombudsman can award \$20,000 or \$50,000 by agreement if a matter cannot be resolved via negotiation or conciliation. If in future this is not considered to be adequate for HESB customers (who are likely to have larger scale operations and therefore potentially higher usage rectification payments), it may be necessary to increase this threshold. The impact of such an increase on retailers would depend on how many disputes with HESB customers they are party to under EWOQ. It is not proposed to increase the final amount the Ombudsman can award to HESB customers at this point.
- Retailers may incur costs associated in educating HESB customers about their eligibility to access EWOQ. It is anticipated that Government and EWOQ will also have a role in communicating eligibility to eligible customers.

## **Consistency with other policies and regulation**

EWOQ was always intended to be available to those customers that need the most support, such as residential and other small business customers. Expanding EWOQ access to HESB customers is consistent with the Queensland Government's electricity sector reform agenda, which aims to strengthen protections for electricity customers.

The legislative amendments required to implement the proposal are not considered to breach any fundamental legislative principles.

## **Implementation, evaluation and compliance support strategy**

If access to EWOQ services is extended to HESB customers consuming between 100 and 160 MWh per annum, the same investigation, dispute resolution and enforcement processes as set out in the EWO Act would apply to this new category of customer.

Given that EWOQ already operates with a consumption threshold as the basis for customer access, it is not anticipated that significant changes to systems or procedures will be necessary to implement the proposal.

EWOQ staff may require some additional training in the legislative rules regarding large electricity customers and market contracts. EWOQ have indicated that the necessary training would occur if Option 1 were to be implemented.

It is proposed that an evaluation of the success of expanding the scope of EWOQ to HESB customers would occur within two years of the commencement of relevant legislative provisions. This will allow an appropriate amount of data to be gathered and analysed, and any transitional issues to be resolved prior to the review.

The evaluation will be the responsibility of the department and may consider the following indicators:

- the number of HESB customers accessing EWOQ (and resulting outcomes)
- the number of small businesses contacting the department for assistance with electricity disputes
- the number of small businesses seeking dispute resolution via other existing mechanisms

- costs and benefits for new retailers captured under the EWOQ scheme for the first time.

## Summary

Available data on the incidence of HESB customer disputes with electricity entities is low, and this is as evidenced in the submissions received. Supporting evidence from stakeholders against expansion of EWOQ to cover HESB customers was also limited. However, the continuation of electricity-related large customer complaints received by the department suggests that business customers are consistently encountering issues that they are unable to resolve with their retailer. Further evidence provided by the Chamber of Commerce and Industry Queensland (CCIQ) supports this assessment.

For example, findings from the CCIQ 2013 Energy Survey pointed to growing concern that small business customers receive less attention and support compared to large business and residential customers. Specifically, the survey found that respondents experienced difficulty speaking to their energy retailer, poor understanding of business contracts and tariffs, long waiting times when making phone calls and delays in attending to enquiries and disputes over services and bills. Findings from a separate survey conducted by the CCIQ in December 2014 highlighted that of the businesses surveyed, increasing electricity prices is currently the most significant business cost issue with 65 per cent of Queensland businesses indicating a major or critical concern with the cost of energy.

Based on this evidence and other anecdotal information provided by Queensland based energy brokers, it is expected that HESB customers will receive a range of benefits by having access to an energy specific, free dispute resolution service.

Most concerns raised by retailers related to implementation issues and practical difficulties associated with the presented options, and did not amount to strong policy reasons for not expanding EWOQ access as outlined under Option 1.

While some issues raised related to EWOQ having to establish teams to manage complaints, or capturing more users than intended (such as very large businesses), these issues are not deemed to be cost prohibitive relative to the benefits to small businesses of being able to access EWOQ.

EWOQ was always intended to be available to those customers that need the most support such as residential and other small business customers. The rationale for this approach is that such customers are unlikely to have the funds, resources or expertise to deal with energy and water complaints through alternative means such as the courts system. Concerns about the possibility of a greater than expected number of customers accessing EWOQ if Option 1 were to be implemented (e.g. Government departments, councils, supermarket chains and multiple site customers) are valid. However, these can be addressed in the legislative drafting process so that customers, who are not genuine HESB customers, as envisaged by the Government and EWOQ, are not incorporated under the preferred option (Option 1).