Electricity Code Consultative Committee

# Final Review Report

2019-22 Review of the *Code of Conduct for the Supply of Electricity to Small Use Customers*

19 May 2021

# Electricity Code Consultative Committee

Level 4, Albert Facey House

469 Wellington Street, Perth WA 6000

This document can also be made available in alternative formats on request.

National Relay Service TTY: 13 36 77

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# Executive summary

This Final Review Report presents the Electricity Code Consultative Committee's (ECCC) findings of its statutory review of the *Code of Conduct for the Supply of Electricity to Small Use Customers 2018*.

The Code regulates and controls the conduct of retailers and distributors who supply electricity to residential and small business customers.[1] It covers a broad range of areas including billing, payment, financial hardship, disconnection and complaints.

The objective of the ECCC's review was to re-assess the suitability of the provisions of the Code for the purposes of the *Electricity Industry Act 2004*.

As part of its review, the ECCC prepared a draft review report.[2] The report contained 104 draft recommendations for change as well as 11 questions for matters on which the ECCC had not yet formed a preliminary view. The ECCC released the report for an 8-week consultation period and received 11 submissions.[3] The ECCC has made various changes to the recommendations in response to the submissions.

A list of the ECCC's final recommendations is included in Appendix 1.[4]

The ECCC's review identified three main areas for improvement: improved alignment with the National Energy Customer Framework (NECF), improved access to payment assistance, and the introduction of protections for customers affected by family violence.

### Improved alignment with the National Energy Customer Framework

The NECF governs the sale and supply of electricity and gas from retailers and distributors to customers in New South Wales, Queensland, South Australia, Tasmania and the Australian Capital Territory.

The ECCC proposes various changes to the Code to improve alignment with the NECF. The ECCC does not propose to adopt the NECF in its entirety.

The proposed changes aim to reduce the need for retailers that are operating under the national and Western Australian energy frameworks to have different systems and processes for different jurisdictions. This may lower their compliance costs.

The changes would also result in the adoption of several customer protections that are currently not included in the Code.

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1 Customers whose electricity consumption is no more than 160 megawatt hours per year.

2 Electricity Code Consultative Committee, 2020, *Draft review report: 2019-22 Review of the Code of Conduct for the Supply of Electricity to Small Use Customers*

3 The submissions are in Appendix 5.

4 Minor amendments that do not materially affect retailers, distributors, electricity marketing agents or customers, are listed in Appendix 2. They are not discussed in the main body of the report, nor listed in Appendix 1.

### Improved access to payment assistance for residential customers

The ECCC wants residential customers to have easier access to payment extensions and instalment plans (payment assistance).

Currently, retailers only have to offer payment assistance to residential customers who have been assessed by the retailer as experiencing payment difficulties or financial hardship.

The ECCC proposes that retailers must make payment assistance available to all residential customers. Making the assistance available to all residential customers may encourage customers to act earlier and reduce the risk of them getting (further) into debt. It would also ensure no customer is denied assistance.

Customers would only be eligible for one payment extension or instalment plan per bill. Also, if a customer has, in the previous 12 months, had two instalment plans cancelled for non-payment, the retailer will not have to make another instalment plan available to the customer.

As all customers will be entitled to payment assistance there will no longer be a need for retailers to assess if customers are experiencing payment difficulties. However, the assessment process will remain relevant for customers experiencing financial hardship because they are entitled to additional assistance.

The ECCC proposes to streamline the assessment process by requiring all financial hardship assessments to be made by retailers. Currently, an assessment must be made by a retailer or, if they are unable to make the assessment within 5 business days, by a relevant consumer representative, like a financial counsellor. Requiring retailers to make all assessments would ensure that customers are always assessed within five business days and cannot be required to make an appointment with a financial counsellor to access assistance.

The ECCC also proposes that retailers should have to offer residential customers, who have requested or agreed to an instalment plan, assistance to manage their bills for ongoing consumption over the duration of the plan. Helping customers manage their ongoing consumption should reduce the risk of customers breaking their existing instalment plan or requiring another instalment plan for a new bill.

Amendments to an instalment plan will only be allowed with the customer's consent. This is currently unclear. Obtaining the customer's consent will ensure that an amendment does not unintentionally leave a customer worse off.

### Protections for customers affected by family and domestic violence

The ECCC proposes to introduce new protections in the Code for customers affected by family violence.

The new provisions would assist customers affected by family violence by requiring retailers to have a family violence policy that requires the retailer:

- To advise an affected customer that the retailer can protect the customer's information, and if the customer requests their information be protected, the policy must require the retailer to do so.

- To have a process in place to avoid the need for an affected customer having to repeatedly disclose or refer to their experience of family violence.
- To consider the potential impact of debt collection on an affected customer and whether another person is responsible for the debt.
- To provide for staff training on family violence. The training must be developed in consultation with, or delivered by, relevant consumer representatives.

The ECCC also proposes prohibiting retailers from requesting evidence of family violence unless the evidence is needed for the retailer to assess whether to proceed with debt collection or disconnection.

Finally, the ECCC proposes that retailers be prohibited from disconnecting an affected customer's supply address for a period of nine months from the date the retailer becomes aware that the customer is an affected customer. The intent of the moratorium is to give affected customers a temporary reprieve during a very stressful time in their lives. It will give them time to work with their retailer to address any outstanding debt, but also to access other support services – without the stress of facing disconnection. It will also ensure that they do not lose access to important safety measures such as home security systems.

Many of the proposed protections have drawn from similar protections in the Victorian *Energy Retail Code* and the *Water Services Code of Practice (Family Violence) 2020* (WA).

# 1. Background

## 1.1 The electricity market in Western Australia

Under the *Electricity Industry Act 2004*, persons who operate a distribution network or sell electricity to end use customers must obtain a licence from the ERA. Licensees who distribute or sell electricity to small use customers must comply with the Code as a condition of their licence.

A small use customer is a customer who consumes not more than 160 megawatt hours of electricity per year.[5]

The Electricity Networks Corporation (trading as Western Power) is the monopoly distribution network provider to small use customers within the South West Interconnected System (SWIS), with over 1.163 million connections, or 96% of the total distribution network connections in the State.[6] The Regional Power Corporation (trading as Horizon Power) is the distribution network provider outside the SWIS.

Thirteen retailers currently hold a licence to sell electricity to small use customers.[7]

According to data provided to the ERA for the year ending 30 June 2020, the Electricity Generation and Retail Corporation (trading as Synergy) was the largest retailer in the State with approximately 96% of the total market.[8] Horizon Power, which sells electricity in regional and remote areas outside the SWIS, had 44,533 customers, or approximately 4% of the total market. The remaining customers were divided between AER Retail (20 customers), Alinta Energy (3,519 customers), Amanda Energy (111 customers), Change Energy (115 customers), CleanTech (63 customers), Clear Energy (2 customers), Kleenheat (170 customers), Perth Energy (438 customers), and Rottnest Island Authority (25 customers).[9]

In the SWIS, only Synergy may sell electricity to customers who consume less than 50 megawatt hours of electricity per year (known as non-contestable customers).[10] These are generally residential customers and smaller businesses such as hairdressers or news agencies.

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5 Currently, 160 megawatt hours of electricity equates to an annual electricity bill of approximately $46,493 (residential) or $64,183 (business).

6 Western Power, 2020, *Electricity Licence Reporting Datasheets - Distribution 2020*

7 AER Retail Pty Ltd, Alinta Sales Pty Ltd (trading as Alinta Energy), Amanda Energy Pty Ltd, A-Star Electricity Pty Ltd, Change Energy Pty Ltd, CleanTech Energy Pty Ltd, Clear Energy Pty Ltd, Electricity Generation and Retail Corporation (trading as Synergy), Horizon Power, Peel Renewable Energy Pty Ltd, Perth Energy Pty Ltd, Rottnest Island Authority and Wesfarmers Kleenheat Gas Pty Ltd.

8 Synergy had 1,103,265 residential and non-residential small use customers as at 30 June 2020.

9 A-Star Electricity and Peel Renewable Energy did not supply any small use customers as at 30 June 2020.

10 This is because, by law, if a customer consumes less than 50 megawatt hours of electricity per year, Western Power is only allowed to provide network services for the supply of electricity to that customer if the customer is a customer of Synergy.

## 1.2 The Code

The Code was developed to protect the interests of small use customers, as they often have little or no say in the terms and conditions of their electricity supply.

The objective of the Code is to regulate retailers, distributors and marketing agents – by defining standards of conduct in the supply and marketing of electricity, providing for compensation payments to customers when standards are not met, and prohibiting undesirable marketing conduct.[11]

The Code first took effect in 2004 and has been replaced several times since. The current Code, the *Code of Conduct for the Supply of Electricity to Small Use Customers 2018*, commenced on 1 July 2018. This is in Appendix 3.

The Code covers a broad range of issues, including marketing, billing, payment, payment difficulties and financial hardship, disconnection, pre-payment meters and complaints.

The Code has the power of subsidiary legislation. The ERA is responsible for monitoring and enforcing compliance with the Code.

## 1.3 The Electricity Code Consultative Committee

The ERA first established the ECCC in 2006 to advise it on matters relating to the Code, as required by section 81 of the *Electricity Industry Act 2004*.

### *1.3.1 Functions*

The ECCC's functions are to:

- carry out a review of the Code every two years;[12] and
- advise the ERA on any proposed amendments or replacements of the Code.[13]

The ECCC has reviewed the Code six times since the Code commenced.[14]

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11 *Electricity Industry Act 2004* (WA) s79(2).

12 *Electricity Industry Act 2004* (WA) s88(1).

13 *Electricity Industry Act 2004* (WA) s87.

14 The ECCC completed reviews of the Code in 2007, 2009, 2011, 2013, 2015 and 2017. Further information on previous Code reviews is available at: https://www.erawa.com.au/electricity/electricity-licensing/code-of-conduct-for-the-supply-of-electricity-to-small-use-customers

### 1.3.2 ECCC members

On 31 January 2020, the ERA appointed the following members to the ECCC for the 2019-2021 term:

| | |
|---|---|
| Chair | |
| Executive Director, Regulation & Inquiries | ERA |
| Executive Officer | |
| Principal Regulatory Officer | ERA |
| Consumer organisation representatives | |
| Ms Celia Dufall | Financial Counselling Network |
| Mr Graham Hansen | Western Australian Council of Social Service |
| Ms Diane Hayes | Financial Counsellors' Association of WA |
| Ms Kathryn Lawrence | Citizens Advice Bureau of WA |
| Industry representatives | |
| Mr Gino Giudice | Western Power |
| Ms Catherine Rousch | Alinta Energy |
| Mr Simon Thackray | Synergy |
| Mr Geoff White | Horizon Power |
| Government representatives | |
| Ms Anne Braithwaite | Energy Policy WA |
| Ms Karen Keyser | Department of Mines, Industry Regulation and Safety |

Ms Rachelle Gill, Energy Policy WA, attended the ECCC meetings as an observer.

The ECCC memberships expire on 31 December 2021.

## 1.4 The Code review process

As part of its review of the Code, the ECCC prepared a draft review report that made 104 draft recommendations for change. The report also included 11 questions for matters on which the ECCC had not yet formed a preliminary view.

### 1.4.1 Public consultation

The Draft Review Report was published for public consultation on the ERA website on 30 November 2020. The ECCC sent emails to the members of the ERA Consumer Consultative Committee, as well as persons registered with the ERA to receive communication about the work of the ECCC. The ECCC also placed an advertisement in *The West Australian* seeking comment on the report.

The public consultation period closed on 29 January 2021.

The ECCC received submissions from:

- A stakeholder who did not provide their name or contact details
- Alinta Energy
- Australian Energy Council
- Horizon Power
- Perth Energy
- Mr Noel Schubert
- Simply Energy
- Synergy
- UnionsWA
- Western Australian Council of Social Service (WACOSS)
- Western Power

The submissions are in Appendix 5 of this report.

The ECCC met to discuss the submissions received. The outcome of the ECCC's discussions has been reflected in this Final Review Report.

### *1.4.2 Next steps*

The ECCC will provide its Final Review Report to the ERA for consideration.

If the ERA decides to amend the Code, the ERA must refer any proposed amendments back to the ECCC for its advice. The ECCC must then undertake consultation on the proposed amendments and provide its final advice to the ERA.

The ERA has advised the ECCC that it proposes to engage the Parliamentary Counsel's Office to draft any amendments. The use of the Parliamentary Counsel's Office, as well as the scope of the 2019-22 review, is likely to extend the timeframe for the Code review to three years.

The table below sets out the next steps for the 2019-22 Code review:

**Table 1: Next steps for 2019-22 Code review**

| Steps |
|---|
| ECCC delivers Final Review Report to ERA |
| ERA engages the Parliamentary Counsel's Office |
| ERA publishes draft decision |
| ERA refers its proposed amendments to the ECCC for advice |
| ECCC publishes notice inviting public submissions on ERA draft decision |
| Close of public consultation period |

| Steps |
| --- |
| ECCC considers public submissions |
| ECCC approves its final advice and delivers it to ERA |
| ERA publishes final decision |
| Gazettal of new Code |

The ERA aims to gazette the new Code by 30 June 2022.

# 2. Structure of this report

This Final Review Report follows the structure of the Code. Each section of the report addresses a different part of the Code and sets out the ECCC's recommendations for that part.

## 2.1 Recommendations

As part of its review, the ECCC reviewed the Code against the National Energy Customer Framework (NECF) to try to improve alignment between both instruments. Many of the recommendations resulted from that review. More information about the comparative review is in section 3 of this report.

Other recommendations are in response to issues raised by stakeholders and amendments made to other, similar instruments, such as the *Gas Marketing Code of Conduct 2017* and the *Compendium of Gas Customer Licence Obligations*.[15]

Each recommendation identifies if the recommendation resulted from the comparative review of the Code and the NECF, or not ('other issues').

**Recommendations resulting from the ECCC's comparative review**

For recommendations resulting from the ECCC's comparative review of the Code and the NECF, the main body of the report explains the proposed change.[16]

Additional detail about each recommendation is in Appendix 4. This Appendix includes: a summary of the Code clause and the equivalent NECF provision, the advantages and disadvantages of adopting the NECF, detailed reasoning for the recommendation and/or why the ECCC has not proposed changes for some provisions.[17] The information is set out in table format.

Appendix 4 also includes tables with full extracts of the relevant Code clauses and the equivalent NECF provisions (if there is one).

Appendix 4 provides stakeholders with useful, additional information, however, the report has been drafted so readers do not have to read Appendix 4 to understand the effect of, and reasoning behind, each recommendation.

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15 The Gas Compendium is Schedule 2 of the template gas trading licence and gas distribution licence.

16 Provisions that are different from the NECF but for which no changes are recommended, are not discussed in the main body of the report. For example, the Code requires retailers to offer Centrepay as a minimum payment method. The NECF does not include such a requirement. Although the ECCC has proposed to align some of the Code's minimum payment methods with the NECF, no changes are proposed to the requirement to offer Centrepay. The availability of Centrepay as a minimum payment method is therefore not discussed in the main body of the report.

17 As explained in section 3.3, the ECCC has only compared clauses from Parts 3, 4, 5, 7, 8, 10 and 12 of the Code against the equivalent provision in the NECF (if there was one).

**Recommendations resulting from other issues**

For recommendations that address issues not related to the comparative review, all relevant information is included in the main body of the report.[18] No additional information is included in the appendices.

**All recommendations**

For all recommendations, the report includes:

- a short overview of the draft recommendation or question that was included in the Draft Review Report
- a summary of any submissions received
- the ECCC's response to the submissions received (where relevant)
- the ECCC's final recommendation.

## 2.2 Minor amendments

The ECCC recommends various minor amendments to the Code that would not materially affect retailers, distributors, electricity marketing agents or customers. These amendments are listed in Appendix 2 and are not discussed in the main body of the report.

## 2.3 Drafting

Unlike previous ECCC reports, this Final Review Report does not include a draft of the proposed Code. This is because the ERA has advised that it will seek to engage the Parliamentary Counsel's Office (PCO) to draft the amendments to the Code.

Although the report does not include a draft of the proposed Code, the ECCC has included mock-up drafting for some of the recommendations in this report. Mock-up drafting has generally only been included for recommendations that aim to improve consistency with other instruments, such as the *Gas Marketing Code of Conduct 2017*, the *Compendium of Gas Customer Licence Obligations* and the NECF.[19] In those cases, the mock-up drafting closely

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18 Except for the matters raised in Appendix 2 (minor amendments).

19 For other proposed changes, the report includes a note explaining that the PCO will draft appropriate wording. There are two exceptions:

- Recommendations to delete a (sub)clause: The deletions have also been shown in mock-up drafting.
- Recommendations for the new family and domestic violence provisions (section 17 of this report): The proposed changes have not been shown in mock-up drafting nor have any notes been included to explain that the PCO will draft appropriate wording.

  Mock-up drafting has not been included as the recommendations generally do not propose consistency with other, existing instruments. Notes have not been included as they would be of limited value without any existing drafting to provide context. Also, the recommendations already clearly explain the matters to be covered by the proposed provisions.

follows the drafting of those instruments.[20]

The ECCC included the mock-up drafting as it may be helpful to interested parties to see what a clause may look like with the recommended changes. However, as any amendments to the Code will be drafted by the PCO, it is likely that the final drafting will be different. The PCO may suggest amendments to the Code in addition to those recommended by the ECCC and ERA. This may, for example, occur when provisions do not meet the PCO's drafting style.

[20] Where the wording is different from the wording used in the other instrument, the word(s) have been placed between brackets ([⋯]). For example, amended clause 4.1(1) of the Code is based on rule 24(1) of the *National Energy Retail Rules*. The words "small customer", in rule 24(1), have been replaced with "[customer]" in clause 4.1(1) as the term customer is used throughout the Code.

# 3. Comparative review of the Code and the National Energy Customer Framework

As part of its review of the Code, the ECCC has undertaken a comparative review of the Code and the National Energy Customer Framework (NECF).

The NECF governs the sale and supply of electricity and gas from retailers and distributors to customers in New South Wales, Queensland, South Australia, Tasmania and the Australian Capital Territory.

The ECCC last compared the Code against the NECF in 2011.[21] As the NECF had not yet been implemented at that time, the ECCC agreed that "it would be premature to propose anything other than noting the NECF changes".

The NECF is now well established and some retailers are operating under the national and Western Australian energy frameworks. The ECCC therefore decided to compare the Code against the NECF again.

## 3.1 Background

The NECF is a suite of legal instruments that regulate the sale and supply of electricity and gas to customers in the National Electricity Market (other than Victoria). The main NECF instruments are the:

- National Energy Retail Law
- National Energy Retail Rules; and
- National Energy Retail Regulations

The *National Energy Retail Law* covers some of the same subjects as the *Electricity Industry Act 2004* (WA), such as licensing (authorisations), retailer of last resort schemes, and customer contracts. The *National Energy Retail Rules*, or NERR, deal with similar subjects as the Code, such as billing, payment and disconnection.

**Differences between the WA framework and the NECF**

Two main differences between the WA framework and the NECF are:

- Under the NECF, customers have a direct contractual relationship with their retailer and distributor. WA customers only have a direct contractual relationship with their retailer.
- Under the NECF, all customers may choose their retailer. In WA, only customers who consume more than 50MWh of electricity per year may choose their retailer.

[21] Electricity Code Consultative Committee, 2011, *Final Review Report – 2011 Review of the Code of Conduct for the Supply of Electricity to Small Use Customers*, p. 13.

Because of these differences, some of the NECF provisions are not relevant to the WA market.[22]

The NECF also deals with matters that cannot be addressed in the Code because the Act requires these matters to be addressed in regulations or other Codes. For example, various provisions in the *National Energy Retail Rules* deal with the transfer of customers. In WA, matters relating to the transfer of customers are dealt with in the *Electricity Industry (Customer Transfer) Code 2016*.

## 3.2 Reasons for comparative review

Improved alignment between the Code and the NECF may benefit retailers, distributors and customers.

**Reduced compliance costs**

At least one electricity retailer, Alinta Energy, currently operates in the WA and Eastern States markets. Several gas retailers also operate in both markets.[23]

Improving alignment between the Code and the NECF will reduce the need for these retailers to have different systems and processes for different jurisdictions. This may lower their compliance costs.

**Increased customer protections**

The NECF contains some customer protections that are currently not included in the Code.

For example, the *National Energy Retail Rules* require retailers to obtain a customer's verifiable consent to change their usual recurrent billing cycle. They also require retailers to advise customers with a market retail contract in advance of any changes to their tariffs.

Customers may benefit if some of these protections are adopted in the Code.

**Improved drafting**

The drafting of some Code provisions is complex, making the provisions difficult to understand. In some cases, the equivalent provisions in the NECF are drafted clearer, or structured better.

Improving the drafting of the Code would help customers, retailers and distributors better understand their rights and obligations under the Code.

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[22] For example, rule 119(1)(c) of the *National Energy Retail Rules* provides that a distributor may disconnect a supply address if the customer fails to pay charges under a connection contract. In WA, distribution charges are passed on by the retailer to the customer. Disconnection for failure to pay connection charges will therefore be arranged by the retailer, not the distributor.

[23] Gas retailers are subject to the *Compendium of Gas Customer Licence Obligations,* which closely follows the Code.

Improving alignment between the Code and the NECF would also make it clearer where the Code and the NECF differ. Currently, it is not always clear whether differences in wording are only a matter of drafting or whether the actual obligation is different as well.

### 3.2.1 Submissions received

Three stakeholders made general comments on the ECCC's proposal to improve alignment between the Code and the NECF.

Perth Energy and Simply Energy, which both operate in the National Energy Market, supported any efforts by the ECCC to improve consistency.[24] Simply Energy commented that it would be more likely to offer electricity services in Western Australia if it could easily adapt the systems and processes it already used in other jurisdictions. Perth Energy strongly encouraged the ECCC to reconsider any changes or deviations from NERR clauses, as seemingly small changes could incur significant system costs to implement.

The Australian Energy Council argued that the ECCC should only propose to increase consistency between the Code and the NECF where there was evidence of market failure and any benefits outweighed the costs. It also noted that prescriptive rules-based regulation may lead to inflexibility, which may increase compliance costs and stifle innovation.

The ECCC recognises that the issue of whether or not the Code should align more closely with the NECF may be influenced by the perspective of the stakeholder. That is, whether the issue is considered from the perspective of new entrants and entrants that are operating in several markets, or if it is considered from the perspective of incumbent retailers.

Other stakeholders did not generally comment on the proposal but provided comments on some specific draft recommendations.

## 3.3 Scope of comparative review

The ECCC has compared each Code clause in Parts 3, 4, 5, 7, 8, 10 and 12 against the equivalent provision in the NECF (if there was one).

**NECF provisions that do not have an equivalent Code clause**

The ECCC has not considered NECF provisions for which there is no equivalent Code clause. As mentioned earlier, many of the NECF provisions are not relevant to the WA market or are addressed in other WA regulations or Codes.[25]

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[24] Perth Energy is part of AGL Energy, which operates in the National Energy Market. Perth Energy operates in the Western Australian market.

[25] Some of the NECF provisions are proposed by Energy Policy WA for inclusion in the *Electricity Industry (Customer Contracts) Regulations 2005*. These provisions are also not discussed in this discussion paper. For more information about Energy Policy WA's review of the regulations, refer to Energy Policy WA's *Final Recommendations Report: Review of Energy Customer Contract Regulations*.

**Parts 1, 2, 6, 9, 13 and 14 of the Code**

The ECCC has not compared Parts 1, 2, 6, 9, 13 and 14 of the Code against the NECF because:

- Part 1 deals with administrative matters and definitions. There is no need to compare administrative provisions to the NECF. Definitions are discussed in the report where required.

  Clause 1.10 (which lists code clauses that a retailer and customer may agree do not apply, or can be amended, in a non-standard contract) is discussed separately in section 6.1.

- Part 2 deals with marketing. The ECCC generally does not review the marketing section of the Code in detail, but instead relies on the work undertaken by the Gas Marketing Code Consultative Committee. The ECCC considers that any comparative review of the marketing provisions should be undertaken by the Gas Marketing Code Consultative Committee.[26]

- Part 6 deals with payment difficulties and financial hardship. The NECF framework around payment difficulties is very different to the framework in the Code, making direct comparison difficult. Instead of comparing both frameworks fully, the ECCC considered elements of the NECF framework as well as the Victorian standards of assistance available to customers facing payment difficulties.[27] See section 11 of this report.

- Part 9 deals with pre-payment meters. There is a risk that, when trying to achieve consistency with the NECF, the pre-payment meters that are currently used by WA retailers may not be able to meet the NECF requirements. This occurred previously, compelling the ERA to provide exemptions from some of the requirements. This paper therefore only discusses provisions with which stakeholders have raised concerns. See section 14 of this report.

- Part 13 deals with reporting. As Part 13 is proposed to be deleted, there is no need to compare the provisions to the NECF. See section 17 of this report.

- Part 14 deals with service standard payments. Service standard payments are not addressed in the NECF, but by each State individually.

[26] Section 7 of this report recommends several amendments to Part 2 of the Code for reasons not related to the NECF.

[27] *Energy Retail Code* (Vic) Part 3.

# 4. Parliamentary Counsel's Office

As explained in section 1.4.2, the ERA has advised that it will seek to engage the Parliamentary Counsel's Office to draft the amendments to the Code.

The PCO may be able to assist to improve the readability of the Code. The Code has undergone six reviews, which have resulted in many amendments. Some provisions have become long and complex, making it difficult to understand the obligation.

As the ERA cannot prescribe how the PCO should draft provisions, the Final Review Report does not contain specific suggestions to improve the drafting of particular clauses. Instead, the ECCC recommends that the ERA request the PCO to generally review the drafting of the Code to improve clarity.

Other issues

**Recommendation 1**

Request the PCO to review the drafting of the Code to improve clarity.

# 5. General

## 5.1 Provision of information on request

Several Code provisions require retailers, distributors and electricity marketing agents to provide information to a customer on request.

**Draft Review Report (draft recommendation 2)**

The ECCC proposed that:

- Where the Code requires information to be given to a customer on request, the retailer, distributor or electricity marketing agent may either give the information to the customer or, if the information is available on its website,[28] refer the customer to the website.

  The proposal aimed to provide retailers, distributors and electricity marketing agents with flexibility as to how they provide information to their customers. As most interactions with customers took place over the phone, it would often be more convenient for all parties concerned to refer customers to information on the website rather than emailing or posting the information.

  The proposal only covered information that had to be provided on request. Information that did not have to be provided on request still had to be provided to the customer in writing or verbally. This was because the ECCC considered that information that did not have to be provided on request either:

  - Was less suitable for publication on a website as it often related to the customer's specific circumstances (for example, details about the customer's instalment plan, the date of the customer's next meter reading or the outcome of a bill review).[29]

    or

  - Explained a customer's rights and obligations in a specific situation. As the customer may not have been aware of its importance, the ECCC considered the information should be provided directly to the customer. A customer should not have to take action to access the information, for example by visiting a website.

    For example, a customer who has been placed on a shortened billing cycle should be advised of their rights and obligations while on a shortened billing cycle. It would not be sufficient for a retailer to advise the customer that they were on a shortened billing cycle and that they could visit the retailer's website for more information on how to be removed from the shortened billing cycle.

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[28] Some information that must be provided on request is unlikely to be available on a retailer's website because it is specific to the customer's circumstances. This includes the basis and reason for an estimation (clause 4.8(3)), the outcome and reasons for a financial hardship assessment (clause 6.1(4)) and an explanation for a change in the quality of the customer's supply outside the prescribed limits (clause 10.6(b)).

[29] *Code of Conduct for the Supply of Electricity to Small Use Customers 2018* (WA) clauses 6.4(3)(a), 7.4(1)(b) and 4.16(2).

- If the customer requested that the information be given, the retailer, distributor or electricity marketing agent must do so.

  The ECCC considered that although many customers had access to the internet, this was not the case for all customers. Some customers also simply preferred to receive a copy of the information instead of being referred to a website. Retailers, distributors and electricity marketing agents should therefore have to give the information to customers who requested it.

**Submissions received**

- Perth Energy suggested that rule 56 of the NERR be used as a guide for drafting.
- Perth Energy queried what was meant with 'information on request', and whether the second part of the recommendation overrode the first part.
- Perth Energy recommended that customers could be directed to a retailer's website as the primary source for any information which applied generally to all customers.

**ECCC response to submissions**

- The ECCC agrees to amend the recommendation to provide that rules 56(2) and (3) be used as a guide for drafting. This is consistent with recommendation 82, which applies to information that must be published on a retailer's or distributor's website.[30]
- "Information on request" refers to information which, under the Code, a retailer, distributor or electricity marketing agent must give to a customer if the customer requests it. For example, clause 10.1(2) of the Code requires a retailer to give a customer, on request, reasonable information on the retailer's tariffs. Recommendation 2 would allow the retailer to refer the customer to the retailer's website for this information (if the information is available online).

  The ECCC confirms that the second part of the recommendation is intended to override the first part. If the customer requests that the information is given, the retailer, distributor or electricity marketing agent must do so.
- The ECCC considers retailers, distributors and electricity marketing agents should only be allowed to refer a customer to their website for information that must be provided on request.[31] The ECCC's reasons are set out under "Draft Review Report".

**Final recommendation**

The ECCC retains the recommendation but adds that rule 56(2) and (3) of the NERR be used as a guide for drafting.

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30 Recommendation 2 applies to information that is not required to be published on the retailer's or distributor's website, but must be provided to a customer on request.

31 Recommendation 82 provides that retailers and distributors may also refer a customer to their website for information that the Code requires to be published online.

Other issues

**Recommendation 2**

a) Provide that a retailer, distributor or electricity marketing agent that has to give information on request to a customer:
   - may either give the information to the customer or, if the information is available on its website, refer the customer to its website.
   - must give the information, if the customer requests the information is given.

b) Use rule 56(2) and (3) of the NERR as a guide for drafting.

**What the new clause may look like**

**[new clause] Giving information on request**[32]
[**To be drafted by the PCO:** The Code will be amended to provide that a retailer, distributor or electricity marketing agent that has to give information on request to a customer:
- May either give the information to the customer or, if the information is available on its website, refer the customer to its website.
- Must give the information, if the customer requests the information is given.]

## 5.2 Provision of information by electronic means

Several Code provisions provide that retailers and distributors may give information in writing or by electronic means.

**Draft Review Report (draft recommendation 3)**

The ECCC proposed that the protections of the *Electronic Transactions Act 2011* (WA) applied to the provision of electronic information under the Code.

Section 9 of the Electronic Transactions Act provided that if, under a law, a person must give information in writing, that requirement was taken to have been met if the person gave the information electronically provided that:

- at the time the information was given, it was reasonable to expect that the information would be readily accessible so as to be useable for subsequent reference;

  and

- the person to whom the information is required to be given consents to the information being given by means of an electronic communication.[33]

The protections of section 9 only applied where a law used the words "in writing".

[32] The words "Giving information on request" are tentative only; they are not based on existing wording in the Code. The PCO to provide draft wording.

[33] Section 5(1) of the Electronic Transactions Act defines consent as "includes consent that can reasonably be inferred from the conduct of the person concerned, but does not include consent given subject to conditions unless the conditions are complied with".

Several provisions in the Code used the words "in writing" followed by the words "or by electronic means". In these cases, the protections of the Electronic Transactions Act did not apply (because the Code explicitly provided that the information could be provided electronically).

To ensure that the protections of the Electronic Transactions Act also applied in these cases, the ECCC proposed to delete the words "or by electronic means" where they appeared after the words "in writing".

There was one exception. The ECCC did not propose to delete the words from clause 7.7(4)(b) of the Code. This meant that distributors could continue to notify life support customers electronically of planned interruptions without obtaining the customer's prior consent to receiving such notices electronically. The ECCC considered that, because distributors did not have a direct contractual relationship with their customers, it could be difficult for them to obtain prior consent. The ECCC was also not aware of any concerns with the way distributors currently contact life support customers in the event of a planned interruption.

### Submissions received

Perth Energy noted this change would require retailers to formally seek customer approval for communications to be in electronic form.

### ECCC response to submissions

Although retailers may seek formal customer approval for electronic communications, this is not necessary. The definition of consent in the Electronic Transactions Act includes consent that can be inferred from the customer's conduct.

Retailers could also meet the requirements of section 9 of the Electronic Transactions Act by addressing this matter in the customer's contract.

### Final recommendation

The ECCC retains the recommendation as is.

Other issues

**Recommendation 3**

Delete the words "or by electronic means" in clauses 6.4(3)(a), 6.4(3)(b),[34] 9.3(5) and 9.4(1)(a)[35] of the Code.

### What the new clauses may look like

**6.4 Alternative payment arrangements**

(3) If a residential customer accepts an instalment plan offered by a retailer, the retailer must—

(a) within 5 business days of the residential customer accepting the instalment plan provide the residential customer with information in writing ~~or by electronic means~~ that specifies—[36]

[34] If the ERA accepts recommendation 57, this amendment will not be required.

[35] Recommendation 79 proposes deleting clause 9.4(1)(a) of the Code.

[36] Recommendation 56 proposes an additional amendment to this paragraph.

(i) the terms of the instalment plan (including the number and amount of payments, the duration of payments and how the payments are calculated);
(ii) the consequences of not adhering to the instalment plan; and
(iii) the importance of contacting the retailer for further assistance if the residential customer cannot meet or continue to meet the instalment plan terms, and

(b) notify the residential customer in writing ~~or by electronic means~~ of any amendments to the instalment plan at least 5 business days before they come into effect (unless otherwise agreed with the residential customer) and provide the residential customer with information in writing ~~or by electronic means~~ that clearly explains and assists the residential customer to understand those changes.[37] [38]

**9.3 Provision of mandatory information**

(5) A retailer must, within 10 business days of the change, use reasonable endeavours to notify a pre-payment meter customer in writing ~~or by electronic means~~ if the recharge facilities available to the residential customer change from the initial recharge facilities referred to in subclause (2)(r).

**9.4 Reversion**

(1) If a pre-payment meter customer notifies a retailer that it wants to replace or switch the pre-payment meter to a standard meter, the retailer must within 1 business day of the request—

(a) send the information referred to in clauses 2.3 and 2.4 to the pre-payment meter customer in writing ~~or by electronic means~~; and[39]

(b) arrange with the relevant distributor to—

(i) remove or render non-operational the pre-payment meter; and
(ii) replace or switch the pre-payment meter to a standard meter.

## 5.3 Notice about end of fixed term contract

Currently, retailers do not have to advise customers with a fixed term contract that their contract is about to end.

### Draft Review Report (question 3)

The ECCC proposed that customers be made aware that their fixed term contract is about to end but sought feedback on whether this matter should be addressed in the Code or whether it would be better placed in the *Electricity Industry (Customer Contracts) Regulations 2005*. These regulations set out the matters that must be addressed in a contract.

### Submissions received

- Alinta Energy, Perth Energy and WACOSS suggested that the requirement for retailers to notify customers with a fixed term contract that their contract was about to end be addressed in the Code and follow rule 48 of the NERR.[40]
- Alinta Energy also commented that introducing an obligation to issue benefit change notices to customers may require retailers to modify billing systems and other internal processes and therefore sufficient time should be allowed to make changes as required.

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37 If the ERA accepts recommendation 57, this amendment will not be required.

38 Recommendation 5(a) proposes an additional amendment to this paragraph.

39 Recommendation 79 proposes deleting clause 9.4(1)(a)) of the Code.

40 Rule 48 of the NERR requires retailers to advise customers between 40 and 20 business days before the end of their fixed term contract that the contract is due to end.

- Horizon Power and Synergy both proposed that the change to require retailers to notify customers with a fixed term contract that their contract was about to end be addressed in the *Electricity Industry (Customer Contracts) Regulations 2005.* Both suggested the matter should only be addressed if there was evidence of an issue with current practice.

**ECCC response to submissions**

Energy Policy WA has advised that it is considering including a new provision in the *Electricity Industry (Customer Contracts) Regulations 2005* that will require retailers to notify customers with a fixed term contract that their contract is about to end.[41] The provision will generally follow rule 48 of the NERR. It will therefore no longer be necessary to address this matter in the Code.

The ECCC notes that the new provision will only apply to notifications for the end of a fixed term contract, not to notifications for benefit changes as suggested by Alinta Energy.[42]

**Final recommendation**

The ECCC recommends no changes to the Code.

## 5.4 TTY services

[Clauses 2.2(2)(g)(ii), 2.3(2)(h)(ii), 4.5(1)(cc), 6.10(2)(h)(iii), 9.3(2)(m), 10.11(1) and 10.11(2)(a) of the Code]

Several clauses require retailers and distributors to provide TTY services to residential customers.

**Draft Review Report (draft recommendation 4)**

The ECCC proposed to replace references to TTY services with a general reference to services that assisted customers with a speech or hearing impairment.

The proposal aimed to provide retailers and distributors with more flexibility in the services they provided to assist customers with a speech or hearing impairment. There were various services that assisted customers with a speech or hearing impairment, not only TTY services. For example, the National Relay Service offered SMS Relay, Video Relay, Voice Relay, Speak and Read (TTY), Type and Read (TTY) and Type and Listen (TTY) services.

**Submissions received**

No submissions were received.

**Final recommendation**

The ECCC retains the recommendation as is.

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41 The new provision is not discussed in Energy Policy WA's *Final Recommendation Report: Review of Energy Customer Contract Regulations*. However, Energy Policy WA has advised the ECCC that it intends to include the new provision in the regulations.

42 However, retailers will also have to provide notification for benefit changes under the amendments proposed by Energy Policy WA to the *Electricity Industry (Customer Contracts) Regulations 2005* (recommendation 8 in Energy Policy WA's final recommendation report).

Other issues

**Recommendation 4**

Replace the words "TTY services", in clauses 2.2(2)(g)(ii), 2.3(2)(h)(ii), 4.5(1)(cc), 6.10(2)(h)(iii), 9.3(2)(m), 10.11(1) and 10.11(2)(a) of the Code, with a reference to services that assist customers with a speech or hearing impairment.

## What the new clauses may look like

**2.2 Entering into a standard form contract**

(2) Subject to subclause (3), a retailer or electricity marketing agent must give the following information to a customer no later than on or with the customer's first bill— [43]

(g) with respect to a residential customer, how the residential customer may access the retailer's—[44]

(i) multi-lingual services (in languages reflective of the retailer's customer base); and[45]

(ii) ~~TTY services~~;

[**To be drafted by the PCO:** The reference to TTY services will be replaced with a reference to services that assist customers with a speech or hearing impairment.]

**2.3 Entering into a non-standard contract**

(2) Before entering into a non-standard contract, a retailer or electricity marketing agent must give the customer the following information—

(h) with respect to a residential customer, how the residential customer may access the retailer's—[46]

(i) multi-lingual services (in languages reflective of the retailer's customer base); and[47]

(ii) ~~TTY services~~;

[**To be drafted by the PCO:** The reference to TTY services will be replaced with a reference to services that assist customers with a speech or hearing impairment.]

**4.5 Particulars on each bill**

(1) Unless a customer agrees otherwise, a retailer must include at least the following information on the customer's bill—

(cc) the telephone number for ~~TTY services~~; and

[**To be drafted by the PCO:** The paragraph will refer to a telephone number for services that assist customers with a speech or hearing impairment.]

**6.10 Obligation to develop hardship policy and hardship procedures**

(2) The hardship policy must—

(h) include—

(i) the National Interpreter Symbol with the words "Interpreter Services";[48]

(ii) information on the availability of independent multi-lingual services; and[49]

(iii) information on the availability of ~~TTY services~~;

[**To be drafted by the PCO:** The reference to TTY services will be replaced with a reference to services that assist customers with a speech or hearing impairment.]

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43 Recommendation 6 proposes an amendment to this subclause.

44 Recommendation 8 proposes an amendment to this paragraph.

45 Item C Appendix 2 (minor amendments) recommends an amendment to this paragraph.

46 Recommendation 8 proposes an amendment to this paragraph.

47 Item C Appendix 2 (minor amendments) recommends an amendment to this paragraph.

48 Item DD in Appendix 2 (minor amendments) recommends an amendment to this paragraph.

49 Items C and EE in Appendix 2 (minor amendments) recommend amendments to this paragraph.

**9.3 Provision of mandatory information**

(2) No later than 10 business days after the time a residential customer enters into a pre-payment meter contract at the residential customer's supply address, a retailer must give, or make available to the residential customer at no charge—

(m) information on the availability of ~~TTY services~~;

[**To be drafted by the PCO:** The reference to TTY services will be replaced with a reference to services that assist customers with a speech or hearing impairment.]

**10.11 Special information needs**

(1) A retailer and a distributor must make available to a residential customer on request, at no charge, services that assist the residential customer in interpreting information provided by the retailer or distributor to the residential customer (including independent multi-lingual interpreter and ~~TTY services~~, and large print copies).[50]

[**To be drafted by the PCO:** The reference to TTY services will be replaced with a reference to services that assist customers with a speech or hearing impairment.]

(2) A retailer and, if appropriate, a distributor must include in relation to residential customers—

(a) the telephone number for its ~~TTY services~~;

**[To be drafted by the PCO:** The paragraph will refer to a telephone number for services that assist customers with a speech or hearing impairment.]

[50] Item C in Appendix 2 (minor amendments) recommends an additional amendment to this subclause.

# 6. Part 1 of the Code: Preliminary

## 6.1 Variation from the Code

[Clause 1.10 of the Code and various other provisions]

There are currently two ways in which retailers and customers can agree to contract out of the Code:

- Clause 1.10 allows a retailer and customer to agree that certain clauses do not apply, or apply differently, in a non-standard contract.
- Some clauses state that a retailer and customer may agree otherwise. For example, clause 5.2 provides:

> Unless otherwise agreed with a customer, a retailer must offer the customer at least the following payment methods—

There is a difference between clauses listed in clause 1.10 and clauses that include the words "unless otherwise agreed":

- For a clause that is listed in clause 1.10, a retailer and customer may agree in their non-standard contract that the clause does not apply.
- For a clause that includes the words "unless otherwise agreed", a retailer and customer can agree in writing or verbally that the clause does not apply. They may do this regardless of whether the customer is supplied under a standard form contract or a non-standard contract.

**Draft Review Report (question 1)**

The ECCC noted that clauses that used the words "unless otherwise agreed" provided the retailer and customer with more flexibility to contract out of the Code than clauses that were listed in clause 1.10. However, they also reduced the Code's ability to provide a minimum safety net for customers – as retailers and customers could easily agree that one or more protections would not apply.

Although flexibility sometimes benefited customers,[51] the ECCC considered that, in some cases, it was less clear how flexibility benefited customers. For example, where customers agreed to fewer payment options.[52] [53]

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51 For example, if a customer wants to be connected at a later date than prescribed under clause 3.1 of the Code, it can be helpful to the customer to be able to contract out of the Code's prescribed timeframes.

52 *Code of Conduct for the Supply of Electricity to Small Use Customers 2018* (WA), clause 5.2

53 A customer could benefit from agreeing to *more* payment methods, however the retailer and customer do not have to contract out of the Code to do so as the Code does not prevent a retailer from offering more payment methods.

The ECCC sought feedback on the current classifications; that is, whether any of the clauses listed in clause 1.10 should be removed from clause 1.10[54], and/or if the words 'unless otherwise agreed' should be removed from any clauses that currently include those words.[55] [56]

**Submissions received**

- The AEC, Horizon Power and Synergy all suggested that removing clauses from clause 1.10 or removing the words 'unless otherwise agreed' from other clauses could reduce flexibility for customers and limit the products retailers were able to offer to customers.
- Alinta Energy suggested retaining the current classifications as it allowed for clauses to be both amended as part of a non-standard and standard form contract.
- Perth Energy proposed to adopt rule 14 of the NERR and outline for each rule if it applied to a standard form or non-standard contract to improve clarity.
- WACOSS suggested all clauses listed in clause 1.10 should remain and clauses that included the words 'unless otherwise agreed' should not also be listed in clause 1.10.

**ECCC response to submissions**

The ECCC considers that the role of the standard form contract is to provide a minimum safety net for customers. This safety net will be eroded if retailers and customers can agree to set aside core customer protections, such as the minimum bill due date or payment methods.

The ECCC acknowledges that there may be situations where a customer may want to vary a Code protection to address their particular circumstances. For example, a customer may want their connection to take place at a date later than the date prescribed in the Code. The ECCC recommends that retailers and customers continue to be able to agree to vary Code protections where the variation directly benefits the customer.

Where there is no direct benefit to the customer, the ECCC recommends that variation of Code protections only be allowed under a non-standard contract.

The ECCC considers that a variation does not directly benefit a customer if the customer would likely only agree to the variation in return for an incentive. For example, some gas retailers offer tariff discounts if the customer agrees to pay a fixed monthly amount by direct debit. In this case, the customer agrees to set aside the Code's minimum payment methods in return for a tariff discount. It is unlikely that the customer would agree to the mandatory direct debit arrangement without something in return, such as the tariff discount.

The ECCC has reviewed all clauses that currently include the words "unless otherwise agreed" to determine whether variation from the Code is likely to directly benefit the customer, or not. Based on this review, the ECCC recommends amending the following clauses so they can no longer be varied under a standard form contract:

- Clause 4.1: billing cycle
- Clause 4.5(1): bill contents

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54 And, if so, should any of those clauses instead include the words "unless otherwise agreed"?

55 And, if so, should any of those clauses be added to clause 1.10?

56 As a general rule, the ECCC considered that clauses that include the words "unless otherwise agreed" should not also be listed in clause 1.10, and vice versa.

- Clause 5.1(1): minimum bill due date
- Clause 5.2: minimum payment methods
- Clause 9.7: recharge facilities for pre-payment meter customers.

The ECCC acknowledges that limiting the ability to vary Code protections under a standard form contract may reduce retailers' ability to offer different products and services under a standard form contract. However, the ECCC considers it is important that the standard form contract continues to serve as a minimum safety net, with all customers on the standard form contract entitled to the same, core protections.

Although the ability to vary Code protections will be reduced under a standard form contract, no changes are proposed to the ability to vary Code protections under a non-standard contract.[57] The changes should therefore not affect retailers' ability to offer different products and services under a non-standard contract.

*Contracting out framework*

The ECCC considers that the current framework for contracting out is confusing. It is not clear from reading clause 1.10 and the "unless otherwise agreed" clauses, when or how a Code clause may be contracted out of.

For example, it is unclear from the wording of clause 1.10 if any variations in a non-standard contract may only be agreed to in writing or also verbally. Similarly, it is not obvious from the words "unless otherwise agreed" that variations may occur under both a standard form and non-standard contract, and in writing as well as verbally.

The ECCC proposes that the words "unless otherwise agreed" are removed from the Code and that, instead, a new clause is inserted that lists the clauses that retailers and customers may agree to contract out of under a standard form contract (similar to clause 1.10 for non-standard contracts).

Clauses that currently include the words "unless otherwise agreed" should be listed in clause 1.10 and the new clause for standard form contracts (with the exception of those clauses that the ECCC has recommended should not be varied in a standard form contract).

**Final recommendation**

The ECCC recommends that the Code be amended to provide that the following clauses may be varied, in writing or verbally:

| | Standard form contract | Non-standard contract |
|---|---|---|
| **Clause 3.1(2):** timeframes for forwarding a connection request | ✓ | ✓ |

[57] Except for clause 9.7(1) of the Code (recharge facilities for pre-payment meter customers). This clause currently includes the words "unless otherwise agreed" and may therefore be contracted out of under a standard form and non-standard contract. The ECCC considers that, as a result of the changes proposed to clause 9.7(a) (recommendation 81), it should no longer be necessary for retailers and customers to contract out of this clause under either a standard form or non-standard contract. The clause should therefore not be listed in clause 1.10.

| | Standard form contract | Non-standard contract |
|---|---|---|
| **Clause 4.1:** billing cycle | ✗ | ✓ |
| **Clause 4.2:** shortened billing cycle | ✗ | ✓ |
| **Clause 4.5(1):** bill contents | ✗ | ✓ |
| **Clause 5.1:** minimum bill due date | ✗ | ✓ |
| **Clause 5.2:** minimum payment methods | ✗ | ✓ |
| **Clause 5.4(3):** minimum payment in advance amount | ✓ | ✓ |
| **Clause 5.7(1):** vacating a supply address | ✓ | ✓ |
| **Clause 6.4(3)(b):** notification of changes to instalment plan[58] | ✓ | ✓ |
| **Clause 8.1:** forwarding a reconnection request | ✓[59] | ✓ |
| **Clause 14.7(1)(c):** payment of service standard payment by retailer | ✓ | ✓ |
| **Clause 14.7(2)(c):** payment of services standard by distributor | ✓ | ✓ |

Other issues

**Recommendation 5**

a) Delete the words "unless otherwise agreed" from clauses 3.1(2), 4.5(1), 5.1(1), 5.2, 5.4(3), 5.7(1), 6.4(3)(b), 9.7, 14.7(1)(c) and 14.7(2)(c) of the Code.

b) Amend clause 1.10 of the Code by:

- clarifying that agreement to vary the listed clauses may be in writing or verbally.
- adding the following clauses to the list of clauses that may be varied under a non-standard contract: 3.1(2), 4.5(1), 6.4(3)(b),[60] 14.7(1)(c) and 14.7(2)(c).

***(cont'd)***

[58] If the ERA accepts recommendation 55, this subclause will no longer allow retailers and customers to agree that customers do not have to be notified at least five business days before any amendments to an instalment plan come into effect. Retailers will, instead, have to obtain the customer's consent to any amendments to an instalment plan. Retailers and customers should, in that case, no longer be allowed to contract out of clause 6.4(3)(b).

[59] This clause does not currently include the words "unless otherwise agreed". However, the ECCC considers that variation of this clause is likely to provide a direct benefit to customers and therefore recommends retailers and customers should be allowed to agree to vary this protection under a standard form contract.

[60] See footnote 58.

Other issues

**Recommendation 5 *(cont'd)***

c) Insert a new clause in the Code that provides that a retailer and customer may agree, in writing or verbally, that the following clauses do not apply, or are to be amended in their application, in a standard form contract: 3.1(2), 5.4, 5.7(1), 6.4(3)(b)[61], 8.1, 14.7(1)(c) and 14.7(2)(c).

## What the clauses may look like

**1.10 Variation from the Code**

(1) A retailer and a customer may agree that the following clauses (marked with an asterisk throughout) do not apply, or are to be amended in their application, in a non-standard contract—

(a) 3.1(2)
(b) 4.1;
~~(b)~~(c) 4.2;
(d) 4.5(1);
~~(c)~~(e) 5.1;
~~(d)~~(f) 5.2;
~~(e)~~(g)5.4;
~~(f)~~(h) 5.7;
(i) 6.4(3)(b);[62] ~~and~~
~~(g)~~(j) 8.1;
(k) 14.7(1)(c); and
(l) 14.7(2)(c).

[**To be drafted by the PCO:** The PCO to clarify that agreement to vary the listed clauses may be in writing or verbally.]

(2) A retailer and a customer may agree that the following clauses do not apply, or are to be amended in their application, in a standard form contract—

(a) 3.1(2)
(b) 5.4;
(c) 5.7(1);
(d) 6.4(3)(b);[63]
(e) 8.1;
(f) 14.7(1)(c); and
(g) 14.7(2)(c).

[**To be drafted by the PCO:** The PCO to clarify that agreement to vary the listed clauses may be in writing or verbally.]

**3.1 Obligation to forward connection application**

(2) ~~Unless the customer agrees otherwise, a~~ A retailer must forward the customer's request for connection to the relevant distributor—

(a) that same day, if the request is received before 3pm on a business day; or
(b) the next business day, if the request is received after 3pm or on a Saturday, Sunday or public holiday.

**4.5 Particulars on each bill**

(1) ~~Unless a customer agrees otherwise, a~~ A retailer must include at least the following information on the customer's bill— […]

61 See footnote 58.

62 Id.

63 Id.

**5.1 Due dates for payment***

(1) The due date on a bill must be at least 12 business days from the date of that bill ~~unless otherwise agreed with a customer~~.[64]

**5.2 Minimum payment methods***

~~Unless otherwise agreed with a customer, a~~ A retailer must offer the customer at least the following payment methods— [⋯][65]

**5.4 Payment in advance***

(3) Subject to clause 6.9, for the purposes of subclause (1), $20 is the minimum amount for which a retailer will accept advance payments ~~unless otherwise agreed with a customer~~.

**5.7 Vacating a supply address***

(1) Subject to—

(a) subclauses (2) and (4);

(b) a customer giving a retailer notice; and

(c) the customer vacating the supply address at the time specified in the notice,

the retailer must not require the customer to pay for electricity consumed at the customer's supply address from—

(d) the date the customer vacated the supply address, if the customer gave at least 5 days' notice; or

(e) 5 days after the customer gave notice, in any other case~~, unless the retailer and the customer have agreed to an alternative date~~.

**6.4 Alternative payment arrangements**

(3) If a residential customer accepts an instalment plan offered by a retailer, the retailer must—

(a) [⋯], and

(b) notify the residential customer in writing or by electronic means of any amendments to the instalment plan at least 5 business days before they come into effect ~~(unless otherwise agreed with the residential customer)~~ and provide the residential customer with information in writing or by electronic means that clearly explains and assists the residential customer to understand those changes.[66]

**9.7 Recharge Facilities**

~~Unless otherwise agreed with the customer, a~~ A retailer must ensure that—

(a) at least 1 recharge facility is located as close as practicable to a pre-payment meter, and in any case no further than 40 kilometres away;[67]

(b) a pre-payment meter customer can access a recharge facility at least 3 hours per day, 5 days per week;

(c) it uses best endeavours to ensure that the pre-payment meter customer can access a recharge facility for periods greater than required under subclause (b); and

(d) the minimum amount to be credited by a recharge facility does not exceed $20 per increment.

**14.7 Method of payment**

(1) A retailer who is required to make a payment under clauses 14.1, 14.2 or 14.3 must do so–

(a) by deducting the amount of the payment from the amount due under the customer's next bill;

(b) by paying the amount directly to the customer~~; or~~

~~(c) as otherwise agreed between the retailer and the customer~~.

(2) A distributor who is required to make a payment under clauses 14.4 or 14.5 must do so—

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64 Recommendation 43 proposes an additional amendment to this subclause.

65 Recommendation 44 proposes an additional amendment to this clause.

66 Recommendations 3 and 57 propose additional amendments to this paragraph.

67 Recommendation 81 proposes an amendment to this subclause.

(a) by paying the amount to the customer's retailer who will pass the amount on to the customer in accordance with subclause (1);
(b) by paying the amount directly to the customer~~; or~~
~~(c) as otherwise agreed between the distributor and the customer~~.

## 6.2 Information to be given to customers who contract out of the Code

Customers who, under clause 1.10, enter into a non-standard contract for which one or more Code clauses do not apply, or apply differently, currently do not have to be advised of this before they enter into the contract.

### Draft Review Report (question 2)

The ECCC sought feedback on whether the Code should be amended to require that, if one or more Code clauses did not apply or applied differently in a customer's non-standard contract, the customer was informed of this before they entered into the contract.

### Submissions received

- The AEC, Alinta Energy, Horizon Power and Synergy all suggested that there was no need to amend the Code and it should continue to be left to retailers' discretion to inform customers.
- WACOSS suggested that the Code should require a retailer to inform a customer in writing of the difference between a standard form and a non-standard contract and if they have contracted out of protections. UnionsWA supported WACOSS' position that retailers should have to inform customers in writing of the difference between a standard form and non-standard contract.

### ECCC response to submissions

The ECCC considers that it should not be necessary for retailers to have to advise customers when they agree to contract out of the Code.

Synergy and Horizon Power already have to advise customers about the difference between the retailer's non-standard and standard form contract. As the standard form contract will generally be consistent with the Code,[68] Synergy and Horizon Power already, indirectly, have to advise their customers if one or more Code protections do not apply under the non-standard contract.

The obligation to advise customers about the difference between a non-standard and standard form contract currently only applies to Synergy and Horizon Power because they are the only retailers that have to offer to supply customers under their standard form contract ('offer to supply' obligation). The ECCC understands that Energy Policy WA intends to extend the 'offer

[68] This will be even more so if the ERA accepts the ECCC's recommendation to limit the number of clauses that retailers and customers may agree to contract out of under a standard form contract (recommendation 5).

to supply' obligation to all electricity retailers.[69] Once the obligation has been extended, the obligation in the Code to advise customers about the difference between a non-standard and standard form contract, and that they may choose the standard form contract, could also be extended to all electricity retailers. This would ensure all customers are, indirectly, advised if one or more Code protections do not apply under the retailer's non-standard contract.

*Standard form contracts*

The ECCC also considered if customers on a standard form contract should be advised when they agree to contract out of the Code.

The ECCC considers that this should not be necessary as retailers and customers will, under the proposed changes, only be able to vary Code protections where the variation is likely to directly benefit the customer.[70]

**Final recommendation**

The ECCC recommends no changes to the Code at this stage.

Once Energy Policy WA has extended the 'offer to supply' obligation to all retailers, the ERA should amend clause 2.3(4) of the Code so all retailers must advise their customers about the difference between their non-standard and standard form contract, and that they may choose the standard form contract.

69 Energy Policy WA, 2021, *Review of energy customer contract regulations – Final Recommendations Report*, recommendation 21.

70 Recommendation 5.

# 7. Part 2 of the Code: Marketing

Part 2 of the Code, Marketing, is generally consistent with the *Gas Marketing Code of Conduct 2017*. In 2019, the ERA amended the Gas Marketing Code following a review of that code by the Gas Marketing Code Consultative Committee.

To maintain consistency between Part 2 of the Code and the Gas Marketing Code, section 7.1 includes several recommendations to amend the Code consistent with the 2019 amendments made to the Gas Marketing Code.[71]

Section 7.2 includes a recommendation for an amendment that is not based on the 2019 review of the Gas Marketing Code.[72]

## 7.1 Amendments made to the Gas Marketing Code

### *7.1.1 When information is given*

[Clause 2.2(2) of the Code]

This clause requires retailers and electricity marketing agents to give new customers certain information no later than on or with the customer's first bill.

**Draft Review Report (draft recommendation 5)**

The ECCC proposed that, when entering into a standard form contract, retailers should have to give the information listed in clause 2.2(2) before or at the time of giving the customer's first bill (instead of "no later than on or with the first bill").

The proposal aimed to correct an error: the drafting of this clause mixed the time period ("no later than") with the method of giving information ("on or with the customer's first bill").

**Submissions received**

No submissions were received.

**Final recommendation**

The ECCC retains the recommendation as is.

Other issues

**Recommendation 6**

Amend clause 2.2(2) of the Code to be consistent with clause 2.2(2) of the Gas Marketing Code.

[71] The *Gas Marketing Code of Conduct Amendment Code 2019* took effect on 1 January 2020.

[72] Items C, D, E and F in Appendix 2 (minor amendments) recommend additional amendments to Part 2 that are not based on the recent review of the Gas Marketing Code.

### What the new clause may look like

**2.2 Entering into a standard form contract**

(2) Subject to subclause (3), ~~a~~ if a customer enters into a contract described in subclause (1), the retailer or electricity marketing agent must give the following information to ~~a~~ the customer ~~no later than on or with~~ before or at the time of giving the customer's first bill—

## *7.1.2 Concessions*

[Clauses 2.2(2)(e) and 2.3(2)(f) of the Code]

These clauses require retailers and electricity marketing agents to advise new residential customers of the concessions that may apply to them.

### Draft Review Report (draft recommendation 6)

The ECCC proposed that retailers would also have to refer customers to an information source where they could find out more about their eligibility for those concessions.[73]

The ECCC considered that it would be more useful for customers to receive information on how to find out their eligibility for concessions rather than only being told about the concessions that may apply to them.

### Submissions received

No submissions were received.

### Final recommendation

The ECCC retains the recommendation as is.

Other issues

**Recommendation 7**

Amend clauses 2.2(2)(e) and 2.3(2)(f) of the Code to be consistent with clauses 2.2(2)(e) and 2.3(2A)(e) of the Gas Marketing Code, respectively.

### What the new clauses may look like

**2.2 Entering into a standard form contract**

(2) Subject to subclause (3), a retailer or electricity marketing agent must give the following information to a customer no later than on or with the customer's first bill—[74]

(e) with respect to a residential customer, a statement that the residential customer may be eligible to receive concessions and how the residential customer may find out about their eligibility for those concessions; ~~the concessions that may apply to the residential customer;~~

**2.3 Entering into a non-standard contract**

(2) Before entering into a non-standard contract, a retailer or electricity marketing agent must give the customer the following information —

[73] For example, retailers could refer customers to the retailer's website or to ConcessionsWA.

[74] Recommendation 6 proposes an amendment to this subclause.

(f) with respect to a residential customer, a statement that the residential customer may be eligible to receive concessions and how the residential customer may find out about their eligibility for those concessions; ~~the concessions that may apply to the residential customer;~~

### 7.1.3 Interpreter information

[Clauses 2.2(2)(g) and 2.3(2)(h) of the Code]

These clauses require retailers and electricity marketing agents to give new customers information on how to access interpreter services.

#### Draft Review Report (draft recommendation 7)

The ECCC proposed that retailers and electricity marketing agents be required to give customers the telephone number for interpreter services. The telephone number for interpreter services would be identified as such by the National Interpreter Symbol.

The ECCC noted that the National Interpreter Symbol was the nationally recognised symbol for interpreter services. For non-English speaking customers, having the National Interpreter Symbol next to the telephone number for interpreter services was likely clearer than text on how to access interpreter services.

#### Submissions received

No submissions were received.

#### Final recommendation

The ECCC retains the recommendation as is.

Other issues

**Recommendation 8**

Amend clauses 2.2(2)(g) and 2.3(2)(h) of the Code to be consistent with clauses 2.2(2)(g) and 2.3(2A)(g) of the Gas Marketing Code, respectively.

#### What the new clauses may look like

**2.2 Entering into a standard form contract**

(2) Subject to subclause (3), a retailer or electricity marketing agent must give the following information to a customer no later than on or with the customer's first bill—[75]

(g) with respect to a residential customer~~, how the residential customer may access the retailer's~~—

(i) the telephone number for interpreter services, identified by the National Interpreter Symbol ~~multi-lingual services (in languages reflective of the retailer's customer base)~~; and[76]

(ii) the telephone number for TTY services;[77]

**2.3 Entering into a non-standard contract**

(2) Before entering into a non-standard contract, a retailer or electricity marketing agent must give the customer the following information —

[75] Recommendation 6 proposes an amendment to this subclause.

[76] Item C in Appendix 2 (minor amendments) proposes a similar amendment to this paragraph.

[77] Recommendation 4 proposes an additional amendment to this paragraph.

(h) with respect to a residential customer~~, how the residential customer may access the retailer's~~—

(i) the telephone number for interpreter services, identified by the National Interpreter Symbol ~~multi-lingual services (in languages reflective of the retailer's customer base)~~; and[78]

(ii) the telephone number for TTY services;[79]

### *7.1.4 Consent to enter into a non-standard contract*

[Clause 2.3(1)(a) of the Code]

This clause requires retailers and electricity marketing agents to obtain and make a record of a customer's verifiable consent that the contract has been entered into.

**Draft Review Report (draft recommendation 8)**

The ECCC proposed that retailers and electricity marketing agents be required to obtain and make a record of a customer's verifiable consent *to enter into* a non-standard contract.

The ECCC considered that the current drafting could be interpreted to require the retailer to obtain the customer's verifiable consent after the contract had been entered into. As part of standard contractual procedure, consent should be obtained to enter into the contract, not subsequently.

**Submissions received**

No submissions were received.

**Final recommendation**

The ECCC retains the recommendation as is.

Other issues

**Recommendation 9**

Amend clause 2.3(1)(a) of the Code to be consistent with clause 2.3(1)(a) of the Gas Marketing Code.

**What the new clause may look like**

**2.3 Entering into a non-standard contract**

(1) When entering into a non-standard contract that is not an unsolicited consumer agreement, a retailer or electricity marketing agent must —

(a) obtain and make a record of the customer's verifiable consent ~~that~~ to entering into the non-standard contract ~~has been entered into, and~~; and

[78] Item C in Appendix 2 (minor amendments) proposes a similar amendment to this paragraph.

[79] Recommendation 4 proposes an additional amendment to this paragraph.

### 7.1.5 Information to be given before entering into a non-standard contract

[Clauses 2.3(2) of the Code]

This clause requires retailers and electricity marketing agents to give customers certain information before entering into a non-standard contract.

**Draft Review Report (draft recommendation 9)**

The ECCC proposed that retailers and electricity marketing agents be allowed to give the information listed in clauses 2.3(2)(b) to (e) and (g) to (j) after the customer entered into a non-standard contract.

The ECCC considered that the information in clauses 2.3(2)(b) to (e) and (g) to (j) was not particularly relevant to a customer at the time they entered into a non-standard contract and was unlikely to inform the customer's decision as to whether to enter into the contract. Retailers and electricity marketing agents should therefore be allowed to provide the information after the contract had been entered into.

The proposal also aimed to maintain consistency between the Code and the Gas Marketing Code.[80]

**Submissions received**

Perth Energy recommended deleting clause 2.3(2(j) from the Code. This clause required a retailer or electricity marketing agent to give a customer general information on the safe use of electricity.

According to Perth Energy, the obligation should be on the distributor, not the retailer. Perth Energy pointed out that the equivalent obligation for gas retailers was recently deleted from the Gas Marketing Code on the basis that this information should be provided by the distributor.[81]

Perth Energy also noted that clause 10.6 of the Code already required a distributor to provide information on the safe use of electricity.

**ECCC response to submissions**

The ECCC understands that the equivalent of clause 2.3(2)(j) was deleted from the Gas Marketing Code because new Australian Standard AS/NZS 4645.1:2018 *Gas distribution networks Part 1: Network management* (AS 4645) requires gas distributors to have a safety and operating plan. This plan must include information on consumer education and public safety awareness programs. As the new standard places the responsibility on the gas

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80 There is one difference between the Gas Marketing Code and recommendation 10. Under the Gas Marketing Code information about gas concessions may also be provided after the customer entered into a non-standard contract. The Gas Marketing Code Consultative Committee considered that information about gas concessions could be provided later as there are no gas concessions that apply before a customer receives their first bill. The same does not apply to electricity. For electricity, there are concessions that may apply from the commencement of the contract. Customers should therefore be made aware of any concessions that may apply before they enter into the non-standard contract.

81 Perth Energy's submission referred to the Gas Compendium, however the obligation was included in the Gas Marketing Code.

distributor for ensuring consumers receive safety awareness material, there was no longer a need to include an equivalent obligation on gas retailers in the Gas Marketing Code.

The ECCC is not aware of a similar obligation on electricity distributors. Clause 10.6 of the Code only requires distributors to provide information on the safe use of electricity on request by a customer.

To ensure electricity customers continue to receive general information about the safe use of electricity, the ECCC recommends retaining clause 2.3(2)(j) of the Code.

### Final recommendation

The ECCC retains the recommendation as is.

Other issues

**Recommendation 10**

Amend clauses 2.3(2)(b) to (e) and (g) to (j) of the Code to be consistent with clause 2.3(2A) of the Gas Marketing Code.

### What the new clause may look like

**2.3 Entering into a non-standard contract**

(2) Before entering into a non-standard contract, a retailer or electricity marketing agent must give the customer the following information—

(a) details of any right the customer may have to rescind the non-standard contract during a cooling-off period and the charges that may apply if the customer rescinds the non-standard contract;

~~(b) how the customer may obtain—~~

~~(i) a copy of the Code; and~~

~~(ii) details on all relevant tariffs, fees, charges, alternative tariffs and service levels that may apply to the customer,~~

~~(c) the scope of the Code;~~

~~(d) that a retailer and electricity marketing agent must comply with the Code;~~

~~(e) how the retailer may assist if the customer is experiencing payment difficulties or financial hardship;~~

~~(f)~~(b) with respect to a residential customer, the concessions that may apply to the residential customer~~;~~.[82]

~~(g) the distributor's 24 hour telephone number for faults and emergencies;~~

~~(h) with respect to a residential customer, how the residential customer may access the retailer's—~~

~~(i) multi-lingual services (in languages reflective of the retailer's customer base); and~~

~~(ii) TTY services;~~

~~(i) how to make an enquiry of, or complaint to, the retailer; and~~

~~(j) general information on the safe use of electricity.~~

(2A) Subject to subclause (3), if a customer enters into a non-standard contract, the retailer or gas marketing agent must give the following information to the customer before or at the time of giving the customer's first bill—

(a) how the customer may obtain—

(i) a copy of the Code; and

(ii) details on all relevant tariffs, fees, charges, alternative tariffs and service levels that may apply to the customer,

(b) the scope of the Code;

(c) that a retailer and electricity marketing agent must comply with the Code;

[82] Recommendation 7 proposes an amendment to this paragraph.

(d) how the retailer may assist if the customer is experiencing payment difficulties or financial hardship;[83]
(e) the distributor's 24 hour telephone number for faults and emergencies;
(f) with respect to a residential customer, how the residential customer may access the retailer's—
(i) multi-lingual services (in languages reflective of the retailer's customer base); and[84]
(ii) TTY services;[85]
(g) how to make an enquiry of, or complaint to, the retailer; and
(h) general information on the safe use of electricity.

(3) For the purposes of subclause~~s (2)(b)-(j)~~ (2A), a retailer or electricity marketing agent is taken to have given the customer the required information if—
(a) the retailer or electricity marketing agent has provided the information to that customer within the preceding 12 months; or
(b) the retailer or electricity marketing agent has informed the customer how the customer may obtain the information, unless the customer requests to receive the information.

### *7.1.6 Verifiable confirmation*

[Clause 2.3(5) of the Code]

This clause requires retailers and electricity marketing agents to obtain a customer's verifiable consent that certain information has been given to the customer before entering into a non-standard contract.

**Draft Review Report (draft recommendation 10)**

The ECCC proposed that:

- Retailers and electricity marketing agents be required to obtain a customer's verifiable confirmation, rather than verifiable consent, that the required information had been given to the customer.

  The ECCC considered that it did not make sense to require a customer's consent to information being given. It would be more appropriate for the clause to require a retailer or marketing agent to obtain the customer's confirmation that the information had been given.

- Verifiable consent (or confirmation) not be required for having given information that was unlikely to inform the customer's decision as to whether to enter into a non-standard contract (that is, the information listed in clauses 2.3(2)(b) to (e) and (g) to (j)).

  The ECCC considered that the information listed in clauses 2.3(2)(b) to (e) and (g) to (j) was unlikely to inform a customer's decision as to whether or not to enter a non-standard contract. A retailer or electricity marketing agent would therefore not have to obtain a customer's verifiable consent (now: confirmation) that the information had been given.

- Clause 1.5 be amended to insert a definition of verifiable confirmation.

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83 Recommendation 50 proposes an additional amendment to this paragraph.

84 Recommendation 8, and item C in Appendix 2, propose additional amendments to this paragraph.

85 Recommendations 4 and 8 propose additional amendments to this paragraph.

### Submissions received

No submissions were received.

### Final recommendation

The ECCC retains the recommendation as is.

Other issues

**Recommendation 11**

a) Amend clause 2.3(5) of the Code to be consistent with clause 2.3(4) of the Gas Marketing Code.

Consequential amendment:

b) Amend clause 1.5 of the Code to insert a definition of verifiable confirmation, consistent with the definition of verifiable confirmation in the Gas Marketing Code.[86]

### What the new clause may look like

**2.3 Entering into a non-standard contract**

(5) ~~Subject to subclause (3), a~~ A retailer or electricity marketing agent must obtain the customer's verifiable ~~consent~~ confirmation that the information ~~in clause 2.3(2) and clause 2.3(4)~~ referred to in subclause (2) and (4) (if applicable) has been given.

**1.5 Definitions**

**"verifiable confirmation"** means confirmation that is given —

(a) expressly; and

(b) in writing or orally; and

(c) by the customer or a nominated person competent to give the confirmation on the customer's behalf.

## 7.2 Other amendment

The recommendation listed below is not related to the 2019 amendments made to the Gas Marketing Code of Conduct.

### *7.2.1 Wearing an identity card*

[Clause 2.5(2)(a) of the Code]

This clause requires retailers and electricity marketing agents to wear an identity card when meeting with a customer face to face for the purposes of marketing.

[86] Clause 1.5 of the Gas Marketing Code defines verifiable confirmation as follows:

***verifiable confirmation*** means confirmation that is given —

(a) expressly; and

(b) in writing or orally; and

(c) by the customer or a nominated person competent to give the confirmation on the customer's behalf.

### Draft Review Report (draft recommendation 11)

The ECCC proposed that retailers and electricity marketing agents be allowed to display their identity card, instead of having to wear it.

The proposal aimed to provide retailers and electricity marketing agents with the flexibility to either wear their identity card or display it.[87] A retailer or electricity marketing agent at a sales booth could, for example, opt to place their identity card on the sales desk in front of them.

At all times, the identity card would still need to be clearly visible and legible.[88]

### Submissions received

No submissions were received.

### Final recommendation

The ECCC retains the recommendation as is.

Other issues

**Recommendation 12**

Amend clause 2.5(2)(a) of the Code by replacing the word "wear" with "display".

### What the new clause may look like

**2.5 Contact for the purposes of marketing**

(2) A retailer or electricity marketing agent who meets with a customer face to face for the purposes of marketing must—

(a) ~~wear~~ display a clearly visible and legible identity card that shows—

(i) his or her first name;

(ii) his or her photograph;

(iii) his or her marketing identification number (for contact by an electricity marketing agent); and

(iv) the name of the retailer on whose behalf the contact is being made; and

87 The ECCC considered that a person who chose to wear their identity card would meet the requirement to display it.

88 *Code of Conduct for the Supply of Electricity to Small Use Customers 2018* (WA) clause 2.5(2)(a).

# 8. Part 3 of the Code: Connection

## 8.1 Obligation to forward connection application

[Clause 3.1(3) of the Code]

This clause deals with connection applications. It allows a connection application to be made by a customer's nominated representative.

### Draft Review Report (draft recommendation 12)

The ECCC proposed to delete the extended definition of customer from clause 3.1 of the Code because, given the operation of the law of agency, it was not necessary to extend the definition of customer to include a customer's nominated representative.

### Submissions received

No submissions were received.

### Final recommendation

The ECCC retains the recommendation as is.

Other issues

**Recommendation 13**

Delete clause 3.1(3) of the Code.

### What the new clause may look like

**3.1 Obligation to forward connection application**

(1) If a retailer agrees to sell electricity to a customer or arrange for the connection of the customer's supply address, the retailer must forward the customer's request for connection to the relevant distributor for the purpose of arranging for the connection of the customer's supply address (if the customer's supply address is not already connected).

(2) Unless the customer agrees otherwise, a retailer must forward the customer's request for connection to the relevant distributor—[89]

(a) that same day, if the request is received before 3pm on a business day; or

(b) the next business day, if the request is received after 3pm or on a Saturday, Sunday or public holiday.

~~(3) In this clause —~~

~~**"customer"** includes a customer's nominated representative.~~

*[Note: The Obligation to Connect Regulations provide regulations in relation to the obligation upon a distributor to energise and connect a premises.]*

[89] Recommendation 5 proposes an amendment to this subclause.

# 9. Part 4 of the Code: Billing

## 9.1 Billing cycle

[Clause 4.1 of the Code]

This clause prescribes the minimum and maximum billing cycles for retailers, including some exceptions.

**Draft Review Report (draft recommendation 13)**

The ECCC proposed that:

- The Code no longer prescribe a minimum billing cycle.

  The ECCC considered removing the minimum billing cycle would reduce regulatory burden and compliance cost for retailers.[90] The ECCC considered it unlikely that the change would affect customers as retailers generally did not have regular recurrent billing cycles of less than one month due to the costs involved in issuing bills more frequently.

- The maximum billing cycle be extended from 3 months to 100 days.

  This was to improve consistency with the NECF. The ECCC considered that the change was unlikely to affect customers as most retailers preferred shorter billing cycles. The ECCC noted that Synergy and Horizon Power had a two-monthly billing cycle.

- Retailers had to obtain a customer's verifiable consent to change the customer's current billing cycle.

  The ECCC considered that retailers should not be allowed to change a customer's billing cycle without the customer's verifiable consent.[91]

- Retailers and customers no longer be able to agree to a billing cycle of more than 100 days under a standard form contract.

  This was to increase protections for customers.

The proposal also aimed to improve consistency between the Code and the NECF.

**Submissions received**

- Horizon Power suggested customers should retain the option to be able to agree to an extended billing cycle under a standard form contract.
- Perth Energy recommended aligning clause 4.1 with rules 20 and 21 of the NERR to allow an estimate bill in certain circumstances. Perth Energy noted this would ensure customers received a bill every 100 days.

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90 As retailers would no longer have to monitor their compliance with this obligation.

91 The only exception is if a customer is placed on a shortened billing cycle under clause 4.2 of the Code.

**ECCC response to submissions**

- A billing cycle of more than 100 days would result in less frequent, larger bills which may make it more difficult for customers to budget for their bills. To reduce the risk of customers getting into financial difficulty, the ECCC considers that customers on a standard form contract should not have a billing cycle of more than 100 days (which is already an increase from the current three months).

  A billing cycle of 100 days should provide retailers with sufficient time to issue their bills to customers. Clause 4.1 also includes two exceptions to the obligation to issue a bill every 100 days.

- The ECCC does not propose to adopt rules 20 and 21 of the NERR.

  These rules allow retailers to base a bill on an estimation made by the retailer. As the retailer can make its own estimation, it no longer has to rely on distributor estimations. This would make it more likely that all bills are issued within 100 days.

  The ECCC notes that the *Electricity Industry Metering Code 2012* includes detailed rules around distributor estimations. Addressing the same matter in the Code could result in unintended inconsistencies or conflicts between both instruments. Also, it is unclear if retailers are equipped to undertake estimations.

**Final recommendation**

The ECCC retains the recommendation but will clarify that, although customers may agree to a different billing cycle under new subclause (2), any billing cycle should not be longer than 100 days.[92] This is currently not explicit.

NECF

**Recommendation 14**

a) Replace clauses 4.1(a) and (b)(i) of the Code with rules 24(1) and (2) of the NERR but:
   - replace the words "retailer's usual recurrent period" with "customer's standard billing cycle" in rule 24(2).
   - replace the words "explicit informed consent" with "verifiable consent" in rule 24(2).[93]
   - clarify that, when customers agree to a different billing cycle under rule 24(2), the billing cycle should not be longer than 100 days.

b) Retain clause 4.1(b)(ii) of the Code but replace the words "metering data" with "energy data".[94]

c) Retain clause 4.1(b)(iii) of the Code.

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92 A retailer and customer may agree to contract out of this obligation if the customer is supplied under a non-standard contract (clause 1.10 of the Code).

93 The term verifiable consent is used throughout the Code.

94 Metering data is not a defined term in the Code or the Metering Code. The equivalent term in the Metering Code is energy data.

### What the new clause may look like

**4.1 Billing cycle**

~~A retailer must issue a bill—~~

~~(a) no more than once a month, unless the retailer has—~~

~~(i) obtained a customer's verifiable consent to issue bills more frequently;~~

~~(ii) given the customer—~~

~~(A) a reminder notice in respect of 3 consecutive bills; and~~

~~(B) notice as contemplated under clause 4.2;~~

~~(iii) received a request from the customer to change their supply address or issue a final bill, in which case the retailer may issue a bill more than once a month for the purposes of facilitating the request; or~~

~~(iv) less than a month after the last bill was issued, received metering data from the distributor for the purposes of preparing the customer's next bill;~~

~~(b) no less than once every 3 months, unless the retailer—~~

~~(i) has obtained the customer's verifiable consent to issue bills less frequently;~~

(1) A retailer must issue bills to a [customer] at least once every 100 days.

(2) A retailer and a [customer] may agree to a billing cycle with a regular recurrent period that differs from the [customer's standard billing cycle] where the retailer obtains the [verifiable consent] of the [customer].

[**To be drafted by the PCO:** The PCO to clarify that when customers agree to a different billing cycle under subclause (2), the billing cycle should not be longer than the 100 days specified under subclause (1).]

(3) [Subclause (1) does not apply if a retailer]—[95]

~~(ii)~~(a) has not received the required ~~metering data~~ energy data from the distributor for the purposes of preparing the bill, despite using best endeavours to obtain the metering data from the distributor; or

~~(iii)~~(b) is unable to comply with this timeframe due to the actions of the customer where the customer is supplied under a deemed contract pursuant to regulation 37 of the *Electricity Industry (Customer Contracts) Regulations 2005* and the bill is the first bill issued to that customer at that supply address.

## 9.2 Shortened billing cycle

[Clause 4.2 of the Code]

This clause sets out when a customer may be placed on a shortened billing cycle without their consent.

### Draft Review Report (draft recommendation 14)

The ECCC proposed that customers be provided with more information about their rights and responsibilities after having been placed on a shortened billing cycle.

The proposal aimed to increase protections for customers and improve consistency between the Code and the NECF.

### Submissions received

- Perth Energy recommended that the proposed time periods and processes for shortened billing cycles be aligned with rule 34 of the NERR. Perth Energy suggested

[95] The words "Subclause (1) does not apply if a retailer" are tentative only; they are not based on existing wording in the Code. The PCO to provide draft wording.

that minor changes, such as referring to two or three payment plans being cancelled, could require significant system development changes and expense, for those retailers operating across markets.

- Synergy suggested two reminder notices or disconnection warnings should be the maximum required before placing a customer on a shortened billing cycle. This would be consistent with the NECF.

**ECCC response to submissions**

Although the ECCC agrees with both stakeholders that there are benefits to improving consistency between the Code and the NECF, the ECCC does not propose to make it easier for retailers to place customers on shortened billing cycles by allowing retailers to place a customer on a shortened billing cycle after sending reminder notices or disconnection warnings for two, instead of three, consecutive bills.

The ECCC notes that, unlike the NECF, the Code does not require retailers to 'automatically' return customers to their normal billing cycle when they have paid three consecutive bills by the due date. Because it is more difficult for customers to return to their normal billing cycle under the Code, the ECCC considers there should be stricter standards for placing customers on a shortened billing cycle.

**Final recommendation**

The ECCC retains the recommendation but proposes some minor changes to clarify the intent of the recommendation. The proposed changes are consistent with the mock-up drafting in the Draft Review Report.

NECF

**Recommendation 15**

a) Replace clauses 4.2(1) and (2) of the Code with rule 34(2) of the NERR but:

- clarify that the clause only applies if the retailer has not obtained the customer's verifiable consent to the shortened billing cycle.
- amend subrule 2(a) of the NERR by replacing the words "payment difficulties" with "payment difficulties or financial hardship".[96]
- amend subrule (2)(b) by replacing "2" with "3".[97]
- replace subrules (2)(c)(i) to (v)[98] with clauses 4.2(1)(a) to (d) of the Code and

***(cont'd)***

[96] These are the terms currently used in the Code. If the ERA accepts recommendation 50, "payment difficulties" in subrule 2(a) of the NERR should be replaced with "financial hardship".

[97] To retain the existing level of protection for customers.

[98] Replacing clause 4.2(1)(d) with rules 34(2)(c)(ii) and (iii) would mean customers on shortened billing cycles would no longer receive reminder notices and disconnection warnings. There are no compelling reasons for removing this protection from the Code.

The information that must be provided under clauses 4.2(1)(a), (b) and (c) is very similar to the information that must be provided under subrules (2)(c)(i), (iv) and (v).

NECF

**Recommendation 15 *(cont'd)***

amend clause 4.2(1)(a) by inserting the words "or disconnection warning" after "reminder notice".[99]

– clarify that the information in subrule (2)(c) must have been given before the retailer gives the customer a reminder notice or disconnection warning for the third consecutive bill.[100]

b) Replace clause 4.2(3) of the Code with rule 34(3) of the NERR but delete the words "without a further reminder notice" from subrule (3)(c).

c) Retain clauses 4.2(4), (5) and (6) of the Code.

## What the new clause may look like

**4.2 Shortened billing cycle**

(1) ~~For the purposes of clause 4.1(a)(ii), a retailer has given a customer notice if the retailer has advised the customer, prior to placing the customer on a shortened billing cycle, that—~~

[**To be drafted by the PCO:** The clause would provide that a retailer may only place a customer on a shortened billing cycle without the customer's verifiable consent if:]

(a) in the case of a residential customer, the customer is not experiencing [payment difficulties or financial hardship];[101]

(b) the retailer has given the customer a [reminder notice or disconnection warning] for [3] consecutive bills; and

(c) [**To be drafted by the PCO:** The clause would provide that, before giving the customer a reminder notice or disconnection warning for the third consecutive bill, the retailer must have given the customer a notice informing the customer that:]

~~(a)~~(i) [**To be drafted by PCO:** The clause would provide that the notice must inform the customer that receipt of a reminder notice or disconnection warning for a third consecutive bill, may result in the customer being placed on a shortened billing cycle];

~~(b)~~(ii) if the customer is a residential customer, assistance is available for residential customers experiencing payment difficulties or financial hardship;[102]

~~(c)~~(iii) the customer may obtain further information from the retailer on a specified telephone number; and

~~(d)~~(iv) once on a shortened billing cycle, the customer must pay 3 consecutive bills by the due date to return to the customer's previous billing cycle.

~~(2) Notwithstanding clause 4.1(a)(ii), a retailer must not place a residential customer on a shortened billing cycle without the customer's verifiable consent if—~~

~~(a) the residential customer informs the retailer that the residential customer is experiencing payment difficulties or financial hardship; and~~

~~(b) the assessment carried out under clause 6.1 indicates to the retailer that the customer is experiencing payment difficulties or financial hardship.~~[103]

~~(3) If, after giving notice as required under clause 4.1(a)(ii), a retailer decides to shorten the billing cycle in respect of a customer, the retailer must, give the customer written notice of that decision within 10 business days of making that decision.~~

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99 Rules 34(2)(b) and (c) also refer to disconnection warnings.

100 The wording of subrule 34(2)(c) could be read as referring to the third reminder notice or disconnection warning for a bill.

101 If the ERA accepts recommendation 50, further amendments will be made to this paragraph.

102 Recommendation 50 proposes an amendment to this paragraph.

103 Subclause (2) is addressed in new subclause (2)(a).

(2) The retailer must, within 10 business days of placing the [customer] on a shortened [billing] cycle, give the customer notice that—
  (a) the customer has been placed on a shortened [billing] cycle; and
  (b) the customer must pay 3 consecutive bills in the customer's billing cycle by the due date in order to be removed from the shortened [billing] cycle; and
  (c) failure to make a payment may result in arrangements being made for disconnection of the supply of [electricity].

~~(1)~~(3) A shortened billing cycle must be at least 10 business days.

~~(5)~~(4) A retailer must return a customer, who is subject to a shortened billing cycle and has paid 3 consecutive bills by the due date, on request, to the billing cycle that applied to the customer before the shortened billing cycle commenced.

~~(6)~~(5) A retailer must inform a customer, who is subject to a shortened billing cycle, at least once every 3 months that, if the customer pays 3 consecutive bills by the due date of each bill, the customer will be returned, on request, to the billing cycle that applied to the customer before the shortened billing cycle commenced.

## 9.3 Bill smoothing

[Clause 4.3 of the Code]

This clause regulates how payments must be calculated under a bill smoothing arrangement.

### Draft Review Report (draft recommendation 15(a))

The ECCC proposed to delete clause 4.3.

The ECCC considered that some billing arrangements that were similar to bill smoothing may not be captured by clause 4.3.[104] There were no compelling reasons for regulating bill smoothing arrangements, but not other products that were similar.

### Submissions received

No submissions were received.

### Final recommendation

The ECCC retains the recommendation as is.

Other issues

**Recommendation 16**

Delete clause 4.3 of the Code.

[104] Several gas retailers offer products that allow customers to pay their bill in instalments. The instalments are generally based on the market average for household usage, the customer's past usage, or meter readings obtained during the term of the contract. Some retailers have argued that their product is not a bill smoothing arrangement but a payment arrangement and, therefore, does not need to comply with clause 4.3. Because the Code does not define what a bill smoothing arrangement is, it is difficult to determine whether these products are bill smoothing arrangements or not.

**What the new clause may look like**

~~**4.3 Bill smoothing**~~

~~(1) Notwithstanding clause 4.1, in respect of any 12 month period, on receipt of a request by a customer, a retailer may provide the customer with a bill which reflects a bill smoothing arrangement.~~

~~(2) If a retailer provides a customer with a bill under a bill smoothing arrangement pursuant to subclause (1), the retailer must ensure that—~~

~~(a) the amount payable under each bill is initially the same and is set out on the basis of—~~

~~(i) the retailer's initial estimate of the amount of electricity the customer will consume over the 12 month period;~~

~~(ii) the relevant supply charge for the consumption and any other charges related to the supply of electricity agreed with the customer;~~

~~(iii) any adjustment from a previous bill smoothing arrangement (after being adjusted in accordance with clause 4.19); and~~

~~(iv) any other relevant information provided by the customer.~~

~~(b) the initial estimate is based on the customer's historical billing data or, if the retailer does not have that data, the likely average consumption at the relevant tariff calculated over the 12 month period as estimated by the retailer;~~

~~(c) in or before the seventh month—~~

~~(i) the retailer re-estimates the amount under subclause (2)(a)(i), taking into account any meter readings and relevant seasonal and other factors agreed with the customer; and~~

~~(ii) unless otherwise agreed, if there is a difference between the initial estimate and the re-estimate of greater than 10%, the amount payable under each of the remaining bills in the 12 month period is to be reset to reflect that difference; and~~

~~(d) at the end of the 12 month period, or any other time agreed between the retailer and the customer and at the end of the bill smoothing arrangement, the meter is read and any adjustment is included on the next bill in accordance with clause 4.19; and~~

~~(e) the retailer has obtained the customer's verifiable consent to the retailer billing on that basis; and~~

~~(f) if the bill smoothing arrangement between the retailer and the customer is for a defined period or has a specified end date, the retailer must no less than one month before the end date of the bill smoothing arrangement notify the customer in writing—~~

~~(i) that the bill smoothing arrangement is due to end; and~~

~~(ii) the options available to the customer after the bill smoothing arrangement has ended.~~

## 9.4 How bills are issued

[Clause 4.4 of the Code]

This clause requires retailers to issue a bill at the customer's nominated address, which may be an email address.

**Draft Review Report (question 4(b))**

The ECCC sought feedback on whether clause 4.5 of the Code should be amended to allow retailers to provide (some of) the information that had to be included on a bill in different formats for customers who had agreed to receive their bill electronically.

The ECCC noted that too much or too little information on the bill could confuse customers. Increased digitalisation could address some of these issues. For example, for electronic bills, retailers could provide detailed or complex information by including a link on the bill to the information instead of including the information on the bill itself.

The ECCC also noted that, although digitalisation offered many new opportunities, not all customers were, or will be, digitally enabled. Customers who did not have, or had only limited,

access to digital technology should not miss out on important information because the information was only available in a digital format.

**Submissions received**

- The AEC, Alinta Energy, Horizon Power, Perth Energy and Synergy all suggested retailers should be allowed to provide non-primary information in another format. Increased flexibility would allow retailers to deliver the information according to their customer's needs.
- WACOSS and UnionsWA both advocated for the information to remain on the bill so customers with digital literacy issues were not disadvantaged.

**ECCC response to submissions**

The ECCC considers that all billing information should continue to be included in a single statement. Customers should not have to click on hyperlinks or open several documents to access basic information about their bill.

The ECCC notes that the Code does not prohibit retailers from using hyperlinks or other methods to provide information in addition to what is required under clause 4.5. For example, to provide a detailed break-down of the customer's consumption.

Although all billing information will still have to be included in a single statement, the ECCC considers that customers should be able to agree to receive bills other than at a physical or email address. For example, customers should be able to agree to have their bill published in their account portal or in a mobile application ('app'), with the customer receiving an SMS or push notification when their bill is ready to be downloaded.

To provide retailers and customers with more flexibility, the ECCC recommends that clause 4.4 is deleted from the Code.

The ECCC also recommends that retailers should have to provide customers on a standard form contract with a paper or email bill on request. The customer may choose which option they prefer. The ECCC considers that, as more and more retail services move online, it is important that customers who do not have, or have only limited, access to digital technology will continue to be able to receive a paper or email bill on request.

**Final recommendation**

The ECCC recommends:

- Deleting clause 4.4 of the Code.
- Inserting a new clause that requires retailers to provide customers on a standard form contract with a paper bill or email bill (with the customer able to choose which they prefer) on request.

Other issues

**Recommendation 17**

a) Delete clause 4.4 of the Code.

b) Insert a new clause in the Code that requires retailers to provide customers on a standard form contract with a paper bill or email bill on request. The customer may choose which option they prefer.

**What the new clause may look like**

~~**4.4 How bills are issued**~~

~~A retailer must issue a bill to a customer at the address nominated by the customer, which may be an email address.~~

[**To be drafted by the PCO:** A new clause will be inserted that requires retailer to provide customers on a standard form contract with a paper bill or email bill on request. The customer will be able to choose which option they prefer.]

## 9.5 Particulars on each bill

[Clause 4.5 of the Code]

This clause lists the matters that must be included on a bill.

In November 2019, the ERA made several amendments to the equivalent clause in the *Compendium of Gas Customer Licence Obligations*.[105]

To maintain consistency between the Code and the Gas Compendium, the ECCC proposed to make similar amendments to clause 4.5 of the Code. These amendments are discussed in section 9.5.1.

Section 9.5.2 includes two recommendations for amendments that are not based on the recent amendments to clause 4.5 of the Gas Compendium.[106]

### *9.5.1 Amendments made to the Gas Compendium*

#### *9.5.1.1 Payment methods*

**Draft Review Report (draft recommendation 16)**

The ECCC proposed that retailers would have to include only the payment methods that were applicable to a customer on the customer's bill.

The ECCC considered that there was no need for retailers to include payment methods that were not applicable to the customer on the bill.

[105] The Gas Compendium sets standards of conduct for gas retailers and distributors in the supply of gas and is largely consistent with the Code.

[106] Items G, H, I, J and K in Appendix 2 (minor amendments) also propose additional amendments to clause 4.5 that are not based on the recent amendments to clause 4.5 of the Gas Compendium.

**Submissions received**

No submissions were received.

**Final recommendation**

The ECCC retains the recommendation as is.

Other issues

**Recommendation 18**

Amend clause 4.5(1)(r) of the Code to be consistent with clause 4.5(1)(p) of the *Compendium of Gas Customer Licence Obligations*.

### *9.5.1.2 Interpreter services*

**Draft Review Report (draft recommendation 17)**

The ECCC proposed that retailers would no longer have to include the words "and the words 'Interpreter Services'" next to the Interpreter Symbol on bills.

The ECCC considered that the current requirement was too specific. Retailers should have flexibility when informing customers about the availability of interpreter services.

**Submissions received**

No submissions were received.

**Final recommendation**

The ECCC retains the recommendation as is.

Other issues

**Recommendation 19**

Amend clause 4.5(1)(bb) of the Code to be consistent with clause 4.5(1)(z) of the *Compendium of Gas Customer Licence Obligations*.

### *9.5.1.3 Customer's name*

**Draft Review Report (draft recommendation 18)**

The ECCC proposed that retailers would no longer have to include a customer's name on a bill if the customer had not entered into a contract with the retailer.

The ECCC considered that, if the customer had not entered into a contract with the retailer, the retailer would not know the customer's name and would, therefore, be unable to include the customer's name on the bill.

**Submissions received**

No submissions were received.

**Final recommendation**

The ECCC retains the recommendation as is.

Other issues

**Recommendation 20**

Insert a new subclause, in clause 4.5 of the Code, consistent with clause 4.5(4)(a) of the *Compendium of Gas Customer Licence Obligations*.[107]

## 9.5.2 Other amendments

### 9.5.2.1 TTY services

**Draft Review Report (draft recommendation 19)**

The ECCC proposed that retailers had to include the telephone number for TTY services only on bills for residential customers.

The proposal was consistent with several other provisions which also only required TTY services to be made available to residential customers.

**Submissions received**

No submissions were received.

**Final recommendation**

The ECCC retains the recommendation as is.

Other issues

**Recommendation 21**

Amend clause 4.5(1)(cc) of the Code so the telephone number for TTY services only has to be included on bills for residential customers.

### 9.5.2.2 Bill content for on-supply customers

**Submissions received**

The ECCC received a submission from a stakeholder[108] about the information that had to be provided on bills received from landlords.

The stakeholder noted that renters who were billed through their landlords did not receive much information on their bills.

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107 The ECCC has decided not to recommend adopting clause 4.5(4)(b) of the Gas Compendium. Paragraph (b) requires the retailer to provide certain information before or with the bill to customers who have not entered into a contract with the retailer. A similar matter is addressed in regulation 38 of the *Electricity Industry (Customer Contracts) Regulations 2005*. This regulation requires retailers to advise customers who have not entered into a contract that the retailer is the default supplier for the connection point and that, if the customer uses electricity without entering into a contract, the electricity is deemed to be supplied under the retailer's standard form contract. To avoid duplication, the ECCC considered clause 4.5(4)(b) of the Gas Compendium should not be adopted

108 The stakeholder did not provide their name or contact details with their submission.

The stakeholder also stated that they preferred to receive their bill in paper format with as much information as the customer wanted; with the choice being the customer's, not the retailer's or landlord's.

**ECCC response to submission**

From the stakeholder's submission, it appears that the stakeholder is supplied under an on-supply arrangement.

On-sellers are exempt from the requirement to hold an electricity retail licence. This means they do not have to comply with the Code, including the Code's billing requirements.

However, on-sellers do have to comply with the conditions of their licence exemption. This includes having to provide customers with a bill that includes, as a minimum: [109]

- The quantity of electricity supplied to the occupier of the property.
- The fees and charges payable by the occupier for the electricity supplied and the provision of electricity services in relation to the property.

**Final recommendation**

As the stakeholder's concerns cannot be addressed in the Code, the ECCC recommends no changes to the Code.

#### *9.5.2.3 Bill content*

**Draft Review Report (question 4(a))**

The ECCC noted that the bill fulfilled many different purposes: it provided information about payment, helped customers understand their consumption and how the amount due was calculated, explained how to seek help, and included administrative matters (such as the account number). To fulfill these different purposes, the Code required retailers to include up to thirty items on their bills.[110]

Bills with too much (complex) information could cause information overload and frustrate customers. However, bills with too little information could also lead to frustration. For example, if there was not enough information on the bill for the customer to understand how the amount due was calculated or if concessions had been applied correctly. Also, sometimes information overload was not caused by the amount of information on the bill, but by the way the information was presented or by the terminology that was used.

The ECCC sought comment as to whether the amount of information that had to be included on a bill was appropriate. For example, could some of the bill items be removed from clause 4.5, or should additional information be included on the bill?

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109 *Electricity Industry Exemption Order 2005* (WA) clause 6A(7).

110 Not all items have to be included on all bills. For example, some items only have to be included on bills for residential customers.

**Submissions received**

- The AEC, Alinta Energy and Synergy suggested that retailers should be allowed to omit non-primary information from the bill and provide the information in other ways, if there was agreement between the retailer and customer.
- Horizon Power suggested average energy use, phone numbers and concession types could be removed from the bill as this kind of information was likely to be sought through digital means.
- Perth Energy suggested the Code be aligned with rule 25 of the NERR where possible. The NERR worked in consequential order through elements of a bill and Perth Energy suggested this would make it easier to comply with.
- Mr Noel Schubert proposed that bills should be required to show the GST inclusive prices and total costs of each component of the bill rather than GST only being included in the final amount of the bill. Mr Schubert asserted that, if GST was not included in the prices and components that made up a bill:

  > Customers calculate energy costs or payback periods for energy saving investments like rooftop PV systems or more efficient appliances, for example, inadvertently using the pre-GST price because that is all that is provided on the bill. They don't notice that the prices/costs shown are pre-GST.

  According to Mr Schubert, including GST inclusive prices and components on the bill would increase the likelihood that customers would conclude their investment in energy saving technology was worthwhile.
- WACOSS submitted that the amount of information on the bill was appropriate.

**ECCC response to submissions**

The ECCC considers that most of the matters that must be included on a bill assist the customer understand their bill and should remain on the bill.

The ECCC proposes to delete the following two items from clause 4.5(1):

- The dates of the account period: clause 4.5(1)(g).

  The ECCC notes that clause 4.5(1)(a) already requires a bill to include the dates of the supply period, or the current meter reading or estimate. The ECCC considers it more useful for the bill to include the supply period, as this is the period to which the charges relate.

  For clarity and to ensure that a bill always includes the start and end dates of the supply period, the ECCC proposes to amend clause 4.5(1)(a) to refer to the start and end dates of the supply period.
- The words "and any relevant mailing address" in clause 4.5(1)(x).

  The ECCC considers it unnecessary for bills to include the relevant mailing address. For customers receiving their bill electronically, there is no need for the bill to include the customer's email address, account portal etc. For customers receiving their bill by mail, retailers will have to include the mailing address on the bill or on the envelope for the bill to be able to be delivered.

  The ECCC notes that all bills will still have to include the customer's supply address.

The ECCC does not propose to oblige retailers to show GST inclusive prices and total costs for each component of the bill. The ACCC already requires that when prices are provided to customers, they must:

- State the total price of the good or service as a single figure, which is the minimum total cost that can be calculated. This should include any tax, duty, fee, levy or other additional charges (for example, GST or airport tax).
- If a business chooses to indicate the two components of a price separately (that is, the GST-exclusive price and the GST amount), then those components must be in close proximity to, and not given greater prominence than, the final GST-inclusive price.

The ECCC considers that the ACCC requirements are adequate.

### Final recommendation

The ECCC recommends that clause 4.5(1) of the Code is amended as described above.

Other issues

**Recommendation 22**

a) Replace clause 4.5(1)(a) of the Code with a reference to the start and end dates of the supply period.

b) Delete clause 4.5(1)(g) of the Code.

c) Amend clause 4.5(1)(x) of the Code by deleting the words "and any relevant mailing address".

### What the new clause may look like[111]

**4.5 Particulars on each bill**

(1) Unless a customer agrees otherwise, a retailer must include at least the following information on the customer's bill—[112]

(a) ~~either the range of dates of the metering supply period or the date of the current meter reading or estimate;~~

[**To be drafted by the PCO:** The paragraph will refer to the start and end dates of the supply period.]

(b) if the customer has a Type 7 connection point, the calculation of the tariff in accordance with the procedures set out in clause 4.6(1)(c);[113]

(c) if the customer has an accumulation meter installed (whether or not the customer has entered into an export purchase agreement with a retailer)—[114]

(i) the current meter reading or estimate; or

(ii) if the customer is on a time of use tariff, the current meter reading or estimate for the total of each time band in the time of use tariff;

(d) if the customer has not entered into an export purchase agreement with a retailer—

(i) the customer's consumption, or estimated consumption; and

(ii) if the customer is on a time of use tariff, the customer's consumption or estimated consumption for the total of each time band in the time of use tariff;

111 The mock-up drafting incorporates recommendations 18, 19, 20, 21 and 22.

112 Recommendation 5(a) proposes an amendment to this subclause.

113 Item G in Appendix 2 (minor amendments) proposes an amendment to this paragraph.

114 Item H in Appendix 2 (minor amendments) proposes an amendment to this paragraph.

(e) if the customer has entered into an export purchase agreement with a retailer—
  (i) the customer's consumption and export;[115]
  (ii) if the customer is on a time of use tariff, the customer's consumption and export for the total of each time band in the time of use tariff; and[116]
  (iii) if the customer has an accumulation meter installed and the export meter reading has been obtained by the retailer, the export meter reading;
(f) the number of days covered by the bill;
~~(g) the dates on which the account period begins and ends, if different from the range of dates of the metering supply period or the range of dates of the metering supply period have not been included on the bill already;~~
(h) the applicable tariffs;
(i) the amount of any other fees or charges and details of the service provided;
(j) with respect to a residential customer, a statement that the residential customer may be eligible to receive concessions and how the residential customer may find out its eligibility for those concessions;
(k) if applicable, the value and type of any concessions provided to the residential customer that are administered by the retailer;
(l) if applicable, a statement on the bill that an additional fee may be imposed to cover the costs of late payment from the customer;
(m) the average daily cost of consumption, including charges ancillary to the consumption of electricity, unless the customer is a collective customer;
(n) the average daily consumption unless the customer is a collective customer;
(o) a meter identification number (clearly placed on the part of the bill that is retained by the customer);[117]
(p) the amount due;
(q) the due date;
(r) a summary of the applicable payment methods;
(s) a statement advising the customer that assistance is available if the customer is experiencing problems paying the bill;
(t) a telephone number for billing and payment enquiries;
(u) a telephone number for complaints;
(v) the contact details for the electricity ombudsman;
(w) the distributor's 24 hour telephone number for faults and emergencies;
(x) the supply address ~~and any relevant mailing address~~;
(y) the customer's name and account number;
(z) the amount of arrears or credit;
(aa) if applicable and not included on a separate statement—
  (i) payments made under an instalment plan; and
  (ii) the total amount outstanding under the instalment plan;
(bb) with respect to residential customers, the telephone number for interpreter services together with the National Interpreter Symbol ~~and the words "Interpreter Services"~~.
(cc) with respect to residential customers, the telephone number for TTY services; and[118]
(dd) to the extent that the data is available, a graph or bar chart illustrating the customer's amount due or consumption for the period covered by the bill, the previous bill and the bill for the same period last year.

(2) Notwithstanding subclause (1)(dd), a retailer is not obliged to include a graph or bar chart on the bill if the bill is—
(a) not indicative of a customer's actual consumption;

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115 Item I in Appendix 2 (minor amendments) proposes an amendment to this paragraph.

116 Item J in Appendix 2 (minor amendments) proposes an amendment to this paragraph.

117 Item K in Appendix 2 (minor amendments) proposes an additional amendment to this paragraph.

118 Recommendation 4 proposes an additional amendment to this paragraph.

(b) not based upon a meter reading; or
(c) for a collective customer.

(3) If a retailer identifies a historical debt and wishes to bill a customer for that historical debt, the retailer must advise the customer of—
(a) the amount of the historical debt; and
(b) the basis of the historical debt,
before, with, or on the customer's next bill.

(4) Subclause (1)(y) does not apply where the customer is supplied under a deemed contract pursuant to regulation 37 of the *Electricity Industry (Customer Contracts) Regulations 2005.*

## 9.6 Basis of bill

[Clause 4.6 of the Code]

This clause requires a bill to be based on a meter reading, taken by the distributor or customer, or an estimation provided by the distributor.

### *9.6.1 New basis for bills: any other method agreed*

**Draft Review Report (draft recommendation 20)**

The ECCC proposed to:

- Include a new method on which bills could be based: "any other method agreed by the retailer and customer".

  The proposal aimed to facilitate the offering of new products by allowing retailers and customers to agree to a basis for bills other than data provided by the distributor.[119]

- Replace references to meter readings and clauses 4.3 and 4.8, with the defined term "energy data".

  The proposal would clarify that bills may be based on (actual and estimated) energy data provided by the distributor to the retailer, not only on a distributor's meter reading.

The proposal would also improve consistency between the Code and the NECF.

**Submissions received**

Synergy proposed typographical corrections to references to clause 4.6(1)(a) in the definitions of overcharging, undercharging and adjustment. Synergy stated the correct reference was 4.6(a).

**ECCC response to submissions**

The typographical corrections suggested by Synergy will be addressed by the proposed changes to the relevant clauses.

[119] For example, capped energy plans where customers are charged a flat monthly fee for (for example) 12 months based on their previous year's consumption. Customers are generally not billed for any additional consumption, provided their consumption does not increase by more than an agreed percentage.

**Final recommendation**

The ECCC retains the recommendation but proposes to:

- Clarify that bill smoothing, or similar, arrangements fall under amended clause 4.6(1)(a) (bills based on energy data).

  In the Draft Review Report, the ECCC noted that including the new billing method, "any other method agreed by the retailer and customer", would "ensure retailers can continue to offer bill smoothing". On further reflection, the ECCC considers that bill smoothing arrangements are best categorised as bills based on energy data and therefore fall under clause 4.6(1)(a) of the Code. This is because customers on a bill smoothing arrangement are generally billed based on their consumption (that is, meter readings are still taken and used to calculate bills) while payments are spread over a period of time to allow for peaks and troughs (for example, summer and winter use).

  The proposal aims to clarify that bill smoothing arrangements should be classified as bills based on energy data.

- Provide that customers and retailers may only agree to base a customer's bill on any other method if the customer is supplied under a non-standard contract.

  The proposal aims to ensure that customers can only agree to be billed on something other than meter readings or distributor estimations under a non-standard contract.

  An example of a billing arrangement where bills are not based on meter readings or distributor estimations, is a capped energy plan. Under a capped energy plan, customers are charged a flat monthly fee for a set period (for example 12 months) based on their previous year's consumption. Customers are generally not billed for any additional consumption, provided their consumption does not increase by more than an agreed percentage.

  Billing arrangements that are not based on meter readings or distributor estimations are markedly different from the current industry standard. The ECCC therefore considers that these types of arrangements should only be allowed under a non-standard contract.

NECF

**Recommendation 23**

a) Replace clause 4.6(a) of the Code with rule 20(1)(a)(i) of the NERR but:
   - replace the words "metering data" with "energy data".[120]
   - replace the words "metering coordinator" with "distributor or metering data agent".[121]
   - delete the words "and determined in accordance with the metering rules".[122]

***(cont'd)***

[120] Metering data is not a defined term in the Code or *Electricity Industry Metering Code 2012*. The equivalent term in the Metering Code is energy data.

[121] The *Electricity Industry Metering Code 2012* uses the terms distributor and metering data agent.

[122] As energy data would be defined by reference to the *Electricity Industry Metering Code 2012*, there would be no need to specify that the energy data must be determined in accordance with the metering rules.

NECF

**Recommendation 23 *(cont'd)***

– clarify that bills issued under bill smoothing, or similar, arrangements are considered to be bills based on energy data.

b) Delete clause 4.6(b) of the Code.[123]

c) Replace clause 4.6(c) of the Code with rule 20(3) of the NERR but replace the words "applicable energy laws" with "the metrology procedure, the Metering Code or any other applicable law".[124]

d) Adopt rule 20(1)(a)(iii) of the NERR but provide that customers and retailers may only agree to base a customer's bill on any other method if the customer is supplied under a non-standard contract.

### *9.6.2 Notice of billing arrangement: any other method agreed by the customer and retailer*

**Draft Review Report (draft recommendation 15(b))**

The ECCC proposed to require retailers to inform customers in writing, before the arrangement commences, when they have agreed to be billed on "any other method".[125]

**Submissions received**

- Horizon Power and Synergy did not support this proposal, suggesting that in many cases details about billing arrangements were agreed over the phone with the customer. Requiring customers to be informed in writing would result in additional unnecessary administration.
- Synergy also commented that the Code should not prevent an agent discussing the customer's requested payment method with the customer whilst on the phone.
- Perth Energy queried how "in writing" would be applied. For example, would it apply to customers who signed up via email or who used an online account portal to manage their payment arrangements.

**ECCC response to submissions**

Some of the submissions appear to assume that the new obligation will apply to payment methods (for example, if the customer and retailer agree to set up a bill smoothing or direct debit arrangement). This is not the intent of the proposal. The proposal aims to ensure that if a retailer and customer agree to base the bill on a method other than meter readings or

123 In WA, customers who self-read their meters provide their reading to their distributor, Western Power, who passes the data on to the retailer. The readings are considered energy data under the *Electricity Industry Metering Code 2012* and will fall under amended clause 4.6(a). There is therefore no need to retain clause 4.6(b).

124 The words "the metrology procedure, the *Electricity Industry Metering Code 2012* or any other applicable law" are consistent with the words used in current clause 4.6(1)(c) of the Code.

125 This method is currently not included in clause 4.6 (basis of bill) but is recommended for inclusion (see recommendation 23).

distributor estimations, the customer is advised of this in writing before the arrangement commences.[126]

Billing arrangements that are not based on meter readings or distributor estimations are markedly different from the current industry standard. The ECCC therefore considers it is important that customers are advised in writing of the arrangement they have agreed to.

The information could be given electronically provided the requirements of the *Electronic Transactions Act 2011* (WA) have been met. In the case of customers signing up via email or using online account portals, it is likely that retailers may infer from the customer's conduct that the customer has agreed that the information may be provided electronically.

Although the ECCC considers it is important that customers are advised in writing of the arrangement they have agreed to, the ECCC proposes to amend the recommendation so the information does not have to be given *before* the arrangement commences. Retailers and customers often enter into contracts over the phone. In these cases, it will often be more convenient to send or email the customer the information once the customer has agreed to enter into the contract, rather than beforehand.[127]

**Final recommendation**

The ECCC retains the recommendation but proposes to delete the words "The information must be provided before the arrangement commences".

Other issues

**Recommendation 24**

Insert a new clause in the Code that requires retailers to inform customers who have agreed to be billed "on any other method", in writing of the method they have agreed to.

[126] An example of a billing arrangement where bills are not based on meter readings or distributor estimations, is a capped energy plan. As explained in section 9.6.1, customers on a capped energy plan are charged a flat monthly fee for (for example) 12 months based on their previous year's consumption. Customers are generally not billed for any additional consumption, provided their consumption does not increase by more than an agreed percentage.

[127] If the Code was to require retailers to send the information beforehand, it would be difficult for retailers and customers to agree to the arrangement over the phone as the call could not proceed until the customer had received the information. The ECCC also notes that customers on a non-standard contract have the right to terminate their contract within 10 days of entering into the contract (regulation 32(2) of the *Electricity Industry (Customer Contracts) Regulations 2005*).

**What the new clause may look like**[128]

**4.6 Basis of bill**

(1) ~~Subject to clauses 4.3~~[129] ~~and 4.8,~~[130] ~~a~~ A retailer must base a customer's bill for the customer's consumption on—

(a) ~~the distributor's or metering agent's reading of the meter at the customer's supply address;~~ [energy data] provided for the relevant meter at the customer's [supply address] provided by the [distributor or metering data agent]; or

[**To be drafted by the PCO:** The PCO to ensure that bills issued under bill smoothing, or similar, arrangements are considered to be bills based on energy data].

(b) any other method agreed by the retailer and the [customer].

[**To be drafted by the PCO:** The PCO to amend paragraph (b) to provide that customers and retailers may only agree to base a customer's bill on any other method if the customer is supplied under a non-standard contract.]

~~(b) the customer's reading of the meter at the customer's supply address, provided the distributor has explicitly or implicitly consented to the customer reading the meter for the purpose of determining the amount due; or~~

~~(c) if the connection point is a Type 7 connection point, the procedure as set out in the metrology procedure or Metering Code, or otherwise as set out in any applicable law.~~[131]

(2) […][132]

(3) Despite [subclause (1)], if there is no meter in respect of the customer's [supply address], the retailer must base the customer's bill on energy data that is calculated in accordance with [the metrology procedure, the Metering Code or any other applicable law].

**[new clause] Notice of billing arrangement: any other method agreed by the retailer and the customer**[133]

[**To be drafted by the PCO:** The clause would require retailers to inform customers who have agreed to be billed on any other method, under clause 4.6, in writing of the method they have agreed to.]

# 9.7 Frequency of meter readings

[Clause 4.7 of the Code]

This clause requires retailers to use best endeavours to ensure metering data is obtained as often as is required to prepare their bills.

## *9.7.1 Drafting change*

**Draft Review Report (draft recommendation 21)**

The ECCC proposed to incorporate clause 4.7 into clause 4.6.

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128 The mock-up drafting incorporates recommendations 23 and 24.

129 If the ERA accepts recommendation 16, reference to clause 4.3 will no longer be required (recommendation 16 is to delete clause 4.3).

130 Consequential amendment. Reference to clause 4.8 (estimations) would no longer be required as distributor estimations would be covered by new clause 4.6(1)(a).

131 This matter would be addressed in new subclause (3).

132 See recommendation 25.

133 The words "Notice of billing arrangement: any other method agreed by the retailer and the customer" are tentative only; they are not based on existing wording in the Code. The PCO to provide draft wording.

The proposal aimed to improve consistency between the Code and the NECF without materially affecting retailers, distributors or customers.

**Submissions received**

No submissions were received.

**Final recommendation**

The ECCC retains the recommendation as is.

NECF

**Recommendation 25**

Retain clause 4.7 but incorporate in clause 4.6 of the Code.

### *9.7.2 Metering data*

**Draft Review Report (draft recommendation 22)**

The ECCC proposed to replace the term "metering data" with "actual value" because the term "metering data" was not defined in the Code or the *Electricity Industry Metering Code 2012*. The Metering Code used the term "actual value" for actual meter readings.[134]

The amendment aimed to clarify that bills should be based on an actual reading of the customer's meter; and to ensure consistency between the Code and the Metering Code. The ECCC also considered that the change should not materially affect retailers or customers.

**Submissions received**

Perth Energy questioned if the proposal considered issues arising from:

- faulty meters producing incorrect data which can be verified, or
- if a meter is lost or damaged, such as by a fire, if actual data can be provided.

**ECCC response to submissions**

- In response to Perth Energy's comment "Do the changes proposed [⋯] contemplate issues arising from faulty meters producing incorrect data which can be verified", the ECCC notes that it is not clear from the example what could be verified: the data, or the fact the meter is faulty. If the data can be verified, the distributor should be able to use it. If it can be verified that the meter is faulty, the distributor may provide a deemed value in accordance with the Metering Code.
- In response to Perth Energy's comment "Do the changes proposed [⋯] contemplate issues arising if a meter is lost or damaged, such as by a fire, if actual data can be provided", the ECCC notes that if actual data can be provided, the distributor can use the

[134] Clause 1.3 of the Metering Code defines actual value as "means energy data for a metering point which has physically been read (or remotely collected by way of a communications link or an automated meter reading system) from the meter associated with the metering point, and includes a deemed actual value".

actual data. If not, the distributor can provide a deemed value in accordance with the Metering Code.

Actual value is defined in the Metering Code as "means energy data for a metering point which has physically been read (or remotely collected by way of a communications link or an automated meter reading system) from the meter associated with the metering point, and includes a deemed actual value."

Deemed value is defined as "means an estimated or substituted value designated as such for a metering point under clause 5.23(1)."

Clause 5.23(1) provides:

> If at any time a network operator determines that there is no possibility of determining an actual value for a metering point, then the network operator must designate an estimated or substituted value for the metering point to be a "deemed actual value" for the metering point.

The proposal therefore allows for situations where the meter is faulty or damaged.

**Final recommendation**

The ECCC retains the recommendation as is.

Other issues

**Recommendation 26**

Replace the words "metering data" with "actual value" in clause 4.7 of the Code; and define actual value by reference to the *Electricity Industry Metering Code 2012*.

### 9.7.3 Application of clause 4.7

**Draft Review Report (draft recommendation 23)**

The ECCC proposed that retailers would not have to use best endeavours to base a bill on an actual meter reading if the bill was based on a method agreed with the customer.

The ECCC considered that it could be argued that clause 4.7 was inconsistent with new clause 4.6(1)(b) as clause 4.7 required a retailer to base a bill on an actual meter reading as frequently as required, while proposed new clause 4.6(1)(b) would allow a retailer to base a bill on a method agreed between the customer and the retailer.[135] The proposed amendment would remove the potential inconsistency between both clauses.

The amendment would not affect the distributor's obligation, under the *Electricity Industry (Metering Code) 2012*, to obtain an actual meter reading at least once every 12 months.

**Submissions received**

No submissions were received.

[135] See recommendation 23(d).

### Final recommendation

The ECCC retains the recommendation as is.

Other issues

**Recommendation 27**

Clarify that clause 4.7 of the Code does not apply if the bill is based on a method agreed between the customer and the retailer.

### What the new clause may look like[136]

~~**4.7 Frequency of meter readings**~~

**4.6 Basis of bill**

(1) [···][137]

(2) Other than in respect of a Type 7 connection point, a retailer must use its best endeavours to ensure that ~~metering data~~ an actual value is obtained as frequently as required to prepare its bills.

[**To be drafted by the PCO:** The PCO to amend subclause (2) so it does not apply to bills based on any other method agreed by the retailer and the customer.]

(3) [···][138]

**1.5 Definitions**

**"actual value"** means [···]

[**To be drafted by the PCO:** The definition would refer to the definition of "actual value" in the Metering Code.]

## 9.8 Estimations

[Clause 4.8 of the Code]

This clause sets standards for estimated bills.

### Draft Review Report (draft recommendation 24)

The ECCC proposed that the Code would no longer explicitly provide that retailers had to give customers an estimated bill if they were unable to reasonably base the bill on a meter reading.

The ECCC considered that, as a result of recommendation 23, clause 4.6 would clearly specify that retailers had to base bills on (actual or estimated) energy data provided by the distributor. In addition, clause 4.7 provided that retailers had to use best endeavours to ensure that metering data was obtained as frequently as required to issue bills.

It should therefore no longer be necessary to provide in clause 4.8(1) that a retailer had to give a customer an estimated bill if the retailer was unable to reasonably base the bill on a meter reading.

136 The mock-up drafting incorporates recommendations 25, 26 and 27.

137 See section 9.6.1.

138 See section 9.6.1.

### Submissions received

No submissions were received.

### Final recommendation

The ECCC retains the recommendation as is.

Other issues

**Recommendation 28**

Delete clause 4.8(1) of the Code.

### What the new clause may look like

**4.8 Estimations**

~~(1) If a retailer is unable to reasonably base a bill on a reading of the meter at a customer's supply address, the retailer must give the customer an estimated bill.~~

~~(2)~~(1) If a retailer bases a bill upon an estimation, the retailer must clearly specify on the customer's bill that—

(a) the retailer has based the bill upon an estimation;

(b) the retailer will tell the customer on request—

(i) the basis of the estimation; and

(ii) the reason for the estimation; and

(c) the customer may request—

(i) a verification of energy data; and

(ii) a meter reading.

~~(3)~~(2) A retailer must tell a customer on request the—

(a) basis for the estimation; and

(b) reason for the estimation.

~~(4)~~(3) For the purpose of this clause, where the distributor's or metering agent's reading of the meter at the customer's supply address is partly based on estimated data, then subject to any applicable law—[139]

(a) where more than ten per cent of the interval meter readings are estimated interval meter readings; and

(b) the actual energy data cannot otherwise be derived,

for that billing period, the bill is deemed to be an estimated bill.

## 9.9 Adjustments to subsequent bills

[Clause 4.9 of the Code]

This clause requires retailers to include an adjustment on the next bill if the customer received an estimated bill and the meter was subsequently read.

### Draft Review Report (draft recommendation 25)

The ECCC proposed to delete clause 4.9 from the Code.

The ECCC considered that it could be argued that clause 4.9 was inherently inconsistent. While clause 4.9 implied that any adjustment could be added to the next bill, clause 4.19 only allowed adjustments (overcharges) for less than $100 to be directly added to the bill. If the adjustment

[139] Item L in Appendix 2 (minor amendments) proposes an amendment to this subclause.

was for more than $100, the retailer had to follow the detailed instructions in clause 4.19 on how to repay the adjustment. The proposed amendment would remove the inconsistency.

The proposal would also improve consistency between the Code and the NECF.

**Submissions received**

No submissions were received.

**Final recommendation**

The ECCC retains the recommendation as is.

Other issues

**Recommendation 29**

Delete clause 4.9 of the Code.

**What the new clause may look like**

~~**4.9 Adjustments to subsequent bills**~~

~~If a retailer gives a customer an estimated bill and the meter is subsequently read, the retailer must include an adjustment on the next bill to take account of the actual meter reading in accordance with clause 4.19.~~

## 9.10 Customer may request meter reading

[Clause 4.10 of the Code]

This clause requires retailers to use best endeavours to replace an estimated bill with a bill based on a meter reading if the customer has met certain requirements. The clause only applies if the bill is estimated because the customer failed to provide access to the meter.

### *9.10.1 Obligation to replace estimated bill*

**Draft Review Report (draft recommendation 26)**

The ECCC proposed that the obligation to use best endeavours be replaced with an absolute obligation.

The ECCC considered that a retailer should be able to replace an estimated bill if the conditions specified in clause 4.10 had been met. The proposal also aimed to improve consistency between the Code and the NECF.

**Submissions received**

- The AEC and Synergy suggested placing an absolute obligation on retailers to replace estimated bills with bills based on actual meter readings would require an obligation on distributors to provide actual readings to retailers. Otherwise, retailers would not always be able to comply.
- Synergy also considered that the recommendation would make no difference to customers as retailers were already required to take all reasonable courses of action available to replace estimated bills with actual bills.

- Horizon Power did not see the value of changing the wording to an absolute obligation and did not support the recommendation.

**ECCC response to submissions**

The ECCC acknowledges that a retailer may, occasionally, be unable to replace an estimated bill with a bill based on a meter reading, even if all the conditions of clause 4.10 have been met.

The ECCC proposes not to replace the current requirement to use best endeavours with an absolute obligation.

**Final recommendation**

The ECCC recommends no changes to the Code.

### *9.10.2 Actual reading of customer's meter*

**Draft Review Report (draft recommendation 27)**

To improve consistency between the Code and the *Electricity Industry Metering Code 2012*, the ECCC proposed to replace the words "on an actual reading of the customer's meter" with "on an actual value".[140]

The ECCC considered that the change would not materially affect retailers or customers.

**Submissions received**

No submissions were received.

**Final recommendation**

The ECCC retains the recommendation as is.

Other issues

**Recommendation 30**

Replace the words "an actual reading of the customer's meter", in clause 4.10(a) of the Code, with "an actual value".

**What the new clause may look like**

**4.10 Customer may request meter reading**

If a retailer has based a bill upon an estimation because a customer failed to provide access to the meter and the customer—

(a) subsequently requests the retailer to replace the estimated bill with a bill based on an ~~actual reading of the customer's meter~~ actual value;

(b) pays the retailer's reasonable charge for reading the meter (if any); and

(c) provides due access to the meter,

the retailer must use its best endeavours to do so.

[140] The Metering Code uses the term actual value for energy data which has physically been read (or remotely collected by way of a communications link or an automated meter reading system).

# 9.11 Customer requests testing of meters or metering data

[Clause 4.11 of the Code]

This clause requires a retailer to arrange a meter test upon a customer's request.

### Draft Review Report (draft recommendation 28)

The ECCC proposed that customers should also be able to ask for a check of their energy data.

The proposal aimed to improve consistency between the Code and the NECF, and increase protections for customers.

### Submissions received

No submissions were received.

### Final recommendation

The ECCC retains the recommendation as is.

NECF

**Recommendation 31**

a) Replace clause 4.11(1) of the Code with rule 29(5)(a) of the NERR but:
   - replace the words "meter reading or metering data" with "energy data".[141]
   - retain clause 4.11(1)(b)[142] and add the words "checking the energy data".
   - replace the words "responsible person or metering coordinator (as applicable)" with "distributor or metering data agent" in subrule (5)(a)(ii).[143]

b) Amend clause 4.11(2) of the Code to take account of the fact that customers may also request a check of the energy data.

c) Incorporate amended clause 4.11 into clause 4.15 of the Code (Review of bill).

### What the new clause may look like

~~**4.11 Customer may request testing of meters or metering data**~~

**4.15 Review of bill**

~~(1) If a customer—~~

~~(a) requests the meter to be tested; and~~

~~(b) pays the retailer's reasonable charge for testing the meter (if any),~~

~~the retailer must request the distributor or metering data agent to test the meter.~~

(2) If [a customer]—

(a) requests that, in reviewing the bill, the [energy data] be checked or the meter tested; and

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141 Metering data is not a defined term in the Code or the *Electricity Industry Metering Code 2012*. The equivalent term in the Metering Code is energy data. As the definition of energy data also includes data based on actual meter readings, it is not necessary to refer to meter readings in addition to energy data.

142 To provide certainty to retailers that the cost of a meter test or check must be met by the customer before the check or test occurs.

143 The *Electricity Industry Metering Code 2012* uses the terms distributor and metering data agent.

(b) [pays the retailer's reasonable charge for checking the energy data or testing the meter (if any),][144] the retailer must, as the case may require—

(c) arrange for a check of the [energy data]; or

(d) request the [distributor or metering data agent] to test the meter.

~~(2)~~(3) If [the check shows that the energy data was incorrect or][145] the meter is tested and found to be defective, the retailer's reasonable charge for [the check or][146] testing the meter (if any) is to be refunded to the customer.

## 9.12 Customer applications

[Clause 4.12 of the Code]

This clause sets out when a retailer must change a customer to an alternative tariff.

### Draft Review Report (draft recommendation 29)

The ECCC proposed to change the drafting of clause 4.12 to improve consistency between the Code and the NECF.

The change would not materially affect retailers or customers.

### Submissions received

No submissions were received.

### Final recommendation

The ECCC retains the recommendation as is.

NECF

**Recommendation 32**

Replace clause 4.12 of the Code with rules 37(1) and (2) of the NERR but clarify that transfer in subrule (2) refers to a transfer under subrule (1).[147]

### What the new clause may look like

**4.12 ~~Customer applications~~ Customer request for change of tariff**

~~(1) If a retailer offers alternative tariffs and a customer—~~

~~(a) applies to receive an alternative tariff; and~~

~~(b) demonstrates to the retailer that the customer satisfies all of the conditions relating to eligibility for the alternative tariff,~~

~~the retailer must change the customer to the alternative tariff within 10 business days of the customer satisfying those conditions.~~

~~(2) For the purposes of subclause (1), the effective date of change will be—~~

~~(a) the date on which the last meter reading at the previous tariff is obtained; or~~

144 Currently included in clause 4.11(1)(b) of the Code.

145 The words "the check shows that the energy data was incorrect or" are based on similar wording in rule 29(5)(b).

146 The words "the check or" are based on similar wording in rule 29(5)(b).

147 Similar to how the words "for the purposes of subclause (1)" currently clarify the relationship between subclause (1) and (2).

~~(b) the date the meter adjustment is completed, if the change requires an adjustment to the meter at the customer's supply address.~~

(1) Where a retailer offers alternative tariffs or tariff options and a [customer]:
   (a) requests a retailer to transfer from that customer's current tariff to another tariff; and
   (b) demonstrates to the retailer that it satisfies all of the conditions relating to that other tariff and any conditions imposed by the customer's distributor,

   the retailer must transfer the customer to that other tariff within 10 business days of satisfying those conditions.

(2) [**To be drafted by the PCO:** The clause would provide that, where a customer transfers from one tariff type to another under subclause (1), the effective date of the transfer is:]
   (a) subject to paragraph (b), the date on which the meter reading was obtained; or
   (b) where the transfer requires a change to the meter at the [customer's] [supply address], the date the meter change is completed.

## 9.13 Written notification of a change to an alternative tariff

[Clause 4.13 of the Code]

This clause requires retailers to notify customers in writing before changing the customer to an alternative tariff. The obligation only applies if the current tariff is more beneficial than the new tariff, and if the change in eligibility is due to a change in the customer's electricity use at the supply address.

### *9.13.1 Change in electricity use*

**Draft Review Report (draft recommendation 30)**

The ECCC proposed that retailers should always have to advise customers who were no longer eligible to receive their existing tariff that they would be transferred to their applicable tariff.

The proposal aimed to increase protections for customers.

**Submissions received**

No submissions were received.

**Final recommendation**

The ECCC retains the recommendation as is.

Other issues

**Recommendation 33**

a) Delete clause 4.13(a) of the Code.

b) Delete the words "more beneficial" from clause 4.13(b) of the Code.

c) Delete reference to a customer's use of electricity at the supply address from clause 4.13 of the Code.

### *9.13.2 Written notice*

**Draft Review Report (draft recommendation 31)**

The ECCC proposed to delete the requirement that notice had to be in writing.

The ECCC considered that retailers should have flexibility as to how they notify customers before transferring them to another tariff. Most interactions between customers and retailers took place over the phone. Removing the requirement to provide notice in writing would allow retailers to notify customers by phone that they were being transferred to another, applicable tariff. Where a customer was notified by phone, the customer could immediately seek further information from the retailer about the proposed transfer.

The proposal would reduce regulatory burden and compliance costs for retailers.

**Submissions received**

No submissions were received.

**Final recommendation**

The ECCC retains the recommendation as is.

Other issues

**Recommendation 34**

Delete the requirement that notice must be written from clause 4.13 of the Code.

**What the new clause may look like**

**4.13 ~~Written~~ notification of a change to an alternative tariff**

~~If—~~

~~(a) a customer's electricity use at the customer's supply address changes or has changed; and~~

~~(b) the customer is no longer eligible to continue to receive an existing, more beneficial tariff,~~

~~a retailer must, prior to changing the customer to the tariff applicable to the customer's use of electricity at that supply address, give the customer written notice of the proposed change.~~

[**To be drafted by the PCO:** The clause will provide that, if a customer is no longer eligible to receive their existing tariff, a retailer must, before changing the customer to their applicable tariff, notify the customer of the proposed change.]

## 9.14 Request for final bill

[Clause 4.14 of the Code]

This clause requires retailers to use reasonable endeavours to arrange for a final bill upon a customer's request.

### 9.14.1 Meter reading for final bill

**Draft Review Report (draft recommendation 32)**

The ECCC proposed that retailers had to use best endeavours to:

- arrange for a meter reading when a customer requests a final bill; and
- issue a final bill.[148]

The proposal aimed to increase protections for customers and improve consistency between the Code and the NECF.

**Submissions received**

- Horizon Power suggested there could be situations where the customer's request for a final bill was unreasonable and therefore did not support the recommendation.
- Synergy submitted there could be situations where a customer's request for a final meter reading bill could not be accommodated or where best endeavours would require retailers to use an unreasonable amount of time and resources to achieve the outcome.

**ECCC response to submissions**

The ECCC notes that, as a result of the amendment, retailers will have to use their best endeavours to "arrange for" a meter reading. This requirement can be met by asking the distributor to carry out a meter reading.

The ECCC considers it reasonable for retailers to have to use best endeavours to arrange for a meter reading and prepare and issue a final bill.

The ECCC notes that reasonable endeavours and best endeavours are substantially similar obligations. Also, most clauses in the Code require retailers and distributors to use best endeavours, rather than reasonable endeavours.

**Final recommendation**

The ECCC retains the recommendation.

NECF

**Recommendation 35**

Replace clause 4.14(1) of the Code with rule 35(1) of the NERR.

### 9.14.2 Written notice

[Clause 4.14(3) of the Code]

This clause allows retailers to use a credit held by a customer to set off a debt owed by the customer. Retailers have to notify customers in writing of any credit set off.

[148] Currently, retailers have to use reasonable endeavours to issue a final bill.

### Draft Review Report (draft recommendation 33)

The ECCC proposed to delete the requirement that notice about the use of a credit to set off a debt had to be in writing.

The ECCC considered that retailers should have flexibility as to how they notify a customer when they used a credit held by the customer to set off a debt owed by the customer. Most interactions between customers and retailers took place over the phone. Removing the requirement to provide notice in writing would allow retailers to finalise credit transfers with customers over the phone.

The proposal would simplify the process for both customers and retailers, and reduce regulatory burden and compliance costs for retailers.

### Submissions received

No submissions were received.

### Final recommendation

The ECCC retains the recommendation as is.

Other issues

**Recommendation 36**

Delete the requirement that notice must be written from clause 4.14(3) of the Code.

### What the new clause may look like[149]

**4.14 Request for final bill**

(1) ~~If a customer requests a retailer to issue a final bill at the customer's supply address, the retailer must use reasonable endeavours to arrange for that bill in accordance with the customer's request.~~
If a customer requests the retailer to arrange for the preparation and issue of a final bill for the customer's [supply address], the retailer must use its best endeavours to arrange for:
(a) a meter reading; and
(b) the preparation and issue of a final bill for the [supply address] in accordance with the customer's request.

(2) If a customer's account is in credit at the time of account closure, subject to subclause (3), a retailer must, at the time of the final bill, ask the customer for instructions whether the customer requires the retailer to transfer the amount of credit to—
(a) another account the customer has, or will have, with the retailer; or
(b) a bank account nominated by the customer, and
the retailer must credit the account, or pay the amount of credit in accordance with the customer's instructions, within 12 business days of receiving the instructions or other such time as agreed with the customer.

(3) If a customer's account is in credit at the time of account closure, and the customer owes a debt to a retailer, the retailer may, with ~~written~~ notice to the customer, use that credit to set off the debt owed to the retailer. If, after the set off, there remains an amount of credit, the retailer must ask the customer for instructions to transfer the remaining amount of credit in accordance with subclause (2).

[149] The mock-up drafting incorporates recommendations 35 and 36.

# 9.15 Procedures following a review of a bill

[Clause 4.16 of the Code]

This clause sets out what retailers must do following a bill review.

## *9.15.1 Payment for outstanding amount*

**Draft Review Report (draft recommendation 34)**

The ECCC proposed to explicitly state that retailers could require customers to pay any amount that remains outstanding after the bill has been adjusted.

The proposal aimed to improve clarity, and consistency between the Code and the NECF.

**Submissions received**

No submissions were received.

**Final recommendation**

The ECCC retains the recommendation as is.

NECF

**Recommendation 37**

a) Adopt rule 29(6)(b)(ii) of the NERR.

b) Amalgamate clauses 4.15 and 4.16 of the Code.

## *9.15.2 Electricity ombudsman*

**Draft Review Report (draft recommendation 35)**

The ECCC proposed that, if a bill review found that the bill was correct, retailers had to advise customers of the details of the electricity ombudsman instead of the details of "any applicable external complaints handling processes".

The ECCC considered that a reference to the electricity ombudsman would be clearer than a reference to any applicable external complaints handling processes.

**Submissions received**

No submissions were received.

**Final recommendation**

The ECCC retains the recommendation as is.

Other issues

**Recommendation 38**

Replace the words "any applicable external complaints handling processes", in clause 4.16(1)(a)(iii) of the Code, with "the electricity ombudsman".

### What the new clause may look like[150]

~~**4.16 Procedures following a review of a bill**~~

**4.15 Review of bill**

~~(1)~~(4) If, after conducting a review of a bill, a retailer is satisfied that the bill is—

(a) correct, the retailer—

(i) may require a customer to pay the unpaid amount;

(ii) must advise the customer that the customer may request the retailer to arrange a meter test in accordance with applicable law; and[151]

(iii) must advise the customer of the existence and operation of the retailer's internal complaints handling processes and details of ~~any applicable external complaints handling processes~~ the electricity ombudsman, or

(b) incorrect, the retailer:

(i) must adjust the bill in accordance with clauses 4.17 and 4.18; and

(ii) may require the customer to pay the amount (if any) of the bill that is still outstanding.

~~(2)~~(5) A retailer must inform a customer of the outcome of the review as soon as practicable.

~~(3)~~(6) If a retailer has not informed a customer of the outcome of the review within 20 business days from the date of receipt of the request for review, the retailer must provide the customer with notification of the status of the review as soon as practicable.

## 9.16 Undercharging

[Clause 4.17 of the Code]

This clause describes how a retailer must deal with an undercharge that resulted from an error, defect or default for which the retailer or distributor is responsible.

### Draft Review Report (draft recommendation 36)

The ECCC proposed that:

- Retailers had to manage all undercharges in accordance with clause 4.17, regardless of whether the undercharge was the result of an error, defect or default by the retailer or distributor, or not. However, some of the customer protections would not apply if the amount was undercharged as a result of the customer's fault or unlawful act or omission.
- An amount that had been undercharged as a result of changes to the customer's electricity use be calculated from the date the customer was notified of the undercharge (instead of from the date the customer was notified that the alternative tariff applied).[152] This would ensure any undercharges could not be recovered for a period more than 12 months before the customer was made aware of the undercharge. [153]

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150 The mock-up drafting includes recommendations 37 and 38.

151 Item M in Appendix 2 (minor amendments) proposes an amendment to this paragraph.

152 *Code of Conduct for the Supply of Electricity to Small Use Customers 2018* (WA) clause 4.17(2)(b).

153 Clause 4.17(2)(b) of the Code determined the period for which a retailer could recover an amount that was undercharged due to a change in the customer's electricity use. A retailer could recover the amount for the 12 months before the customer was notified that an alternative tariff applied, rather than the 12 months before the customer was notified of the undercharge. For example, if a retailer notified a customer of the undercharge four months after notifying the customer of the change to the alternative tariff, the retailer could recover any undercharge during the last 16 months. The ECCC considered that it was unclear why the

The proposed changes, together with the proposed changes to the overcharging and adjustment clauses, aimed to greatly simplify how retailers had to deal with undercharges under the Code.

The proposal also aimed to increase customer protections and improve consistency between the Code and the NECF.

**Submissions received**

Synergy considered the proposed changes:

- Would place an unreasonable burden on retailers and could be open to misuse. Synergy gave the example of a customer involving an associate to cause an undercharge and then claiming they were not required to pay.
- Were not consistent with the contractual relationship between retailers and customers as retailers could not monitor every premises to see if someone was tampering with the meter. Synergy considered it was the customer's responsibility to prevent third parties from tampering with the customer's meter.
- Would require retailers to form a view as to whether any undercharges were due to the customer's "fault or unlawful act or omission". Synergy suggested this would be difficult for retailers to do as they have limited information.

Synergy proposed that the current undercharging provisions in the Code remained unchanged.

**ECCC response to submissions**

Under the proposed changes, retailers would need to determine whether any undercharges are the result of the customer's fault or unlawful act or omission before they could limit the amount to be recovered to the last 12 months or charge interest and late payment fees. The ECCC agrees that, given the limited information available to retailers, this determination will sometimes be difficult to make for retailers.

The most common instance of undercharging that would be covered by the proposed changes (and that is not currently covered) would be mistakes made by customers who self-read their meters. However, these types of mistakes are occurring less often because Western Power has implemented new technology which makes it easier for customers to submit their meter read.[154] Also, Horizon Power no longer requires self-reads as it now reads all its meters remotely.

amount of the undercharge was not calculated from the date the customer was notified of the undercharge. At the time the customer would be notified that an alternative tariff applied, the retailer would have been aware that the customer may have been undercharged.

The ECCC considered that the amendment should not materially affect retailers as they should be able to inform customers of any undercharge at the time of or shortly after they were transferred to the alternative tariff.

[154] Western Power has launched a self-read portal where customers can submit their meter readings. When a customer is due to submit their meter reading, Western Power will message the customer with a personalised link. The customer can click on the link and submit their reading from their mobile device or, for some meter types, by taking a photo of the meter reading.

As the proposed changes would likely only assist a very small number of customers while possibly causing significant difficulties for retailers, the ECCC considers that the advantages of the proposal are unlikely to outweigh the disadvantages. The ECCC therefore no longer proposes that retailers will have to manage all undercharges in accordance with clause 4.17.

However, the ECCC still considers that undercharges that are the result of changes to the customer's electricity use should be calculated from the date the customer was notified of the undercharge (instead of from the date the customer was notified that the alternative tariff applied).

The ECCC also proposes to:

- Amend the definition of undercharging so:
  - It includes any undercharges that are the result of an error, defect or default for which the retailer or distributor is responsible.

    Currently, the definition only applies to failure to issue a bill and the difference between the amount due under an estimated bill and the amount that would have been due if the bill had been based on a meter reading. The proposal will ensure that, for example, failure by retailers to apply the correct tariff or concession is also covered.
  - It applies where a meter has been found to be defective.

    This matter is currently addressed in clause 4.17(2) of the Code.
  - It does not include undercharges that resulted from the customer denying access to the meter for more than 12 months.[155]

    Undercharges that resulted from the customer denying access to the meter are currently explicitly excluded from the undercharging protections.[156] The same exception is not included in clause 4.19, adjustments, even though a customer denying access to the meter is more likely to result in an adjustment than an undercharge.

    Under the proposed changes, undercharges and adjustments will be treated the same.[157] The ECCC therefore proposes that the exception apply to both, with one change: the exception should only apply if the customer denies access for more than a year.

    There are many reasons why a distributor may be unable to gain access to a customer's meter. The ECCC considers that the simple fact that a distributor was unable to gain access to a customer's meter is insufficient reason to set aside the protections of clause 4.17, including repaying undercharges under an instalment plan and not being charged interest or late payment fees. However, customers who deny access for more than a year should not be entitled to the protections of clause 4.17, including the 12-month limit on the recovery of undercharges.

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155 A similar matter is currently addressed in subclause (4).

156 *Code of Conduct for the Supply of Electricity to Small Use Customers 2018* (WA) clause 4.17(4).

157 See recommendation 42.

- Delete clause 4.17(4) which provides that "an undercharge that has occurred as a result of a customer denying access to the meter is not an undercharge as a result of an error, defect or default for which the retailer or distributor is responsible".

  A similar matter will now be addressed in the definition of "undercharging".[158]

**Final recommendation**

The ECCC recommends that:

- Undercharges that are the result of changes to the customer's electricity use are calculated from the date the customer was notified of the undercharge.
- The definition of undercharging is amended so:
  - It includes any undercharges that are the result of an error, defect or default for which the retailer or distributor is responsible.
  - It applies where a meter has been found to be defective.
  - It does not include undercharges that resulted from the customer denying access to the meter for more than 12 months.
- Clause 4.17(4) is deleted.

Other issues

**Recommendation 39**

a) Delete clause 4.17(1) of the Code.[159]

b) Amend clause 4.17(2) of the Code by deleting:
   - the words "(including where a meter has been found to be defective)".
   - the words "subject to subclause (b)" in paragraph (a).[160]
   - paragraph (b).

c) Delete clause 4.17(4) of the Code.

d) Amend the definition of undercharging, in clause 1.5 of the Code, so it:[161]
   - includes any undercharges that are the result of an error, defect or default for which the retailer or distributor is responsible (including where a meter has been found to be defective).
   - does not include undercharges that resulted from the customer denying access to the meter for more than 12 months.

158 See previous bullet point.

159 The ECCC considers this subclause is unnecessary.

160 Consequential amendment of deleting clause 4.17(2)(b).

161 Recommendation 42(c) proposes an additional amendment to this definition.

## What the new clause may look like

**4.17 Undercharging**

~~(1) This clause 4.17 applies whether the undercharging became apparent through a review under clause 4.15 or otherwise.~~

~~(2)~~(1) If a retailer proposes to recover an amount undercharged as a result of an error, defect or default for which the retailer or distributor is responsible ~~(including where a meter has been found to be defective)~~,[162] the retailer must—

(a) ~~subject to subclause (b),~~ limit the amount to be recovered to no more than the amount undercharged in the 12 months prior to the date on which the retailer notified the customer that undercharging had occurred;

~~(b) other than in the event that the information provided by a customer is incorrect, if a retailer has changed the customer to an alternative tariff in the circumstances set out in clause 4.13 and, as a result of the customer being ineligible to receive the tariff charged prior to the change, the retailer has undercharged the customer, limit the amount to be recovered to no more than the amount undercharged in the 12 months prior to the date on which the retailer notified the customer under clause 4.13.~~

~~(c)~~(b) notify the customer of the amount to be recovered no later than the next bill, together with an explanation of that amount;

~~(d)~~(c) subject to subclause (3), not charge the customer interest on that amount or require the customer to pay a late payment fee; and

~~(e)~~(d) in relation to a residential customer, offer the customer time to pay that amount by means of an instalment plan in accordance with clause 6.4(2) and covering a period at least equal to the period over which the recoverable undercharging occurred.

~~(3)~~(2) If, after notifying a customer of the amount to be recovered in accordance with subclause ~~(2)(c)~~(1)(b), the customer has failed to pay the amount to be recovered by the due date and has not entered into an instalment plan under subclause ~~(2)(e)~~(1)(d), a retailer may charge the customer interest on that amount from the due date or require the customer to pay a late payment fee.

~~(4) For the purpose of subclause (2), an undercharge that has occurred as a result of a customer denying access to the meter is not an undercharge as a result of an error, defect or default for which a retailer or distributor is responsible.~~

**1.5 Definitions**

**"undercharging"** ~~includes, without limitation—~~

~~(a) the failure to issue a bill in accordance with clause 4.1 or clause 4.2 or to issue a bill under a bill smoothing arrangement; or~~

~~(b) the amount by which the amount charged in a bill or under a bill smoothing arrangement is less than the amount that would have been charged if the amount of the bill was determined in accordance with clause 4.6(1)(a) as a result of some defect, error or default for which the retailer or distributor is responsible or contributed to, but does not include an adjustment.~~

[**To be drafted by the PCO:** The definition will:

- apply to any undercharges that resulted from errors, defects or defaults for which the retailer or distributor is responsible (including where a meter has been found to be defective).
- not apply to undercharges that resulted from the customer denying access to the meter for more than 12 months.][163]

[162] Recommendation 42(e) proposes an amendment to this subclause.

[163] Recommendation 42(c) proposes an additional amendment to this definition.

# 9.17 Overcharging

[Clause 4.18 of the Code]

This clause describes how a retailer must deal with an overcharge that resulted from an error, defect or default for which the retailer or distributor is responsible.

## *9.17.1 All overcharges to be covered*

**Draft Review Report (draft recommendation 37)**

The ECCC proposed that:

- Retailers would have to manage all overcharges in accordance with clause 4.18, regardless of whether the overcharge was the result of an error, defect or default by the retailer or distributor, or not.
- If the customer was overcharged as a result of the customer's unlawful act or omission, the retailer would only have to repay, credit or refund the customer the amount the customer was overcharged in the 12 months before the error was discovered.
- An overcharge would be due from the time the retailer became aware of the overcharge or, if the overcharge was the result of an estimation carried out in accordance with the *Electricity Industry Metering Code 2012*, from the time the retailer received an actual value from the distributor.

The proposed changes, together with the proposed changes to the undercharging and adjustment clauses, aimed to greatly simplify how retailers had to deal with overcharges under the Code.

The proposal also aimed to increase customer protections and improve consistency between the Code and the NECF.

**Submissions received**

- Synergy was concerned that the changes could make retailers liable to repay overcharges to customers that were due to the customer's own errors, acts or omissions. Synergy gave several examples of customers failing to change their tariff when their circumstances changed or failing to apply for a concession they were entitled to.

  Synergy considered that customers were best placed to manage their own affairs and should be accountable for their own actions. Retailers should not be liable for the actions of customers, intentional or otherwise. According to Synergy, it would not be in the long-term interests of consumers for the mistakes of some customers to be paid by all customers/taxpayers.
- Western Power questioned the interpretation of the word "or" in proposed clause 4.18(5) which stated, "If the [customer] was overcharged as a result of the customer's unlawful act or omission".[164] Western Power queried whether the use of the word "or"

[164] Western Power's submission included the comment against recommendation 41, but the comment appeared to relate to recommendation 40.

aimed to limit any refund if a customer omitted some information (accidentally, intentionally or lawfully) or only if the customer unlawfully omitted the information.

**ECCC response to submissions**

Under the proposed changes, the protections of clause 4.18 would no longer be limited to overcharges that were the result of the retailer's or distributor's error, defect or default. This raises the question as to whether the examples given by Synergy constitute an overcharge or not.

To provide clarity to retailers and customers, the definition could be amended to include examples of situations that would not constitute an overcharge. However, it may be difficult to cover all situations and some ambiguity may remain.

As there is some uncertainty about what type of overcharges should be covered and to provide consistency with the undercharging provisions, the ECCC no longer proposes that retailers must manage all overcharges in accordance with clause 4.18.

However, the ECCC proposes to amend the definition of overcharging so:

- It includes any overcharges that are the result of an error, defect or default for which the retailer or distributor is responsible.

  Currently, the definition only applies to failure to issue a bill and the difference between the amount due under an estimated bill and the amount that would have been due if the bill had been based on a meter reading. The proposal would ensure that, for example, failure by retailers to apply the correct tariff or concession is also covered.

- It applies where a meter has been found to be defective.

  This matter is currently addressed in clause 4.18(2) of the Code.

The ECCC no longer proposes to clarify in clause 4.18 when a retailer is taken to have "become aware of" overcharges that are the result of estimations.[165] This clarification is no longer required as it is no longer proposed to adopt (parts of) rule 31 of the NERR (which refers to the retailer "becoming aware" of an overcharge).

**Final recommendation**

The ECCC recommends that the definition of overcharging is amended so:

- It includes any overcharges that are the result of an error, defect or default for which the retailer or distributor is responsible.
- It applies where the meter has been found to be defective.

[165] Draft recommendation 37(h) in the Draft Review Report.

Other issues

**Recommendation 40**

a) Delete clause 4.18(1) of the Code.[166]

b) Amend clause 4.18(2) of the Code by deleting the words "(including where a meter has been found to be defective)".

c) Amend the definition of overcharging in clause 1.5 of the Code so it includes any overcharges that are the result of an error, defect or default for which the retailer or distributor is responsible (including where a meter has been found to be defective).[167]

### *9.17.2 Written notice*

**Draft Review Report (draft recommendation 38)**

The ECCC proposed to delete the requirement that notice about the use of a credit to set off a debt had to be in writing.

The ECCC considered that retailers should have flexibility as to how they notify a customer when using a credit held by the customer to set off a debt owed by the customer. Most interactions between customers and retailers took place over the phone. Removing the requirement to provide notice in writing would allow retailers to finalise credit transfers with customers over the phone.

The proposal would simplify the process for both customers and retailers, and reduce regulatory burden and compliance costs for retailers.

**Submissions received**

No submissions were received.

**Final recommendation**

The ECCC retains the recommendation as is.

Other issues

**Recommendation 41**

Delete the requirement that notice must be written from clause 4.18(7) of the Code.

166 The ECCC considers this subclause is unnecessary.

167 Recommendation 42(b) proposes an additional amendment to this definition.

## What the new clause may look like[168]

**4.18 Overcharging**

~~(1) This clause 4.18 applies whether the overcharging became apparent through a review under clause 4.15 or otherwise.~~

~~(2)~~(1) If a customer (including a customer who has vacated the supply address) has been overcharged as a result of an error, defect or default for which a retailer or distributor is responsible ~~(including where a meter has been found to be defective)~~,[169] [170] the retailer must use its best endeavours to inform the customer accordingly within 10 business days of the retailer becoming aware of the error, defect or default[171] and, subject to subclauses ~~(6)~~(5) and ~~(7)~~(6), ask the customer for instructions as to whether the amount should be—

(a) credited to the customer's account; or[172]

(b) repaid to the customer.

~~(3)~~(2) If a retailer receives instructions under subclause ~~(2)~~(1), the retailer must pay the amount in accordance with the customer's instructions within 12 business days of receiving the instructions.

~~(4)~~(3) If a retailer does not receive instructions under subclause ~~(2)~~(1) within 5 business days of making the request, the retailer must use reasonable endeavours to credit the amount overcharged to the customer's account.[173]

~~(5)~~(4) No interest shall accrue to a credit or refund referred to in subclause ~~(2)~~(1) is payable on an amount overcharged.[174]

~~(6)~~(5) If the amount referred to in subclause ~~(2)~~(1) is less than $100, a retailer may notify a customer of the overcharge by no later than the next bill after the retailer became aware of the error, and—[175]

(a) ask the customer for instructions under subclause ~~(2)~~(1) (in which case subclauses ~~(3)~~(2) and ~~(4)~~(3) apply as if the retailer sought instructions under subclause ~~(2)~~(1)); or

(b) credit the amount to the customer's next bill.

~~(7)~~(6) If a customer has been overcharged by a retailer, and the customer owes a debt to the retailer, then provided that the customer is not a residential customer experiencing payment difficulties or financial hardship, the retailer may, with ~~written~~ notice to the customer, use the amount of the overcharge to set off the debt owed to the retailer. If, after the set off, there remains an amount of credit, the retailer must deal with that amount of credit in accordance with subclause ~~(2)~~(1) or, if the amount is less than $100, subclause ~~(6)~~(5).[176]

(a) Not Used

(b) Not Used

**1.5 Definitions**

**"overcharging"** ~~means the amount by which the amount charged in a bill or under a bill smoothing arrangement is greater than the amount that would have been charged if the amount of the bill was determined in accordance with clause 4.6(1)(a) as a result of some defect, error or default for which the retailer or distributor is responsible or contributed to, but does not include an adjustment.~~

[**To be drafted by the PCO:** The definition will apply to any overcharges that resulted from errors, defects or defaults for which the retailer or distributor is responsible (including where a meter has been found to be defective).][177]

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168 The mock-up drafting incorporates recommendations 40 and 41.

169 Recommendation 42(f) proposes an amendment to this subclause.

170 Item N in Appendix 2 (minor amendments) proposes an amendment to this subclause.

171 Recommendation 42(f) proposes an amendment to this subclause.

172 Item O in Appendix 2 (minor amendments) proposes an amendment to this paragraph.

173 Item P in Appendix 2 (minor amendments) proposes an amendment to this subclause.

174 Item Q in Appendix 2 (minor amendments) proposes an amendment to this subclause.

175 Item R in Appendix 2 (minor amendments) proposes an amendment to this subclause.

176 Recommendation 50 proposes an additional amendment to this subclause.

177 Recommendation 42(b) proposes an additional amendment to this definition.

## 9.18 Adjustments

[Clause 4.19 of the Code]

This clause sets out how a retailer must deal with an adjustment following an estimated bill or as part of a bill smoothing arrangement.

**Draft Review Report (draft recommendation 39)**

The ECCC proposed that:

- Retailers would have to treat adjustments as an overcharge or undercharge.

  The proposal aimed to simplify how retailers had to treat adjustments. The ECCC considered there were no compelling reasons for treating adjustments differently to over- and undercharges. In fact, the way in which retailers had to treat an adjustment was very similar to how they had to treat an overcharge or undercharge under clauses 4.17 and 4.18. Overall, the distinction appeared to unnecessarily complicate matters and provide little benefit to customers or retailers.[178]

- The 12-month limit for recovering an amount owing would be calculated from the date the customer was notified of the undercharge, rather than from the date "the meter was read on the basis of the retailer's estimate of the amount of the adjustment for the 12 month period taking into account any meter readings and relevant seasonal and other factors agreed with the customer".

  This was a consequential amendment of the proposal to treat all adjustments as undercharges. It simplified how the amount undercharged following an estimated bill (adjustment) was calculated.

- Retailers would be able to charge interest or a late payment fee if the customer did not pay the adjustment by the due date and did not enter into an instalment plan.

  This was a consequential amendment of the proposal to treat all adjustments as undercharges.[179]

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178 The ECCC considered that the distinction was likely to increase the regulatory burden for retailers as it required them to determine, for any change to the amount due, whether the change constituted an adjustment or an overcharge or undercharge. Retailers needed different processes for dealing with undercharges and adjustments as the amount that may be recovered for each was slightly different. For customers, clause 4.19 was likely confusing. Partly because the drafting of clause 4.19 was complex (especially the method for calculating the 12-month limit for recovering adjustments), and partly because the existence of clause 4.19 suggested that adjustments and under- and overcharges were treated differently under the Code – while in practice the differences were minimal

179 The ECCC noted that, upon its recommendation, the ERA amended clause 4.17 in 2016 to provide that retailers may charge interest or a late payment fee on an undercharged amount if a customer did not pay the undercharge by the due date and did not enter into an instalment plan. The ECCC considered that retailers should be allowed "to charge interest or late payment fees if customers, after the initial request for payment, continue to refuse to pay" an undercharge. It could be argued that the same reasoning applied to adjustments under clause 4.19.

As noted by the ECCC at the time, the general prohibitions on charging of late payment fees, set out in clause 5.6 of the Code, still applied. Customers who were experiencing payment difficulties or financial hardship also continued to have access to the protections of Part 6 of the Code.

### Submissions received

Synergy noted that it did not object to the draft recommendation subject to further consideration of the revised overcharging and undercharging definitions.

### Final recommendation

The ECCC recommends that:

- Clause 4.19 (adjustments) is deleted from the Code.
- The definitions of undercharging and overcharging are amended to include adjustments. This would ensure that the undercharging and overcharging protections also apply to adjustments.

Other issues

**Recommendation 42**

a) Delete clause 4.19 of the Code.

b) Amend the definition of overcharging, in clause 1.5 of the Code, so it also applies to the difference between the amount due under an estimated bill and the amount that would have been due if the bill had been based on an actual value determined in accordance with clause 5.4(1A)(b) of the *Electricity Industry Metering Code 2012*.[180]

c) Amend the definition of undercharging, in clause 1.5 of the Code, so it also applies to the difference between the amount due under an estimated bill and the amount that would have been due if the bill had been based on an actual value determined in accordance with clause 5.4(1A)(b) of the *Electricity Industry Metering Code 2012*.[181]

Consequential amendments

d) Delete the definition of adjustment in clause 1.5 of the Code.

e) Amend clause 4.17(2) of the Code by deleting the words "as a result of an error, defect or default for which the retailer or distributor is responsible".[182]

f) Amend clause 4.18(2) of the Code by:

- deleting the words "as a result of an error, defect or default for which a retailer or distributor is responsible".[183]
- replacing the second reference to the words "error, defect or default" with "overcharging".

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180 Recommendation 40 proposes an additional amendment to this definition.

181 Recommendation 39 proposes an additional amendment to this definition.

182 This will now be addressed in the definition of undercharging. Also, as the proposed amendments will result in the clause applying to adjustments, the clause should no longer refer to "error, defect or default for which the retailer or distributor is responsible".

183 This will now be addressed in the definition of overcharging. Also, as the proposed amendments will result in the clause applying to adjustments, the clause should no longer refer to "error, defect or default for which a retailer or distributor is responsible".

## What the new clause may look like

**4.17 Undercharging**

[···]

(2) If a retailer proposes to recover an amount undercharged ~~as a result of an error, defect or default for which the retailer or distributor is responsible~~ (including where a meter has been found to be defective),[184] the retailer must— [···]

**4.18 Overcharging**

[···]

(2) If a customer (including a customer who has vacated the supply address) has been overcharged ~~as a result of an error, defect or default for which a retailer or distributor is responsible~~ (including where a meter has been found to be defective),[185] [186] the retailer must use its best endeavours to inform the customer accordingly within 10 business days of the retailer becoming aware of the ~~error, defect or default~~ overcharging and, subject to subclauses (6) and (7), ask the customer for instructions as to whether the amount should be— [···]

~~**4.19 Adjustments**~~

~~(1) If a retailer proposes to recover an amount of an adjustment which does not arise due to any act or omission of a customer, the retailer must—~~

~~(a) limit the amount to be recovered to no more than the amount of the adjustment for the 12 months prior to the date on which the meter was read on the basis of the retailer's estimate of the amount of the adjustment for the 12 month period taking into account any meter readings and relevant seasonal and other factors agreed with the customer;~~

~~(b) notify the customer of the amount of the adjustment no later than the next bill, together with an explanation of that amount;~~

~~(c) not require the customer to pay a late payment fee; and~~

~~(d) in relation to a residential customer, offer the customer time to pay that amount by means of an instalment plan in accordance with clause 6.4(2) and covering a period at least equal to the period to which the adjustment related.~~

~~(2) If the meter is read under either clause 4.6 or clause 4.3(2)(d) and the amount of the adjustment is an amount owing to the customer, the retailer must use its best endeavours to inform the customer accordingly within 10 business days of the retailer becoming aware of the adjustment and, subject to subclauses (5) and (7), ask the customer for instructions as to whether the amount should be—~~

~~(a) credited to the customer's account;~~

~~(b) repaid to the customer; or~~

~~(c) included as a part of the new bill smoothing arrangement if the adjustment arises under clause 4.3(2)(a)-(b),~~

~~(3) If a retailer received instructions under subclause (2), the retailer must pay the amount in accordance with the customer's instructions within 12 business days of receiving the instructions.~~

~~(4) If a retailer does not receive instructions under subclause (2) within 5 business days of making the request, the retailer must use reasonable endeavours to credit the amount of the adjustment to the customer's account.~~

~~(5) If the amount referred to in subclause (2) is less than $100, the retailer may notify the customer of the adjustment by no later than the next bill after the meter is read; and~~

~~(a) ask the customer for instructions under subclause (2), (in which case subclauses (3) and (4) apply as if the retailer sought instructions under subclause (2)); or~~

~~(b) credit the amount to the customer's next bill.~~

~~(6) No interest shall accrue to an adjustment amount under subclause (1) or (2).~~

~~(7) If the amount of the adjustment is an amount owing to the customer, and the customer owes a debt to the retailer, then provided that the customer is not a residential customer experiencing payment~~

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184 Recommendation 39(b) proposes an additional amendment to this subclause.

185 Recommendation 40(b) proposes an additional amendment to this subclause.

186 Item N in Appendix 2 (minor amendments) proposes an amendment to this subclause.

~~difficulties or financial hardship, the retailer may, with written notice to the customer, use the amount of the adjustment to set off the debt owed to the retailer. If, after the set off, there remains an amount of credit, the retailer must deal with that amount of credit in accordance with subclause (2) or, if the amount is less than $100, subclause (5).~~

~~(a) Not Used~~

~~(b) Not Used~~

**1.5 Definitions**

~~**"adjustment"** means the difference in the amount charged—~~

~~(a) in a bill or series of bills based on an estimate carried out in accordance with clause 4.8; or~~

~~(b) under a bill smoothing arrangement based on an estimate carried out in accordance with clauses 4.3(2)(a)-(c),~~

~~and the amount to be charged as a result of the bill being determined in accordance with clause 4.6(1)(a) provided that the difference is not as a result of a defect, error or default for which the retailer or distributor is responsible or contributed to.~~

**"overcharging"** ~~means the amount by which the amount charged in a bill or under a bill smoothing arrangement is greater than the amount that would have been charged if the amount of the bill was determined in accordance with clause 4.6(1)(a) as a result of some defect, error or default for which the retailer or distributor is responsible or contributed to, but does not include an adjustment.~~

[**To be drafted by the PCO:** The definition would be amended so it also applies to the difference between the amount due under an estimated bill and the amount that would have been due if the bill had been based on an actual value determined in accordance with clause 5.4(1A)(b) of the *Electricity Industry Metering Code 2012*.][187]

**"undercharging"** ~~includes, without limitation—~~

~~(a) the failure to issue a bill in accordance with clause 4.1 or clause 4.2 or to issue a bill under a bill smoothing arrangement; or~~

~~(b) the amount by which the amount charged in a bill or under a bill smoothing arrangement is means to charge less than the amount that would have been charged if the amount of the bill was determined in accordance with clause 4.6(1)(a) as a result of some defect, error or default for which the retailer or distributor is responsible or contributed to, but does not include an adjustment.~~

[**To be drafted by the PCO:** The definition would be amended so it also applies to the difference between the amount due under an estimated bill and the amount that would have been due if the bill had been based on an actual value determined in accordance with clause 5.4(1A)(b) of the *Electricity Industry Metering Code 2012*.][188]

187 Recommendation 40(c) proposes an additional amendment to this definition.

188 Recommendation 39(d) proposes an additional amendment to this definition.

# 10. Part 5 of the Code: Payment

## 10.1 Due dates for payment

[Clause 5.1 of the Code]

This clause requires the due date for a bill to be at least 12 business days after the bill is dispatched.

**Draft Review Report (draft recommendation 40)**

The ECCC proposed to extend the minimum due date for a bill from 12 to 13 business days to give customers more time to pay their bill.

The ECCC also proposed that the bill issue date be specified on the bill.

Both proposals aimed to improve consistency between the Code and the NECF.

**Submissions received**

- Synergy considered the proposal would be costly for retailers to implement and would provide limited benefit to the customer. Synergy outlined that their collection processes already provided extra days over and above the regulated requirement before it commenced collection activities.
- Synergy suggested that including the bill issue date on a bill was unnecessary. It would be costly to implement and add complexity to the bill, without any benefit to customers. Synergy considered customers were concerned about the due date of a bill, not the issue date.

**ECCC response to submissions**

- The ECCC understands some retailers already provide for a bill due date that is more than 12 business days from the date of the bill. The ECCC considers there are no compelling reasons for extending the minimum due date from 12 to 13 business days.
- The ECCC considers there are no compelling reasons to require retailers to include the bill issue date on their bills.

**Final recommendation**

The ECCC proposes to amend the drafting of clause 5.1 to be consistent with rule 26(1) of the NERR, but:

- Retain the minimum due date at 12 business days.
- Not adopt the requirement to include the bill issue date on a bill.

NECF

**Recommendation 43**

a) Replace clause 5.1 of the Code with rule 26(1) of the NERR but replace the words "13 business days" with "12 business days".

***(cont'd)***

NECF

**Recommendation 43 *(cont'd)***

Consequential amendment

b) Amend clause 1.5 of the Code to insert a definition of bill issue date consistent with the definition of bill issue date in rule 3 of the NERR, but delete the words ", included in a bill under rule 25(1)(e),".

**What the new clause may look like**

**5.1 Due dates for payment**

~~(1) The due date on a bill must be at least 12 business days from the date of that bill unless otherwise agreed with a customer.~~

~~(2) Unless a retailer specifies a later date, the date of dispatch is the date of the bill.~~

The [due date] for a bill must not be earlier than 12 business days from the bill issue date.

**1.5 Definitions**

**"bill issue date"** means the date on which the bill is sent by the retailer to a [customer].

## 10.2 Minimum payment methods

[Clause 5.2 of the Code]

This clause requires retailers to offer customers five ways to pay their bill: in person, by mail, by Centrepay, electronically or by phone.

### Draft Review Report (draft recommendation 41)

The ECCC proposed to be less prescriptive about the minimum payment methods to provide retailers with more flexibility when offering each payment method (for example, "electronically, including by means of BPay or credit card" would be replaced with "by electronic funds transfer").

The proposal aimed to improve consistency between the Code and the NECF.

### Submissions received

No submissions were received.

### Final recommendation

The ECCC retains the recommendation as is.

NECF

**Recommendation 44**

Replace clause 5.2 of the Code with rule 32(1) of the NERR but:

- do not adopt rule 32(1)(d) of the NERR.[189]
- retain the requirement that the customer must be able to pay in person at one or more payment outlets within the customer's Local Government District (clause 5.2(a) of the Code).[190]
- retain Centrepay as a minimum payment method for all residential customers (clause 5.2(c) of the Code).[191]

### What the new clause may look like

**5.2 Minimum payment methods**

~~Unless otherwise agreed with a customer, a retailer must offer the customer at least the following payment methods—~~

A retailer must accept payment for a bill by a [customer] in any of the following ways—

(a) in person at 1 or more payment outlets located within the Local Government District of the customer's supply address;

(b) by mail;

(c) for residential customers, by Centrepay;

(d) ~~electronically, including by means of BPay or credit card; and~~ by electronic funds transfer; and

(e) by telephone ~~by means of credit card or debit card~~.

## 10.3 Direct debit

[Clause 5.3 of the Code]

This clause sets standards around the use of direct debit.

### Draft Review Report (draft recommendation 42)

The ECCC proposed to delete clause 5.3 from the Code.

The ECCC considered that direct debit transactions were already adequately regulated at a national level.

All direct debit transactions were administered by Australian Payments Network Limited or AusPayNet (formerly Australian Payments Clearing Association). Financial institutions were participant members of AusPayNet and assisted in the regulation of the direct debit process.

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189 Rule 32(1)(d) of the NERR requires retailers to accept direct debit payments. As most WA electricity retailers already offer direct debit as a payment method, the ECCC considers there is no need to regulate this matter. Also, some customers have previously used direct debit fraudulently. For example, by using another person's bank account details. Making direct debit mandatory would make it difficult for retailers to refuse direct debit to these customers.

190 Removing this requirement could result in retailers only allowing customers to pay, for example, at the retailer's offices. Retaining this requirement ensures customers will continue to be able to pay their bill in person locally. This is especially important for customers with low digital skills.

191 To retain the existing level of protection for customers.

Any business, including an energy retailer, that wanted to set up direct debit arrangements with their customers had to be approved as a direct entry user by a financial institution.

AusPayNet had published the 'Procedures for Bulk Electronic Clearing System Framework' which set minimum standards around direct debit requests. The framework included rules and processes businesses had to comply with when entering into an agreement with a customer, including:

- A retailer had to obtain clear instructions from the customer authorising the direct debit.
- The level of detail included in a direct debit request, such as the amount and timing of payments.
- The information required in a direct debit request service agreement.
- Record keeping requirements.

### Submissions received

No submissions were received.

### Final recommendation

The ECCC retains the recommendation as is.

Other issues

**Recommendation 45**

Delete clause 5.3 of the Code.

### What the new clause may look like

~~**5.3 Direct debit**~~

~~If a retailer offers the option of payment by a direct debit facility to a customer, the retailer must, prior to the direct debit facility commencing, obtain the customer's verifiable consent, and agree with the customer the date of commencement of the direct debit facility and the frequency of the direct debits.~~

## 10.4 Payment in advance

[Clause 5.4 of the Code]

This clause requires retailers to accept payments in advance.

### Draft Review Report (draft recommendation 43)

The ECCC proposed that retailers be allowed to:

- Set a maximum amount for which they would accept payments in advance, but the maximum amount could not be less than $100.
- Refund a customer if the customer's account was in credit by more than the maximum amount.

The ECCC noted that, during the 2019 review of the Gas Compendium, a retailer advised that some customers continued to pay in advance despite their accounts being significantly in credit. It appeared that some customers treated their retailer as a depository whereby they

requested to 'draw down' on their account when funds were required elsewhere, and then 'topped up' later.

The proposal aimed to enable retailers to limit a customer's ability to treat their retailer as a depository. However, retailers would still be able to accept payments in advance that were over the maximum credit amount set by them.

### Submissions received

No submissions were received.

### Final recommendation

The ECCC retains the recommendation as is.

Other issues

**Recommendation 46**

a) Amend clause 5.4 of the Code to be consistent with clause 5.4 of the *Compendium of Gas Customer Licence Obligations*.

Consequential amendment

b) Amend clause 1.5 of the Code to insert a definition of maximum credit amount consistent with the definition of maximum credit amount in clause 1.3 of the *Compendium of Gas Customer Licence Obligations*.

### What the new clause may look like

**5.4 Payment in advance**

(1) Subject to subclause (6), a ~~A~~ retailer must accept payment in advance from a customer on request.

(2) Acceptance of an advance payment by a retailer will not require the retailer to credit any interest to the amounts paid in advance.

(3) Subject to clause 6.9, for the purposes of subclause (1), $20 is the minimum amount for which a retailer will accept advance payments unless otherwise agreed with a customer.[192]

(4) A retailer may determine a maximum credit amount that a customer's account may be in credit which must be no less than $100.

(5) If a retailer determines a maximum credit amount, the retailer must publish the maximum credit amount on its website.

(6) A retailer is not obliged to accept payment in advance where the customer's account is in credit for an amount in excess of the maximum credit amount.

(7) If a customer's account is in credit for an amount exceeding the maximum credit amount, the retailer may refund any amount in excess of the maximum credit amount to the customer at any time.

**1.5 Definitions**

**"maximum credit amount"** means the amount, if any, determined by the retailer in accordance with clause 5.4(4).

[192] Recommendation 5 proposes an amendment to this subclause.

## 10.5 Absence or illness

[Clause 5.5 of the Code]

This clause requires retailers to offer redirection of a bill if a residential customer is unable to pay by the minimum payment methods because of illness or absence.

### Draft Review Report (draft recommendation 44)

The ECCC proposed that:

- Retailers would have to redirect a bill free of charge any time a customer requests redirection (instead of only in case of illness or absence).

  The ECCC considered there could be reasons other than illness or absence that were equally valid for customers to request redirection of their bill.

- Retailers would have to 'redirect' a bill on request (instead of 'offer redirection of').

  The ECCC considered that as redirection was only required if a customer had requested redirection, there was no further need for the retailer to 'offer' to do so.

- A bill could only be redirected to a different address, not to a third person.

  The ECCC noted that the intent of the obligation was to ensure that customers could redirect their bill to another address if needed, not to make another person responsible for the customer's bill.

### Submissions received

No submissions were received.

### Final recommendation

The ECCC retains the recommendation as is.

Other issues

**Recommendation 47**

Amend clause 5.5 of the Code by:

- deleting the words "if a residential customer is unable to pay by way of the methods described in clause 5.2, due to illness or absence".
- replacing the requirement to offer redirection of the bill with a requirement to redirect the bill.
- replacing the words "third person" with "different address".

### What the new clause may look like

**5.5 ~~Absence or illness~~ [Redirection of bill]**[193]
~~If a residential customer is unable to pay by way of the methods described in clause 5.2, due to illness or absence, a~~ A retailer must [~~offer the residential customer~~ on request ~~redirection of the~~ redirect a][194] residential customer's bill to a ~~third person~~ different address at no charge.

## 10.6 Vacating a supply address

[Clause 5.7 of the Code]

This clause sets out when a customer is no longer liable for electricity use after having vacated a supply address.

### Draft Review Report (draft recommendation 45)

The ECCC proposed to delete clause 5.7(4)(c) which provided that a retailer could not charge for electricity consumed at the customer's supply address from the date of disconnection.

The ECCC noted that it was unclear how a customer could use electricity after disconnection.

### Submissions received

No submissions were received.

### Final recommendation

The ECCC retains the recommendation as is.

Other issues

**Recommendation 48**

Delete clause 5.7(4)(c) of the Code.

### What the new clause may look like

**5.7 Vacating a supply address**

(1) Subject to—

(a) subclauses (2) and (4);

(b) a customer giving a retailer notice; and

(c) the customer vacating the supply address at the time specified in the notice,

the retailer must not require the customer to pay for electricity consumed at the customer's supply address from—

(d) the date the customer vacated the supply address, if the customer gave at least 5 days' notice; or

(e) 5 days after the customer gave notice, in any other case, unless the retailer and the customer have agreed to an alternative date.[195]

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193 The words "Redirection of bill" are tentative only; they are not based on existing wording in the Code. The PCO to provide draft wording.

194 The words "redirect a" are tentative only; they are not based on existing wording in the Code. The PCO to provide draft wording.

195 Recommendation 5 proposes an amendment to this subclause.

(2) If a customer reasonably demonstrates to a retailer that the customer was evicted or otherwise required to vacate the supply address, the retailer must not require the customer to pay for electricity consumed at the customer's supply address from the date the customer gave the retailer notice.

(3) For the purposes of subclauses (1) and (2), notice is given if a customer—

(a) informs a retailer of the date on which the customer intends to vacate, or has vacated the supply address; and

(b) gives the retailer a forwarding address to which a final bill may be sent.

(4) Notwithstanding subclauses (1) and (2), if—

(a) a retailer and a customer enter into a new contract for the supply address, the retailer must not require the previous customer to pay for electricity consumed at the customer's supply address from the date that the new contract becomes effective; and

(b) another retailer becomes responsible for the supply of electricity to the supply address, the previous retailer must not require the customer to pay for electricity consumed at the customer's supply address from the date that the other retailer becomes responsible~~; and~~

~~(c) the supply address is disconnected, the retailer must not require the customer to pay for electricity consumed at the customer's supply address from the date that disconnection occurred~~.

(5) Notwithstanding subclauses (1), (2) and (4), a retailer's right to payment does not terminate with regard to any amount that was due up until the termination of the contract.

# 11. Part 6 of the Code: Payment difficulties and financial hardship

## 11.1 Definitions of payment difficulties and financial hardship

[Clause 1.5 of the Code]

This clause defines the terms "payment difficulties" and "financial hardship".

### Draft Review Report (draft recommendation 46)

The ECCC proposed to replace references in the definitions to "more than immediate" and "immediate" with "long term" and "short term".

The proposal aimed to improve clarity without materially affecting retailers or customers.

### Submissions received

No submissions were received.

### Final recommendation

The ECCC retains the recommendation as is.

Other issues

**Recommendation 49**

a) Amend the definition of financial hardship, in clause 1.5 of the Code, by replacing the words "more than immediate" with "long term".

b) Amend the definition of payment difficulties, in clause 1.5 of the Code, by replacing the words "immediate" with "short term".[196]

### What the new clause may look like

**1.5 Definitions**

**"financial hardship"** means a state of ~~more than immediate~~ long term financial disadvantage which results in a residential customer being unable to pay an outstanding amount as required by a retailer without affecting the ability to meet the basic living needs of the residential customer or a dependant of the residential customer.

**"payment difficulties"** means a state of ~~immediate~~ short term financial disadvantage that results in a residential customer being unable to pay an outstanding amount as required by a retailer by reason of a change in personal circumstances.

196 Recommendation 50(c) proposes deleting the definition of payment difficulties from clause 1.5 of the Code.

## 11.2 Payment assistance

The Code currently requires retailers to offer a payment extension and an instalment plan to residential customers who have been assessed by the retailer as experiencing payment difficulties or financial hardship. Customers can choose which payment arrangement they prefer.

Under the Victorian *Energy Retail Code*, all residential customers are entitled to at least three of the following four payment options:[197]

- making payments of an equal amount over a specified period[198]
- options for making payments at different intervals[199]
- extending by a specified period the pay-by date for a bill for at least one billing cycle in any 12 month period
- paying for energy use in advance

Retailers may choose which three of the four options they offer. Customers can access the assistance simply by asking for it; they do not need to be in debt.

An advantage of the Victorian framework is that, by establishing an entitlement to assistance, it is clearer for customers what their rights are. This may encourage them to take early action to avoid getting (further) into debt.

A disadvantage of the Victorian framework is that retailers may choose which three of the four payment options they offer to their customers. Retailers could, for example, choose to only offer bill smoothing, a payment extension and payment in advance. If the Code is amended consistent with the Victorian framework, some customers could receive less assistance than they are currently entitled to under the Code.[200]

### *11.2.1 Assistance to be available to all customers*

**Draft Review Report (question 5)**

The ECCC did not propose any changes to the payment assistance that residential customers currently are entitled to under the Code. However, the ECCC did seek comment on whether retailers should have to offer this assistance to all residential customers, not only those that have been assessed as experiencing payment difficulties or financial hardship.

197 *Energy Retail Code* (Vic) clause 76(2).

198 For example, under a bill smoothing arrangement or an instalment plan.

199 Shorter billing cycle (for example, monthly or fortnightly).

200 Customers experiencing payment difficulties are currently entitled to a payment extension and an instalment plan. All customers are furthermore entitled to pay their bill in advance.

Offering the assistance to all residential customers would ensure no customers were denied assistance. It would also remove the need for retailers to assess, under clause 6.1(1), if the customer was experiencing payment difficulties.[201]

**Submissions received**

- Two stakeholders did not support retailers having to 'offer' the payment assistance to all residential customers.

  Synergy suggested that, if this matter was regulated, the assistance should only be made available on request by a customer. Similarly, the AEC suggested that retailers should only have to provide support to customers who seek assistance rather than having to proactively offer the assistance to all customers.

- Two stakeholders queried what would happen if a customer defaulted on their instalment plan.

  Synergy questioned whether the number of times customers must be offered each of the payment options would be regulated and, if customers defaulted on one option, they still would have to be offered the alternate option. According to Synergy, a requirement to offer more or further payment extensions and instalment plans could encourage poor payment behaviour and de-prioritisation of payments to retailers.

  Alinta Energy proposed that if customers on an instalment plan defaulted on their payment, retailers should be allowed to remove them from the plan and return them to their regular payment cycle.

- Three stakeholders expressed concern that retailers would have to offer a payment extension *and* an instalment plan.

  The AEC and Alinta Energy were concerned that the wording of the obligation implied that retailers would have to apply a payment extension and instalment plan to a customer concurrently. They suggested the obligation be clarified.

  Horizon Power queried why retailers would have to offer customers both options (a payment extension and an instalment plan) in circumstances when it was clear only one was suitable.

- Perth Energy did not support the proposal, suggesting it could be onerous to comply with and costly to business. Perth Energy suggested the focus of support should be on those experiencing payment difficulties or financial hardship.

- Synergy was concerned that the changes could lead to some customers receiving less assistance than they were currently entitled to.

- UnionsWA and WACOSS both considered retailers should have to offer payment extensions and instalment plans to all residential customers.

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[201] A retailer would still have to assess if a customer is experiencing financial hardship if the customer informs the retailer that the customer is experiencing payment problems. This is because a customer who is experiencing financial hardship is not only entitled to a payment extension and instalment plan, but also to other assistance.

**ECCC response to submissions received**

The ECCC considers all residential customers should be entitled to payment extensions and instalment plans. By establishing a clear entitlement to assistance, customers are more likely to know their rights and take early action. This, in turn, may prevent them from getting (further) into debt.

The ECCC agrees that retailers should not be required to proactively 'offer' payment extensions and instalment plans. Instead, they should be required to 'make the assistance available' to their customers. This is consistent with the Victorian framework, which also requires that the assistance is made available.

Although retailers would have to make available a payment extension and instalment plan, customers would be able to choose only one of these options. Retailers would not have to apply both options to a customer concurrently.

The ECCC also proposes that customers should be entitled to only one payment extension or instalment plan per bill.[202]

The current limitations on having to offer an instalment plan would continue to apply. This means that, if a customer has, in the previous 12 months, had two instalment plans cancelled for non-payment, the retailer will not have to make another instalment plan available to the customer.[203] Retailers may also remove customers who default on their instalment plan from their plan and return them to their regular payment cycle.[204]

The ECCC does not propose to impose any limits on the total number of payment extensions that must be made available per year.[205]

*Assessment of payment difficulties*

Currently, payment extensions and instalment plans only have to be offered to residential customers who have been assessed by the retailer as experiencing payment difficulties or financial hardship.

By extending the assistance to all residential customers, it will no longer be necessary for retailers to assess if customers are experiencing payment difficulties.[206] As a result, the term "payment difficulties" is no longer needed and can be deleted from the Code.

This would result in the following amendments:

- Delete the definition of payment difficulties in clause 1.5 of the Code.

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202 Retailers will have to make available a payment extension and instalment plan to residential customers, however customers can choose only one of these options.

203 *Code of Conduct for the Supply of Electricity to Small Use Customers 2018* (WA) clause 6.4(4).

204 The Code does not regulate when a retailer may end a customer's instalment plan.

205 In practice, there will be a limit as retailers have to offer only one payment extension per bill. For example, customers who are billed two-monthly will be entitled to a maximum of six payment extensions per year.

206 As these customers, like all other customers, will be entitled to a payment extension and instalment plan without any assessment there is no need for retailers to assess if a customer is experiencing payment difficulties. The assessment process will remain relevant for customers experiencing financial hardship because they are also entitled to other assistance.

- Replace "experiencing payment difficulties or financial hardship", in clauses 2.2(2)(d), 2.3(2)(e), 4.2(1)(b), 4.2(2)(a),[207] 7.1(a)(ii), 9.3(2)(n), 9.11(1)(a) and 9.11(2)(a) of the Code, with a reference to customers experiencing difficulties paying their bill.

  The proposed wording is similar to the wording used in clause 4.5(1)(s) of the Code.[208]

- Delete "payment difficulties or" in:

  - clauses 4.2(2)(b),[209] 4.18(7) and 4.19(7)[210] of the Code.

    This would mean that the protections of these clauses would only apply to customers experiencing financial hardship.[211]

  - clauses 5.8(1)(a), 6.1(1)(a) and 6.9[212] of the Code.

    These amendments would not materially affect customers.

- Amend clause 6.10(2)(f) so a hardship policy must include an overview of:

  - The payment assistance available under Part 6 of the Code to all residential customers.

    This would ensure that customers who read the retailer's financial hardship policy know they are always entitled to a payment extension and payment plan, regardless of whether they have been assessed as experiencing financial hardship or not.

  - Any additional assistance available under Part 6 of the Code to customers experiencing financial hardship (other than the retailer's requirement to advise the customer of the ability to pay in advance and the matters referred to in clauses 6.8(a), (b) and (d)).

The ECCC notes that the term "payment difficulties" is also used in clauses 6.3 and 6.4(1) of the Code. As these clauses already require extensive redrafting to implement the proposed extension of payment assistance to all customers, the ECCC does not propose any specific drafting changes for these clauses.

**Final recommendation**

The ECCC proposes that:

- Retailers have to make payment extensions and instalment plans available to all residential customers.
- Customers are entitled to only one payment extension or instalment plan per bill.

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207 If the ERA accepts recommendation 15, this amendment will not be required.

208 Clause 4.5(1)(s) of the Code requires a retailer to include on the customer's bill a statement advising the customer that assistance is available if the customer is experiencing problems paying the bill.

209 If the ERA accepts recommendation 50, the proposed amendment will involve replacing "payment difficulties", in rule 34(2)(a) of the NERR, with "financial hardship".

210 Recommendation 42(a) proposes deleting clause 4.19 of the Code.

211 Retailers would be allowed to place customers who are experiencing payment difficulties on a shortened billing cycle without their verifiable consent, and use an overcharge or adjustment to set off a debt owed to the retailer.

212 Recommendation 60 proposes deleting clause 6.9 of the Code.

- Retailers do not have to make instalment plans available to customers who have, in the previous 12 months, had two instalment plans cancelled for non-payment.
- All references to "payment difficulties" are deleted from the Code and, if required, replaced as described above.

Other issues

**Recommendation 50**

a) Amend the Code so retailers have to make payment extensions and instalment plans available to all residential customers, but specify that customers are entitled to only one payment extension or instalment plan per bill.

b) Amend clause 6.4(4) of the Code so it also applies where a retailer is required to make an instalment plan available to a customer.

Consequential amendments

c) Delete the definition of payment difficulties in clause 1.5 of the Code.

d) Replace the words "experiencing payment difficulties or financial hardship", in clauses 2.2(2)(d), 2.3(2)(e), 4.2(1)(b), 4.2(2)(a)[213] and 7.1(1)(a)(ii) of the Code, with a reference to customers experiencing difficulties paying their bill.

e) Replace the words "experiencing payment difficulties or financial hardship", in clauses 9.3(2)(n), 9.11(1)(a) and 9.11(2)(a) of the Code, with a reference to customers experiencing difficulties paying for their consumption.

f) Delete the words "payment difficulties or" from clauses 4.2(2)(b),[214] 4.18(7), 4.19(7), [215] 5.8(1)(a), 6.1(1)(a) and 6.9[216] of the Code.

g) Amend clause 6.10(2)(f)(i) of the Code so a hardship policy must include an overview of:

- the payment assistance available under Part 6 of the Code to all residential customers.
- any additional assistance available under Part 6 of the Code to customers experiencing financial hardship (other than the retailer's requirement to advise the customer of the ability to pay in advance and the matters referred to in clauses 6.8(a), (b) and (d)).

213 Recommendation 15 proposes deleting this clause.

214 Recommendation 15 proposes deleting this clause.

215 Recommendation 42(a) proposes deleting this clause.

216 Recommendation 60 proposes deleting this clause.

## What the new clauses may look like

**1.5 Definitions**

~~**"payment difficulties"** means a state of immediate financial disadvantage that results in a residential customer being unable to pay an outstanding amount as required by a retailer by reason of a change in personal circumstances.~~

**2.2 Entering into a standard form contract**

(2) Subject to subclause (3), a retailer or electricity marketing agent must give the following information to a customer no later than on or with the customer's first bill—[217] [···]

(d) how the retailer may assist if the customer is experiencing ~~payment difficulties or financial hardship~~;

[**To be drafted by the PCO:** The paragraph would require retailers and electricity marketing agents to give a customer, no later than on or with the customer's first bill, information on how the retailer may assist if the customer is experiencing difficulties paying their bill.]

**2.3 Entering into a non-standard contract**

(2) Before entering into a non-standard contract, a retailer or electricity marketing agent must give the customer the following information— [···]

(e) how a retailer may assist if the customer is experiencing ~~payment difficulties or financial hardship~~;

[**To be drafted by the PCO:** The paragraph would require retailers and electricity marketing agents to give a customer, before entering into a non-standard contract, information on how a retailer may assist if the customer is experiencing difficulties paying their bill.]

**4.2 Shortened billing cycle**

(1) For the purposes of clause 4.1(a)(ii), a retailer has given a customer notice if the retailer has advised the customer, prior to placing the customer on a shortened billing cycle, that— [···]

(b) if the customer is a residential customer, assistance is available for residential customers experiencing ~~payment difficulties or financial hardship~~;[218]

[**To be drafted by the PCO:** The paragraph would provide that a retailer has given a residential customer notice if the customer has advised the customer, prior to placing the customer on a shortened billing cycle, that assistance is available for residential customers experiencing difficulties paying their bill.]

(2) Notwithstanding clause 4.1(a)(ii), a retailer must not place a residential customer on a shortened billing cycle without the customer's verifiable consent if—[219]

(a) the residential customer informs the retailer that the residential customer is experiencing ~~payment difficulties or financial hardship~~; and

[**To be drafted by the PCO:** The paragraph would provide that a retailer must not place a residential customer on a shortened billing cycle without the customer's verifiable consent if the residential customer informs the retailer that the residential customer is experiencing difficulties paying their bill.]

(b) the assessment carried out under clause 6.1 indicates to the retailer that the customer is experiencing ~~payment difficulties or~~ financial hardship.

**4.18 Overcharging**

(7) If a customer has been overcharged by a retailer, and the customer owes a debt to the retailer, then provided that the customer is not a residential customer experiencing ~~payment difficulties or~~ financial hardship, the retailer may, with written notice to the customer, use the amount of the overcharge to set off the debt owed to the retailer. If, after the set off, there remains an amount of credit, the retailer must

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217 Recommendation 6 proposes an amendment to this subclause.

218 Recommendation 15 proposes replacing this paragraph with "in the case of a residential customer, the customer is not experiencing payment difficulties or financial hardship". If the ERA accepts this recommendation, the wording should be amended by deleting the words "payment difficulties or".

219 Recommendation 15 proposes deleting this subclause.

deal with that amount of credit in accordance with subclause (2) or, if the amount is less than $100, subclause (6).[220]

**4.19 Adjustments**

(7) If the amount of the adjustment is an amount owing to the customer, and the customer owes a debt to the retailer, then provided that the customer is not a residential customer experiencing ~~payment difficulties or~~ financial hardship, the retailer may, with written notice to the customer, use the amount of the adjustment to set off the debt owed to the retailer. If, after the set off, there remains an amount of credit, the retailer must deal with that amount of credit in accordance with subclause (2) or, if the amount is less than $100, subclause (5).[221]

**5.8 Debt collection**

(1) A retailer must not commence proceedings for recovery of a debt—

(a) from a residential customer who has informed the retailer in accordance with clause 6.1(1) that the residential customer is experiencing ~~payment difficulties or~~ financial hardship, unless and until the retailer has complied with all the requirements of clause 6.1 and (if applicable) clause 6.3; and

(b) while a residential customer continues to make payments under an alternative payment arrangement under Part 6.

**6.1 Assessment**

(1) If a residential customer informs a retailer that the residential customer is experiencing payment problems, the retailer must, (subject to clause 6.2)—[222]

(a) within 5 business days, assess whether the residential customer is experiencing ~~payment difficulties or~~ financial hardship; and […]

[**To be drafted by the PCO:** Clauses 6.3 and 6.4(1) will be replaced with a requirement for retailers to make available payment extensions and instalment plans to all residential customers. However, retailers only have to make available one payment extension or instalment plan per bill.]

**6.3 Assistance to be offered**[223]

~~(1) If the assessment carried out under clause 6.1 indicates to a retailer that a residential customer is experiencing—~~

~~(a) payment difficulties, the retailer must—~~

~~(i) offer the residential customer the alternative payment arrangements referred to in clause 6.4(1); and~~

~~(ii) advise the residential customer that additional assistance may be available if, due to financial hardship, the residential customer would be unable to meet its obligations under an agreed alternative payment arrangement, or~~

~~(b) financial hardship, the retailer must offer the residential customer—~~

~~(i) the alternative payment arrangements referred to in clause 6.4(1); and~~

~~(ii) assistance in accordance with clauses 6.6 to 6.9.~~

~~(2) Subclause (1) does not apply if a retailer is unable to make an assessment under clause 6.1 as a result of an act or omission by a residential customer.~~

**6.4 Alternative payment arrangements**[224]

~~(1) A retailer must offer a residential customer who is experiencing payment difficulties or financial hardship at least the following payment arrangements—~~

~~(a) additional time to pay a bill; and~~

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220 Recommendation 41 proposes an additional amendment to this subclause.

221 Recommendation 42(a) proposes deleting this subclause.

222 Recommendation 52 proposes an amendment to this subclause.

223 Recommendation 53 proposes an additional amendment to this clause.

224 Recommendation 53 proposes an additional amendment to this clause.

~~(b) an interest-free and fee-free instalment plan or other arrangement under which the residential customer is given additional time to pay a bill or to pay arrears (including any disconnection and reconnection charges) and is permitted to continue consumption.~~

~~In this clause "fee" means any fee or charge in connection with the establishment or operation of the instalment plan or other arrangement which would not otherwise be payable if the residential customer had not entered into the instalment plan or other arrangement.~~

(4) If a residential customer has, in the previous 12 months, had 2 instalment plans cancelled due to non-payment, a retailer does not have to offer that residential customer another instalment plan under subclause (1), unless the retailer is satisfied that the residential customer will comply with the instalment plan.

[**To be drafted by the PCO:** Clause 6.4(4) to be amended so it also applies where a retailer is required to make an instalment plan available to a residential customer.]

**6.9 Payment in advance**[225]

(1) A retailer must determine the minimum payment in advance amount, as referred to in clause 5.4(3), for residential customers experiencing ~~payment difficulties or~~ financial hardship in consultation with relevant consumer representatives.

(2) A retailer may apply different minimum payment in advance amounts for residential customers experiencing ~~payment difficulties or~~ financial hardship and other customers.

**6.10 Obligation to develop hardship policy and hardship procedures**

(2) The hardship policy must— [···]

(f) include—

(i) an overview of the assistance available to customers in financial hardship ~~or payment difficulties~~ in accordance with Part 6 of the Code (other than the retailer's requirement to advise the customer of the ability to pay in advance and the matters referred to in clauses 6.8(a), (b) and (d));

[**To be drafted by the PCO:** Paragraph (f) will include a new subparagraph that will require a hardship policy to include an overview of the payment assistance that is available under Part 6 of the Code to all residential customers.]

**7.1 General requirements**

(1) Prior to arranging for disconnection of a customer's supply address for failure to pay a bill, a retailer must—

(a) give the customer a reminder notice, not less than 15 business days from the date of dispatch of the bill, including— [···]

(ii) advice on how the retailer may assist in the event the customer is experiencing ~~payment difficulties or financial hardship~~;

[**To be drafted by the PCO:** The paragraph would provide that a retailer must include on a reminder notice advice on how the retailer may assist in the event the customer is experiencing difficulties paying their bill.]

**9.3 Provision of mandatory information**

(2) No later than 10 business days after the time a residential customer enters into a pre-payment meter contract at the residential customer's supply address, a retailer must give, or make available to the residential customer at no charge— [···]

(n) advice on how the retailer may assist in the event the residential customer is experiencing ~~payment difficulties or financial hardship~~;

[**To be drafted by the PCO:** The paragraph would provide that a retailer give or make available at no charge, no later than 10 business days after the time a residential customer enters into a pre-payment meter contract, advice on how the retailer may assist in the event the residential customer is experiencing difficulties paying for their consumption.]

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225 Recommendation 60 proposes deleting this subclause.

**9.11 Payment difficulties or financial hardship**

(1) A retailer must give reasonable consideration to a request by—

(a) a residential pre-payment meter customer who informs the retailer that the prepayment meter customer is experiencing ~~payment difficulties or financial hardship~~; or

[**To be drafted by the PCO:** The paragraph would provide that a retailer must give reasonable consideration to a request by a residential pre-payment customer who informs the retailer that the pre-payment customer is experiencing difficulties paying for their consumption.]

(b) a relevant consumer representative,

for a waiver of any fee payable by the pre-payment meter customer to replace or switch a pre-payment meter to a standard meter.

(2) Notwithstanding its obligations under clause 6.10, a retailer must ensure that—

(a) if a residential pre-payment meter customer informs the retailer that the prepayment meter customer is experiencing ~~payment difficulties or financial hardship~~; or

[**To be drafted by the PCO:** The paragraph would provide that if a residential pre-payment meter customer informs the retailer that they are experiencing difficulties paying for their consumption, the retailer must use best endeavours to contact the customer to provide certain information, except where the retailer already provided the information in the preceding 12 months.]

### *11.2.2 Bill smoothing*

Bill smoothing involves a retailer spreading, or 'smoothing', a customer's estimated electricity costs throughout the year with smaller, regular payments. It is similar to an instalment plan but, while an instalment plan is generally entered into for a defined period and usually includes repayment of outstanding debt, a bill smoothing arrangement is generally for an undefined period and does not involve repayment of debt.

The Code currently does not require retailers to make bill smoothing available to customers. It only sets standards around the use of bill smoothing for retailers that opt to make this payment option available to their customers. The ECCC has recommended to delete these standards from the Code as their application has often been arbitrary (recommendation 16).[226]

#### Draft Review Report (question 6)

The ECCC sought comment on whether bill smoothing should be made available to all residential customers as a form of assistance. Bill smoothing is one of the payment options retailers may offer under the Victorian *Energy Retail Code*.[227]

#### Submissions received

- The AEC raised concerns that regulating bill smoothing could decrease the ability for retailers to tailor payment options that align with their systems and processes. The AEC suggested the ERA monitor the continuing development of flexible payment options and identify if a principle based requirement might be beneficial in WA in the future.

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[226] As the Code does not define bill smoothing it is difficult to determine whether a payment product constitutes bill smoothing or not. Some retailers have argued that their products are not bill smoothing arrangements but payment arrangements, and therefore do not have to comply with clause 4.3 of the Code (bill smoothing).

[227] Clause 76(2)(a) of the Victorian *Energy Retail Code* refers to "making payments of an equal amount over a specified period". This could refer to a bill smoothing arrangement or an instalment plan.

- Alinta Energy proposed retailers should have to offer at least some from a number of assistance options similar to Victoria's *Energy Retail Code*, rather than requiring all retailers to offer bill smoothing.
- Horizon Power suggested that attempts to regulate bill smoothing had led to the unintended consequence of some retailers not offering bill smoothing as it was too costly and difficult to comply with requirements. Horizon Power stated they offered a number of different types of direct debit by instalments which provided for a similar outcome to bill smoothing.
- Perth Energy did not support the suggestion, raising concerns it could lead to large bills if accounts had not been accurately estimated.
- Synergy did not support the proposal suggesting customers could already use direct debit to bill smooth and questioned how to define what constituted bill smoothing.
- WACOSS strongly supported the option of bill smoothing to allow for seasonal fluctuations in bills.

**ECCC response to submissions received**

The ECCC does not propose to amend the Code to require all retailers to make bill smoothing available to all residential customers as a form of assistance.

The ECCC considers that there are no compelling reasons to regulate this matter as most retailers already offer bill smoothing or other payment arrangements that achieve a similar outcome.

The ECCC is also concerned that regulating bill smoothing in the Code could have unintended consequences. To regulate bill smoothing, the ERA would need to define what is meant by bill smoothing. The ECCC notes that there does not appear to be an accepted definition or understanding of what constitutes bill smoothing. In trying to define bill smoothing, the ERA would have to ensure that the product would be useful to customers and did not, unintentionally, deter retailers from offering other, better products.

On balance, the ECCC considers that the advantages of regulating this matter do not outweigh the disadvantages.

**Final recommendation**

The ECCC recommends no changes to the Code.

## 11.3 Assessment

[Clause 6.1 of the Code]

This clause provides that, if a residential customer informs a retailer that they are experiencing payment problems, the retailer must assess if the customer is experiencing payment difficulties or financial hardship. The retailer may also refer the customer to a financial counsellor for assessment.

### 11.3.1 Identification by retailer

Retailers currently only have to offer a payment extension and an instalment plan to customers who the retailer has assessed as experiencing payment difficulties or financial hardship.[228] A retailer only has to undertake an assessment if the customer informs the retailer that the customer is experiencing payment problems.

The NECF requires retailers to offer an instalment plan not only to customers who are hardship customers or who have informed their retailer that they are experiencing payment difficulties, but also if "the retailer otherwise believes the customer is experiencing repeated difficulties in paying the customer's bill or requires payment assistance".[229]

NECF retailers must therefore take a more proactive approach in identifying customers who may be experiencing payment difficulties or financial hardship.

**Draft Review Report (question 7)**

The ECCC sought comment on whether retailers should be required to offer a payment extension and an instalment plan[230] to customers who the retailer otherwise believed were experiencing repeated difficulties in paying their bill or required payment assistance.

**Submissions received**

- The AEC and Alinta Energy both suggested the Code should support engagement between retailers and customers in a way that was beneficial to both parties rather than being too prescriptive in its approach.
- Perth Energy viewed the suggestion as an unnecessary obligation and noted they already monitored customers who appeared to be having payment difficulties.
- Synergy suggested it would be difficult to determine how the obligation would be met if it was introduced. Synergy also noted it already proactively tried to identify customers who may be at risk of financial hardship or payment difficulties.
- WACOSS supported the proposal. They suggested an offer of assistance at an early stage could help prevent debt and hardship for those customers.

**ECCC response to submissions received**

The ECCC does not propose to require retailers to offer an instalment plan to customers who the retailer otherwise believes are experiencing repeated difficulties in paying their bill or require payment assistance.

The ECCC notes that the question in the Draft Review Report was based on a similar obligation in the NECF. As the ECCC has already agreed to adopt elements of the Victorian assistance

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228 Recommendation 50 proposes that retailers must make payment extensions and instalment plans available to all residential customers. As a result of the recommendation, retailers will no longer have to assess if a residential customer is experiencing payment difficulties.

229 *National Energy Retail Law* s50(1)(b).

230 These are the alternative payment arrangements that must be offered, under clause 6.4(1) of the Code, to residential customers who are experiencing payment difficulties or financial hardship.

framework, in particular the obligation to offer payment assistance to all residential customers, the ECCC proposes not to also adopt the NECF obligation.

**Final recommendation**

The ECCC recommends no changes to the Code.

### *11.3.2 Referral to relevant consumer representatives*

**Draft Review Report (draft recommendation 47)**

The ECCC proposed that retailers always had to assess whether a customer was experiencing payment difficulties or financial hardship. Currently, retailers may also refer customers to relevant consumer representatives, such as financial counsellors, for assessment.

The ECCC noted that, according to a 2019 survey conducted by the Financial Counsellors' Association of WA, 50 to 80 per cent of financial counsellors' total workload involved energy issues. As financial counsellors had finite resources, customers should not be referred to a financial counsellor unnecessarily.

Mandatory assessment by a retailer would ensure that a customer was assessed within five business days. Currently, assessments may take longer as some financial counsellors have long waiting lists.

**Submissions received**

- The AEC suggested this requirement would be onerous, especially for smaller retailers as each staff member would need to be properly trained. According to the AEC, it would be more appropriate for a central entity of professional staff to perform assessments that each retailer could refer to.
- Perth Energy stated this would be inefficient due to the number of trained staff retailers would require. Perth Energy suggested a central entity, such as the ERA or other government agency could provide this service.

**ECCC response to submissions received**

The ECCC made its draft recommendation in response to concerns raised by consumer representative organisations that retailers regularly unnecessarily referred customers to financial counsellors for assessment and did not always accept a financial counsellor's assessment.

Addressing these concerns by establishing a "central entity of professional staff" or requiring a government agency to provide assessments seems inefficient as there are already professionals who can provide these assessments: financial counsellors. Some retailers, however, appear to have been using their services unduly.

To alleviate pressure on financial counsellors, the ECCC retains its recommendation that all assessments must be completed by retailers themselves.

The ECCC notes that, if the ERA accepts recommendation 50, retailers will no longer have to assess if a customer is experiencing payment difficulties. Assessments will only be required to determine if a customer is experiencing financial hardship. This should substantially reduce the resources needed by retailers to undertake assessments.

**Final recommendation**

The ECCC retains the recommendation as is.

Other issues

**Recommendation 51**

a) Delete clause 6.1(1)(b) of the Code.

b) Delete clause 6.2 of the Code.

### *11.3.3 Assessment to remain valid*

**Draft Review Report (draft recommendation 48)**

The ECCC proposed that retailers should not have to make a new assessment each time a customer advised the retailer of payment problems.

The ECCC noted that a strict reading of clause 6.1(1) implied that retailers had to make a new assessment each time the customer advised of payment problems. The ECCC considered this to be undesirable, both for the retailer and the customer.

The proposed amendment would allow retailers to maintain their assessment, unless the customer had indicated that their circumstances had changed since the assessment was made.

**Submissions received**

No submissions were received.

**Final recommendation**

The ECCC retains the recommendation as is.

Other issues

**Recommendation 52**

Amend the Code so retailers do not have to make an assessment under clause 6.1(1) if the retailer has previously assessed the customer, unless the customer has indicated that their circumstances have changed since the assessment was made.

**What the new clauses may look like**[231]

**6.1 Assessment**

(1) If a residential customer informs a retailer that the residential customer is experiencing payment problems, the retailer must~~, (subject to clause 6.2)~~—

~~(a)~~ within 5 business days, assess whether the residential customer is experiencing payment difficulties or financial hardship~~; and~~[232]

~~(b) if the retailer cannot make the assessment within 5 business days, refer the residential customer to a relevant consumer representative to make the assessment~~.

(2) [···]

(3) [···]

[231] The mock-up drafting incorporates recommendations 51 and 52.

[232] Recommendation 50 proposes an amendment to this paragraph.

(4) […]

(5) [**To be drafted by the PCO:** The new subclause would include an exception to subclause (1). Retailers would not have to make an assessment under subclause (1) if the retailer previously assessed the customer, unless the customer has indicated that their circumstances have changed since the assessment was made.]

~~**6.2 Temporary suspension of actions**~~

~~(1) If a retailer refers a residential customer to a relevant consumer representative under clause 6.1(1)(b) then the retailer must grant the residential customer a temporary suspension of actions.~~

~~(2) If a residential customer informs a retailer that the residential customer is experiencing payment problems under clause 6.1, and the residential customer—~~

~~(a) requests a temporary suspension of actions; and~~

~~(b) demonstrates to the retailer that the residential customer has made an appointment with a relevant consumer representative to assess the residential customer's capacity to pay,~~

~~the retailer must not unreasonably deny the residential customer's request.~~

~~(3) A temporary suspension of actions must be for at least 15 business days.~~

~~(4) If a relevant consumer representative is unable to assess a residential customer's capacity to pay within the period referred to in subclause (3) and the residential customer or relevant consumer representative requests additional time, a retailer must give reasonable consideration to the residential customer's or relevant consumer representative's request.~~

## 11.4 Available assistance: concession information

Currently, the Code requires retailers to advise only customers experiencing financial hardship of the concessions available and how to access them.

### Draft Review Report (draft recommendation 49)

The ECCC proposed that retailers also had to provide this information to customers experiencing payment difficulties.

The ECCC considered that this information could help customers reduce their bill, thereby reducing the risk they got (further) into debt.

### Submissions received

Synergy did not support the proposal. Synergy considered there was no need to legislate this matter as it already provided customers with information about concessions on its website and on each bill.

### ECCC response to submissions received

The ECCC acknowledges that concession information must already be included on the bill. If the ERA accepts recommendation 87, concession information will also have to be published on retailers' websites.

The draft recommendation aimed to expand on this by requiring retailers to proactively tell customers experiencing payment difficulties of the concessions available.

However, if the ERA accepts recommendation 50, retailers will no longer know which customers are experiencing payment difficulties as they will no longer have to assess if customers are experiencing payment difficulties. They would therefore not be able to advise those customers of the concessions available and how to access them.

The ECCC proposes not to proceed with the draft recommendation in the Draft Review Report.

**Final recommendation**

The ECCC recommends no changes to the Code.

## 11.5 Available assistance: instalment plans

### *11.5.1 Offering a payment extension and instalment plan*

[Clause 6.4(1) of the Code]

This clause requires retailers to offer residential customers who are experiencing payment difficulties or financial hardship additional time to pay their bill and an instalment plan.

**Draft Review Report (draft recommendation 50)**

The ECCC proposed to amend the wording of clause 6.4(1) to clarify that retailers had to offer customers additional time to pay their bill and an instalment plan, but the customer could choose only one of these options.

**Submissions received**

Horizon Power proposed to replace "and" with "and/or" so retailers would not have to offer both options when the customer had asked for one or the other.

**ECCC response to submissions received**

The ECCC proposes that retailers should only have to offer instalment plans to customers who are experiencing financial hardship. This will mean that retailers no longer have to offer:

- Payment extensions and instalment plans to customers experiencing payment difficulties.

  If the ERA accepts recommendation 50, retailers will already be required to make payment extensions and instalment plans available to all residential customers.

- Payment extensions to customers experiencing financial hardship.

  The ECCC considers that payment extensions are unlikely to be helpful to customers in financial hardship as their needs are often complex and on-going.

  The proposed change will also address Horizon Power's concerns. As retailers will no longer have to offer both payment assistance options, there is no need to replace "and" with "and/or".

The proposal will require consequential amendments to clause 6.7 as this clause refers to customers in financial hardship having "previously elected a payment extension".[233]

**Final recommendation**

The ECCC proposes to:

- Amend clauses 6.3 and 6.4(1) of the Code to provide that retailers only have to offer customers who have been assessed by the retailer to be experiencing financial hardship

[233] If the ERA accepts recommendation 58, the consequential amendments will not be required.

an instalment plan. They should also have to continue to offer assistance in accordance with clauses 6.6 to 6.9.[234] [235]

- Amend clause 6.7 of the Code by deleting any references to the customer having elected a payment extension.[236]

Other issues

**Recommendation 53**

a) Amend clause 6.3 and 6.4(1) of the Code to provide that retailers only have to offer customers who have been assessed by the retailer to be experiencing financial hardship:

- an instalment plan; and
- assistance in accordance with clauses 6.6 to 6.9 of the Code.

Consequential amendments

b) Amend clause 6.7 of the Code by:[237]

- replacing the words "a payment arrangement" with "an instalment plan".
- deleting paragraph (a).
- deleting the words ", if the customer had previously elected an instalment plan" in paragraph (b).[238]

### What the new clauses may look like

[**To be drafted by the PCO:** Clauses 6.3 and 6.4(1) will be replaced with a requirement for retailers to offer customers who have been assessed by the retailer to be experiencing financial hardship:
- an instalment plan; and
- the assistance specified in clauses 6.6 to 6.9.]

**6.3 Assistance to be offered**[239]

~~(1) If the assessment carried out under clause 6.1 indicates to a retailer that a residential customer is experiencing—~~

~~(a) payment difficulties, the retailer must—~~

~~(i) offer the residential customer the alternative payment arrangements referred to in clause 6.4(1); and~~

~~(ii) advise the residential customer that additional assistance may be available if, due to financial hardship, the residential customer would be unable to meet its obligations under an agreed alternative payment arrangement, or~~

~~(b) financial hardship, the retailer must offer the residential customer—~~

234 This matter is currently addressed in clause 6.3(1)(b)(ii) of the Code.

235 If the ERA accepts recommendation 60, retailers will only have to offer assistance in accordance with clause 6.6 to 6.8.

236 If the ERA accepts recommendation 58, the consequential amendments will not be required.

237 Id.

238 This statement would no longer be required as customers in financial hardship would only be offered an instalment plan.

239 Recommendation 50 proposes an additional amendment to this clause.

~~(i) the alternative payment arrangements referred to in clause 6.4(1); and~~
~~(ii) assistance in accordance with clauses 6.6 to 6.9.~~

~~(2) Subclause (1) does not apply if a retailer is unable to make an assessment under clause 6.1 as a result of an act or omission by a residential customer.~~

**6.4 Alternative payment arrangements**[240]

~~(1) A retailer must offer a residential customer who is experiencing payment difficulties or financial hardship at least the following payment arrangements—~~
~~(a) additional time to pay a bill; and~~
~~(b) an interest-free and fee-free instalment plan or other arrangement under which the residential customer is given additional time to pay a bill or to pay arrears (including any disconnection and reconnection charges) and is permitted to continue consumption.~~

~~In this clause "fee" means any fee or charge in connection with the establishment or operation of the instalment plan or other arrangement which would not otherwise be payable if the residential customer had not entered into the instalment plan or other arrangement.~~

**6.7 Revision of alternative payment arrangements**

If a customer experiencing financial hardship, or a relevant consumer representative, reasonably demonstrates to a retailer that the customer is unable to meet the customer's obligations under ~~a payment arrangement~~ an instalment plan under clause 6.4(1), the retailer must give reasonable consideration to—[241]

~~(a) offering the customer an instalment plan, if the customer had previously elected a payment extension; or~~

~~(b)~~ offering to revise the instalment plan~~, if the customer had previously elected an instalment plan~~.

## *11.5.2 Minimum requirements for instalment plans*

[Clause 6.4(2)(a) of the Code]

This clause requires retailers to ensure that an instalment plan is fair and reasonable and takes into account information about the customer's capacity to pay and consumption history.

### Draft Review Report (draft recommendation 51)

The ECCC proposed that, when offering or amending an instalment plan, retailers would have to ensure that the plan took into account the customer's capacity to pay, debt and expected electricity consumption needs over the duration of the plan (instead of the customer's consumption history).

The ECCC considered that when ongoing consumption was not included in an instalment plan, customers continued to receive regular bills next to their instalment payments. This could impose additional stress on the customer and require them to enter into another instalment plan for the new bill(s).

The proposal aimed to reduce the need for customers to enter into multiple instalment plans for different bills.

240 Recommendation 50 proposes an additional amendment to this clause.

241 Recommendation 58 proposes an additional amendment to this clause.

### Submissions received

Synergy noted that some instalment plans were for six to twelve months. Having to consider a customer's future consumption for this length of time would be onerous to manage for retailers and would impact their ability to collect arrears.

Synergy considered that if a customer had large arrears and extremely high consumption, they should be working with their retailer to reduce their consumption.

### ECCC response to submissions received

Many customers who require an instalment plan not only have problems repaying their debt to the retailer; they also struggle to pay for their ongoing consumption. If ongoing consumption is not managed, customers are more likely to break their existing instalment plan or require another instalment plan for the new bill(s).

The ECCC considers retailers should help customers manage their ongoing consumption while they are on an instalment plan. There are different ways retailers could do this. For example:

- At the start of the plan, a retailer could estimate the customer's expected consumption over the duration of the plan and build it into the repayments.
- During the plan, the retailer could roll new bills into the plan.
- A combination of the above: at the start of the plan, the retailer could estimate the customer's expected consumption and build it into the repayments. If the customer's consumption is different from expected, the retailer could amend the plan to take account of the difference.

The ECCC considers retailers should have discretion as to how they help customers manage ongoing consumption while on an instalment plan. Therefore, the ECCC no longer proposes to prescribe that an instalment plan must take into account the customer's expected consumption needs over the duration of the plan.

The ECCC also notes that some customers may not require assistance to manage their ongoing consumption. If the Code is amended to require retailers to make instalment plans available to all customers,[242] some customers may enter into instalment plans for relatively small amounts and/or short durations. Requiring all instalment plans to take into account ongoing consumption may be unnecessarily onerous for both retailers and customers. Therefore, instead of requiring retailers to assist customers manage their ongoing consumption, the ECCC proposes retailers should have to offer this assistance. This would allow customers to decline the assistance if they do not need it.

### Final recommendation

The ECCC proposes to replace the recommendation that an instalment plan must take into account the customer's expected consumption needs over the duration of the plan with a

[242] See recommendation 50.

requirement on retailers to offer a customer, who has requested[243] or agreed[244] to an instalment plan, assistance to manage their bills for ongoing consumption over the duration of the plan.

Other issues

**Recommendation 54**

a) Replace clause 6.4(2)(a) of the Code with a requirement that retailers must ensure that an instalment plan is fair and reasonable and has regard to:
   - the customer's capacity to pay; and
   - any arrears owing by the customer.

b) Include a requirement for retailers to offer customers, who have requested or agreed to an instalment plan, assistance to manage their bills for ongoing consumption over the duration of the plan.

**What the new clause may look like**

[**To be drafted by the PCO:** PCO to include a new obligation on retailers to offer customers, who have requested or agreed to an instalment plan, assistance to manage their expected consumption needs over the duration of the plan.]

**6.4 Alternative payment arrangements**

(2) When offering or amending an instalment plan, a retailer must—

(a) ensure that the instalment plan is fair and reasonable ~~taking into account information about a residential customer's capacity to pay and consumption history~~ [**To be drafted by the PCO:** The paragraph would require the instalment plan to have regard to:

(i) the customer's capacity to pay; and

(ii) any arrears owing by the customer]

## *11.5.3 Amending an instalment plan*

[Clauses 6.4(2) and (3)(b) of the Code]

The current drafting of clauses 6.4(2) and (3)(b) appears to imply that retailers can amend a customer's instalment plan without the customer's consent. Although retailers must inform customers of an amendment at least five business days before the amendment takes effect, there is no clear requirement to consult with, or seek a customer's consent, before the amendment takes effect.[245]

[243] Under recommendation 50, retailers will have to make available instalment plans to all customers. As there is no obligation to offer an instalment plan to these customers, they will proactively have to request an instalment plan.

[244] Retailers will still be required to offer instalment plans to customers who are experiencing financial hardship. These customers will therefore agree to an instalment plan.

[245] It is unclear if the words "If a residential customer accepts an instalment plan" apply only to new instalment plans, or also to amendments to instalment plans.

**Draft Review Report (question 8)**

The ECCC sought feedback as to whether:

a) Retailers should be allowed to continue to amend a customer's instalment plan without the customer's consent?

or

b) Clauses 6.4(2) and (3) of the Code should be amended to clarify that a retailer cannot amend an instalment plan without consulting the customer or obtaining the customer's consent?

**Submissions received**

- The AEC submitted that allowing retailers to unilaterally amend instalment plans was in customers' best interest. The AEC suggested customers who consumed more energy than expected or failed to repay an instalment plan before a new bill was issued, were likely to need an amended plan. If this amended plan did not suit the customer, the customer could seek a revision.
- Alinta Energy agreed that ideally a retailer should gain a customer's consent before implementing any changes to an instalment plan. Alinta Energy proposed that retailers should give customers five business days' notice about a change to their instalment plan as this would give customers time to accept the changes or contact the retailer to discuss the proposed changes.
- The AEC and Alinta Energy also suggested that consideration needed to be given to what would happen when retailers were unable to contact customers. The AEC questioned if this could result in retailers having to cancel an instalment plan.
- Synergy suggested that allowing retailers to amend instalment plans benefited customers as it removed the onus from them having to contact their retailer to make a change. Synergy noted that some customers did not understand that new charges did not automatically roll into their instalment plan. Synergy also explained they had case managers who monitored instalment plans and contacted customers to assist them to roll in new charges or make other adjustments as necessary.
- Synergy suggested amending the terms and conditions in the initial agreement to advise customers that a retailer could roll new charges into the instalment plan as they became due would be sufficient provided any change was undertaken to assist the customer.
- Horizon Power and Perth Energy both advised that they did not amend instalment plans without customer consent.
- WACOSS considered retailers should only be allowed to amend an instalment plan with the customer's consent.

**ECCC response to submissions received**

The ECCC acknowledges that most retailers that amend a customer's instalment plan without the customer's consent do so in an effort to help the customer. For example, by adding future bills to the instalment plan without the customer having to ask for this.

However, amending an instalment plan without the customer's consent may, unintentionally, leave a customer worse off. For example, a customer could incur additional costs, such as bank dishonour fees, if the instalment amount increases as a result of the amendment and the customer does not have sufficient funds in their account. It may also affect the customer's ability to pay other bills or meet their basic living needs. These situations are more likely to occur if a retailer amends an instalment plan without consultation or the customer's consent as the retailer will generally not be aware of the customer's current circumstances.

The ECCC therefore considers that retailers should only be allowed to amend an instalment plan with the customer's consent. Consent should be required for each amendment; a customer should not be able to agree in advance that the retailer may amend the instalment plan at a future date.

The proposed amendment may make it harder for retailers to roll future bills into an instalment plan as they will need the customer's consent every time a bill is rolled into the plan. If a customer fails to engage with their retailer, the retailer will not be able to roll future bills into the bill. This may leave some customers worse off.

On balance, the ECCC considers it more important that customers have agreed to an amendment than allowing retailers to easily roll future bills into an instalment plan.

### Final recommendation

The ECCC proposes to amend clauses 6.4(2) and (3)(b) of the Code to clarify that retailers may only amend an instalment plan with the customer's agreement.

Other issues

**Recommendation 55**

Amend clauses 6.4(2) and (3)(b) of the Code to clarify that retailers may only amend an instalment plan with the customer's agreement.

### What the clause may look like

[**To be drafted by the PCO:** These subclauses will be amended to clarify that retailers may only amend an instalment plan with the customer's agreement.]

**6.4 Alternative payment arrangements**

(2) When offering or amending an instalment plan, a retailer must—

(a) ensure that the instalment plan is fair and reasonable taking into account information about a residential customer's capacity to pay and consumption history; and[246]

(b) comply with subclause (3).[247]

(3) If a residential customer accepts an instalment plan offered by a retailer, the retailer must—

(a) within 5 business days of the residential customer accepting the instalment plan provide the residential customer with information in writing or by electronic means that specifies—

(i) the terms of the instalment plan (including the number and amount of payments, the duration of payments and how the payments are calculated);

(ii) the consequences of not adhering to the instalment plan; and

(iii) the importance of contacting the retailer for further assistance if the residential customer cannot meet or continue to meet the instalment plan terms, and

246 Recommendation 54 proposes an amendment to this paragraph.

247 Item V in Appendix 2 (minor amendments) proposes deleting subclause (2)(b).

(b) notify the residential customer in writing or by electronic means of any amendments to the instalment plan at least 5 business days before they come into effect (unless otherwise agreed with the residential customer) and provide the residential customer with information in writing or by electronic means that clearly explains and assists the residential customer to understand those changes.[248]

## 11.5.4 In writing

[Clause 6.4(3) of the Code]

This clause requires retailers to provide certain information about instalment plans in writing.

### 11.5.4.1 New instalment plans

**Draft Review Report (draft recommendation 52(a))**

The ECCC proposed that retailers would no longer have to provide the following information, if the information had already been provided in the last 12 months:

- The terms of the instalment plan, including the number and amount of payments, the duration of the payments and how the payments are calculated.
- The consequences of not adhering to the plan.
- The importance of contacting the retailer if the customer can no longer meet the conditions of the plan.

The ECCC noted that some customers entered multiple instalment plans in a year. The proposal would ensure that, if the same information had already been provided to the customer in the previous 12 months, it would not have to be provided again.

**Submissions received**

No submissions were received.

**Final recommendation**

The ECCC retains the recommendation as is.

Other issues

**Recommendation 56**

Amend clause 6.4(3)(a) of the Code to provide that the information must be provided in writing, unless the information has already been provided in the previous 12 months.

### 11.5.4.2 Amendments to instalment plans

**Draft Review Report (draft recommendation 52(b))**

The ECCC proposed that retailers be allowed to give information about amendments to an instalment plan verbally or in writing to a customer (instead of only in writing).

[248] Recommendations 3, 5(a) and 57 propose amendments to this paragraph.

The proposal aimed to provide retailers with more flexibility as to how they informed customers about amendments to their instalment plan.

### Submissions received

No submissions were received.

### Final recommendation

The ECCC retains the recommendation as is.

Other issues

**Recommendation 57**

Delete the requirement that information must be provided in writing or by electronic means from clause 6.4(3)(b) of the Code.

### What the new clause may look like[249]

**6.4 Alternative payment arrangements**

(3) If a residential customer accepts an instalment plan offered by a retailer, the retailer must—

(a) within 5 business days of the residential customer accepting the instalment plan provide the residential customer with information in writing or by electronic means that specifies—[250]

(i) the terms of the instalment plan (including the number and amount of payments, the duration of payments and how the payments are calculated);

(ii) the consequences of not adhering to the instalment plan; and

(iii) the importance of contacting the retailer for further assistance if the residential customer cannot meet or continue to meet the instalment plan terms, and

[**To be drafted by the PCO:** Paragraph (a) would be amended to provide that the information does not have to be provided if it has already been provided in the previous 12 months.]

(b) notify the residential customer ~~in writing or by electronic means~~ of any amendments to the instalment plan at least 5 business days before they come into effect (unless otherwise agreed with the residential customer) and provide the residential customer with information ~~in writing or by electronic means~~ that clearly explains and assists the residential customer to understand those changes.[251]

249 The mock-up drafting incorporates recommendations 56 and 57.

250 Recommendation 3 proposes an additional amendment to this paragraph.

251 Recommendations 3 and 5(a) propose additional amendments to this paragraph.

## 11.6 Available assistance: customers experiencing financial hardship

### *11.6.1 Additional assistance*

The Victorian *Energy Retail Code* requires retailers to provide the following assistance to customers who are in arrears:[252]

- Instalment plans that allow the customer to repay arrears over (up to) two years. The customer may nominate the terms of the plan.
- Advice about different payment options that may help lower the customer's arrears.
- Advice about the likely costs of the customer's future electricity use and how this cost may be lowered.
- Advice about concessions.
- Practical assistance to help the customer lower their electricity costs, such as alternative tariffs or energy audits.
- Putting repayment of arrears on hold, and paying less than the full cost, for 6 months or more.
- The retailer proactively proposing an amendment to an instalment plan if the customer has missed a payment under their current plan.

**Draft Review Report (question 9)**

The ECCC sought feedback on whether retailers should have to offer their residential customers one or more of the assistance measures included in clauses 77 to 83 of the Victorian *Energy Retail Code*.

The ECCC noted that the Code already required retailers to make the following assistance available to customers who were experiencing financial hardship:

- A payment extension or instalment plan.
- Giving reasonable consideration to a request by a customer to reduce fees, charges or debt.[253]
- Giving reasonable consideration to a request by a customer for a change to their payment arrangement. This included a request for an instalment plan (if the customer previously requested a payment extension) or an amendment to their existing instalment plan.[254]
- Giving a customer relevant information, including information about concessions, financial counselling services and payment methods.[255]

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252 The assistance that must be provided to customers is listed in clauses 77 to 83 of the Victorian *Energy Retail Code*.

253 *Code of Conduct for the Supply of Electricity to Small Use Customers 2018* (WA) clause 6.6.

254 *Code of Conduct for the Supply of Electricity to Small Use Customers 2018* (WA) clause 6.7.

255 *Code of Conduct for the Supply of Electricity to Small Use Customers 2018* (WA) clause 6.8.

**Submissions received**

- The AEC did not support the proposal. It noted that the assistance measures included in clauses 77 to 83 of the Victorian Code had been tailored to the Victorian payment difficulties framework. The AEC expressed concern that implementing these measures in WA could have unintended consequences as they were only one component of the Victorian framework.
- Alinta Energy considered the current Code provisions to be appropriate. It also considered some of the Victorian tailored assistance measures to be unnecessarily prescriptive.
- Horizon Power explained it provided additional assistance in accordance with its hardship policy. It considered there was little point in increasing regulatory burden when its hardship policy already provided the desired outcome for customers.
- Perth Energy did not support the proposal suggesting if the Code defined the options to be considered it could inadvertently become restrictive to the detriment of customers. Perth Energy stated it looked at a range of options to assist customers in payment difficulties.
- Synergy considered the Victorian assistance measures to be extensive and was concerned delivery of them could come at a high cost. Synergy explained it had various assistance programs for hardship customers which catered to customers based on trends, external market forces and research. Synergy suggested their current approach resulted in targeted and improved outcomes.
- Simple Energy supported the ECCC comparing the Code to the Victorian Code and stated it had successfully rolled these protections out to its Victorian energy retail customers.
- WACOSS supported the changes suggesting the measures would help customers avoid getting into arrears. WACOSS considered that WA retailers, like Victorian retailers, should have to contact customers in debt and provide them with information comparable to that listed in the Victorian Code.

**ECCC response to submissions received**

The ECCC does not propose to amend the Code to require retailers to provide any additional assistance measures.

The ECCC expects that the proposed changes to the Code's payment assistance framework will address many of the concerns raised by consumer representative organisations. Also, some of the assistance measures included in the Victorian Code are already available under the Code or may be incompatible with other assistance frameworks.[256]

[256] For example, the Victorian assistance measure of placing customer repayments on hold for six months may be incompatible with the Hardship Utilities Grant Scheme (HUGS) which provides that a customer is only eligible for a HUGS grant if the customer has entered into a payment plan and reasonably complied with the plan for at least 180 days.

**Final recommendation**

The ECCC recommends no changes to the Code.

### *11.6.2 Revision of alternative payment arrangements*

[Clause 6.7 of the Code]

This clause provides that customers who are experiencing financial hardship and who cannot meet the conditions of their payment extension or instalment plan may request a change to their payment arrangement. Retailers do not have to offer to change the arrangement; they only have to "give reasonable consideration to" making an offer if the customer "reasonably demonstrates" to the retailer that the customer is unable to meet their obligations.

**Draft Review Report (question 10)**

The ECCC was concerned that the words "give reasonable consideration to" and "reasonably demonstrates" unnecessarily limited customers access to the protection. Even if customers reasonably demonstrated that they could not meet the conditions of their arrangement, retailers did not have to offer to change the arrangement.

To improve access to the protection, the ECCC sought feedback on whether the Code should be amended so:

- Retailers had to continue to give reasonable consideration to a change in the arrangement, but customers no longer had to reasonably demonstrate that they could not meet the conditions of their arrangement.

  or

- Retailers had to offer to change the arrangement if the customer reasonably demonstrated that they could not meet the conditions of their arrangement.

Alternatively, the ECCC considered that the Code could be amended consistent with clause 30(4)(b) of the *Water Services Code of Conduct (Customer Service Standards) 2018*, which provided:

> [⋯] the licensee must [⋯] at the customer's request, review how the customer is paying the bill under a payment plan or other arrangement entered into under subclause (2) and, if the review indicates that the customer is unable to meet obligations under the plan or arrangement, revise it; and

**Submissions received**

- Alinta Energy and Perth Energy supported the option of a retailer having to give reasonable consideration to a change in the arrangement, but customers no longer having to reasonably demonstrate that they could not meet the conditions of their arrangement. Synergy also suggested this option would be fair.
- The AEC and Alinta Energy did not support the option of a retailer having to offer a revised plan, as this could require the retailer to provide unlimited revisions to a customer. Synergy suggested this option would be difficult to administer and define.
- The AEC and Synergy supported the option of adopting the Water Code. The AEC considered the wording of the Water Code provided a useful starting point and believed it had the appropriate balance to ensure flexibility to customers, while retaining the

ability of retailers to collect unpaid energy debt. Synergy also stated this was the most appropriate option as it placed an obligation on the customer to be responsible for their agreement to make payments. Both stakeholders suggested that retailers should also be able to refuse to revise a plan if the customer had previously broken two instalment plans.

- WACOSS supported the options of a retailer having to offer a revised plan or adopting wording consistent with the Water Code.
- Horizon Power suggested that the intent of the regulation should be clear before a solution was found. Horizon Power questioned when it was appropriate to disconnect for non-payment and whether a customer should be allowed to continue to break payment arrangements and increase their debt without end. Horizon Power suggested a clear statement of when disconnection for customers in hardship could occur would be most effective.

**ECCC response to submissions received**

The ECCC proposes to amend the Code consistent with clause 30(4)(b) of the *Water Services Code of Conduct (Customer Service Standards) 2018*. This means that, at a customer's request, retailers will have to review the customer's instalment plan and, if their review indicates that the customer is unable to meet their obligations under the plan, revise it.

The ECCC further proposes that retailers only have to review a customer's instalment plan twice a year. This will allow retailers to refuse to review instalment plans for customers who continuously default or have been offered multiple plans previously. The limit of two mandatory revisions per year is consistent with the limit of two instalment plans per year for customers whose instalment plans have been cancelled for non-payment.[257]

The ECCC does not propose to adopt Horizon Power's suggestion to include a statement in the Code about when disconnection for customers in hardship can occur. The ECCC considers there is no need to include such a statement in the Code as the Code already includes an extensive framework around financial hardship and disconnection.

**Final recommendation**

The ECCC proposes to amend the Code consistent with clause 30(4)(b) of the *Water Services Code of Conduct (Customer Service Standards) 2018*. However, retailers will only be required to review a customer's instalment plan twice a year.

Other issues

**Recommendation 58**

Amend clause 6.7 of the Code consistent with clause 30(4)(b) of the *Water Services Code of Conduct (Customer Service Standards) 2018*, but provide that retailers are only required to review a customer's instalment plan twice a year.

[257] *Code of Conduct for the Supply of Electricity to Small Use Customers 2018* (WA) clause 6.4(4).

**What the new clause may look like**

**6.7 Revision of alternative payment arrangements**

~~If a customer experiencing financial hardship, or a relevant consumer representative, reasonably demonstrates to a retailer that the customer is unable to meet the customer's obligations under a payment arrangement under clause 6.4(1), the retailer must give reasonable consideration to—~~

~~(a) offering the customer an instalment plan, if the customer had previously elected a payment extension; or~~

~~(b) offering to revise the instalment plan, if the customer had previously elected an instalment plan.~~

[A retailer] must, at the customer's request, review how the customer is paying the bill under [an instalment plan] entered into under subclause [(···)] and, if the review indicates that the customer is unable to meet obligations under the plan, revise it.

[**To be drafted by the PCO:** The clause will be further amended to specify that retailers are only required to review a customer's instalment plan twice a year.]

## *11.6.3 Provision of information: different types of meters*

[Clause 6.8(d) of the Code]

This clause requires retailers to advise customers in financial hardship of the different types of meters available to the customer.

### Draft Review Report (draft recommendation 53)

The ECCC proposed that retailers would no longer have to provide customers with this information.

The ECCC noted that, as most residential customers were non-contestable,[258] there were only limited metering options available to most customers. Where different metering options were available, they may not be appropriate for customers experiencing financial hardship.

The proposal aimed to ensure that customers were not provided with information that was not relevant to them.

### Submissions received

No submissions were received.

### Final recommendation

The ECCC retains the recommendation as is.

Other issues

**Recommendation 59**

Amend clause 6.8(d) of the Code by deleting reference to meters.

[258] Customers who consume less than 50 megawatt hours of electricity per year and are connected to the South West Interconnected System, currently cannot choose their retailer.

### What the new clause may look like

**6.8 Provision of information**

A retailer must advise a customer experiencing financial hardship of the—

(d) different types of ~~meters~~ tariffs available to the customer ~~and / or tariffs (as applicable)~~;

## 11.7 Minimum payment in advance amount for customers experiencing payment difficulties or financial hardship

[Clause 6.9 of the Code]

This clause requires retailers to determine the minimum payment in advance amount for customers experiencing payment difficulties or financial hardship in consultation with relevant consumer organisations.

### Draft Review Report (draft recommendation 54)

The ECCC proposed to delete clause 6.9 from the Code.

The ECCC noted that clause 5.4 already provided that retailers had to accept payment in advance. The minimum amount that retailers had to accept for payment in advance was $20.[259]

Clause 6.9 expanded on this by requiring retailers to determine the minimum payment in advance amount for customers experiencing payment difficulties or financial hardship in consultation with relevant consumer organisations.

As the amount prescribed in clause 5.4 was relatively low ($20), the ECCC considered it was unnecessary for retailers to consult with relevant consumer organisations on the minimum payment in advance amount for customers experiencing payment difficulties or financial hardship.

### Submissions received

No submissions were received.

### Final recommendation

The ECCC retains the recommendation as is.

Other issues

**Recommendation 60**

Delete clause 6.9 of the Code.

[259] A retailer may always accept a lower amount but may not require a higher amount.

**What the new clause may look like**

~~**6.9 Payment in advance**~~

~~(1) A retailer must determine the minimum payment in advance amount, as referred to in clause 5.4(3), for residential customers experiencing payment difficulties or financial hardship in consultation with relevant consumer representatives.~~

~~(2) A retailer may apply different minimum payment in advance amounts for residential customers experiencing payment difficulties or financial hardship and other customers.~~

# 11.8 Hardship policy and hardship procedures

## *11.8.1 Hard-print copies*

[Clause 6.10(2)(j) of the Code]

This clause requires retailers to ensure their hardship policy is available in large print copies.

### Draft Review Report (draft recommendation 55)

The ECCC proposed that retailers would no longer have to provide electronic copies of their hardship policy in large print.

The ECCC considered that customers could adjust the font size of an electronic copy of the hardship policy to meet their needs.[260] There was therefore less need to regulate this matter.

### Submissions received

No submissions were received.

### Final recommendation

The ECCC retains the recommendation as is.

Other issues

**Recommendation 61**

Amend clause 6.10(2)(j) of the Code so only hard-copies of the hardship policy have to be made available in large print.

**What the new clause may look like**

**6.10 Obligation to develop hardship policy and hardship procedures**

(2) The hardship policy must— [⋯]

(j) be available in large print copies; and

[**To be drafted by the PCO:** The amended paragraph would provide that only hard-copies of the hardship policy have to be made available in large print.]

[260] Clause 6.10(2)(i) of the Code provides that the hardship policy must be available on the retailer's website.

### 11.8.2 Review of hardship policy

[Clause 6.10(6) of the Code]

This clause requires retailers to submit the results of a review of their hardship policy within 5 business after it is completed.

**Draft Review Report (draft recommendation 56)**

The ECCC proposed that retailers would no longer have to submit the results of a review of their hardship policy within five business days of completing the review.

The ECCC considered that it was unclear when a review was considered completed. It would be clearer if the ERA specified in its direction when the results should be submitted.

The timeframe for submitting the results of a review was an administrative matter for the ERA and should not be regulated in the Code.

**Submissions received**

No submissions were received.

**Final recommendation**

The ECCC retains the recommendation as is.

Other issues

**Recommendation 62**

Amend clause 6.10(6) of the Code by deleting the words "within 5 business days after it is completed".

**What the new clause may look like**

**6.10 Obligation to develop hardship policy and hardship procedures**

(6) If directed by the Authority, a retailer must review its hardship policy and hardship procedures in consultation with relevant consumer representatives and submit to the Authority the results of that review ~~within 5 business days after it is completed~~.

### 11.8.3 Amendment of hardship policy

[Clause 6.10(8) of the Code]

This clause requires retailers to submit a copy of their amended hardship policy within 5 business days of the amendment.

**Draft Review Report (draft recommendation 57)**

The ECCC proposed that the Code no longer specify the timeframe for submitting an amended hardship policy to the ERA.

The ECCC considered that it was unclear what was meant by "within 5 business days of the amendment". This could, for example, refer to the date the amendment was approved by the retailer or the date the amendment took effect.

Most timeframes in the Code started from the moment the ERA or a customer asked the retailer to do something. Clause 6.10(8), however, applied to amendments initiated by the retailer. As each retailer would have its own process for approving amendments, it would be difficult to identify a specific event that would trigger the commencement of the timeframe.

The ECCC considered that the Code should only prescribe a timeframe if necessary. One of the reasons for this was that, under the WA regulatory framework, retailers had to report on their compliance with the Code. This meant that retailers had to have processes in place to capture their compliance with each obligation, including any regulatory timeframes.

The ECCC considered that the timeframe prescribed in clause 6.10(8) was not necessary and should be deleted from the Code.

### Submissions received

No submissions were received.

### Final recommendation

The ECCC retains the recommendation as is.

Other issues

**Recommendation 63**

Amend clause 6.10(8) of the Code by deleting the words "within 5 business days of the amendment".

### What the new clause may look like

**6.10 Obligation to develop hardship policy and hardship procedures**

(8) If a retailer makes a material amendment to the retailer's hardship policy, the retailer must consult with relevant consumer representatives, and submit to the Authority a copy of the retailer's amended hardship policy ~~within 5 business days of the amendment~~.

# 12. Part 7 of the Code: Disconnection

## 12.1 Limitations on disconnection for failure to pay bill

[Clause 7.2 of the Code]

This clause sets out the circumstances under which retailers may not disconnect a customer's supply address for failure to pay a bill.

### *12.1.1 Instalment plans*

**Draft Review Report (draft recommendation 58(a))**

The ECCC proposed that the restriction on disconnection for customers on an instalment plan no longer be subject to the customer having used reasonable endeavours to settle the debt before the end of the disconnection warning period.

The ECCC considered that customers who were on an instalment plan should not be expected to settle their debt before the end of the disconnection warning period (which would generally be before the end of their instalment plan) as long as they complied with the conditions of their plan.

**Submissions received**

No submissions were received.

**Final recommendation**

The ECCC retains the recommendation as is.

NECF

**Recommendation 64**

Replace clause 7.2(1)(b) of the Code with rule 116(1)(d) of the NERR but do not adopt the words "is a hardship customer or residential customer and".[261]

### *12.1.2 Concessions*

**Draft Review Report (draft recommendation 58(b))**

The ECCC proposed that disconnection for failure to pay a bill not be allowed if the customer had informed the retailer, or the retailer was otherwise aware, that the customer had applied for a concession. Currently, the restriction applies when "the customer has made an application".

The ECCC considered that retailers would not always be aware that a customer has applied for a concession. The new drafting ensured that the restriction only applied if the customer had

[261] The Code does not use the term hardship customer. The words are also unnecessary if the reference to rule 33 or 72 is replaced with reference to clause 6.4(1). Under clause 6.4(1) of the Code, instalment plans only have to be offered to residential customers who are experiencing payment difficulties or financial hardship.

informed the retailer, or the retailer was otherwise aware, that the customer had applied for a concession.

**Submissions received**

No submissions were received.

**Final recommendation**

The ECCC retains the recommendation as is.

NECF

**Recommendation 65**

Replace clause 7.2(1)(d) of the Code with rule 116(1)(e) of the NERR but replace the words "a rebate, concession or relief available under any government funded energy rebate, concession or relief scheme" with "a concession".[262]

### *12.1.3 Minimum disconnection amount*

**Draft Review Report (draft recommendation 59)**

The ECCC proposed that retailers no longer be allowed to arrange for the disconnection of a customer's supply address for failure to pay a bill if the amount outstanding was less than $300 and the customer had agreed to repay the amount.

The ECCC noted that the Code already provided that disconnection for failure to pay a bill was not allowed if the amount outstanding was less than an amount approved and published by the ERA. However, the ERA had not yet approved or published an amount.

The amount proposed by the ECCC was the same as the amount set by the Australian Energy Regulator for NECF customers: $300.[263] The AER set the amount at $300 in an effort to balance the interests of customers in maintaining supply, while at the same time avoiding unmanageable rising debt levels.[264]

**Submissions received**

- The AEC suggested the amount should be set at $200 to reflect the different billing cycles in WA (two months) compared to the NEM (three months).
- Synergy expressed concern that setting a minimum disconnection amount would act as a disincentive for customers with debts below the amount to enter into payment arrangements or clear their debts. Synergy argued this could lead to customers being charged late payment fees and so lead to higher debt.

  Synergy proposed three caveats if the proposal proceeded:

  - The limit should be applied to residential customers only.

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262 Clause 1.5 of the Code defines concession as "means a concession, rebate, subsidy or grant related to the supply of electricity available to residential customers only".

263 Australian Energy Regulator, 2017, *Final decision - Review of the Minimum Disconnection Amount*

264 Id, pg. 7

  - The threshold should be set at $200 as Synergy's standard billing cycle was two months.
  - The minimum amount should not apply to customers who repeatedly defaulted or refused to enter into an instalment plan or alternative payment arrangement and then failed to comply.
- WACOSS and UnionsWA both supported the $300 threshold. WACOSS outlined the importance of ensuring disconnection was a last resort as disconnection had various detrimental impacts.

**ECCC response to submissions received**

The ECCC proposes to retain its recommendation that the Code sets a minimum disconnection amount of $300.

The ECCC notes that customers can only qualify for a Hardship Utilities Grant Scheme (HUGS) grant if their debt is over $300. Setting the minimum discount amount at $300 will ensure that customers who cannot access HUGS grants because their debt is below $300 will not be disconnected.

The ECCC further proposes that the minimum disconnection amount apply to residential customers only. This is consistent with the Code's payment assistance framework which also only applies to residential customers.

The requirement that the customer must have agreed to repay their debt should address Synergy's concern that the minimum disconnection amount should not apply to customers who repeatedly default or refuse to enter into an instalment plan. The ECCC considers that customers who refuse to enter into an instalment plan have not agreed to repay the amount. Similarly, once a customer defaults on an instalment plan, it can be inferred that the customer no longer agrees to repay the debt.

**Final recommendation**

The ECCC proposes that retailers should no longer be allowed to arrange for the disconnection of a residential customer's supply address for failure to pay a bill if the amount outstanding is less than $300 and the customer has agreed to repay the amount.

Other issues

**Recommendation 66**

a) Amend clause 7.2(1)(c) of the Code by:
   - specifying that the paragraph only applies to residential customers.
   - replacing the words "an amount approved and published by the Authority in accordance with subclause (2)" with "$300".

b) Delete clause 7.2(2) of the Code.

### What the new clause may look like[265]

**7.2 Limitations on disconnection for failure to pay bill**

(1) Notwithstanding clause 7.1, a retailer must not arrange for the disconnection of a customer's supply address for failure to pay a bill—

(a) within 1 business day after the expiry of the period referred to in the disconnection warning;

(b) ~~if the retailer has made a residential customer an offer in accordance with clause 6.4(1) and the residential customer—~~

~~(i) has accepted the offer before the expiry of the period specified by the retailer in the disconnection warning; and~~

~~(ii) has used reasonable endeavours to settle the debt before the expiry of the time frame specified by the retailer in the disconnection warning;~~

where the [customer] is adhering to an instalment plan under [clause 6.4(1)];

(c) [**To be drafted by the PCO:** This paragraph will be amended:

- so it only applies to residential customers.
- (if required) to clarify that a customer has not agreed to repay the amount outstanding if the customer has not agreed to an instalment plan or agreed to an instalment plan but defaulted on the plan (including where the plan is amended following a customer default).]

if the amount outstanding is less than ~~an amount approved and published by the Authority in accordance with subclause (2)~~ $300 and the customer has agreed with the retailer to repay the amount outstanding;

(d) ~~if the customer has made an application for a concession and a decision on the application has not yet been made;~~

where the customer informs the retailer, or the retailer is otherwise aware, that the customer has formally applied for assistance to an organisation responsible for a [concession] and a decision on the application has not been made;

(e) if the customer has failed to pay an amount which does not relate to the supply of electricity;

(f) if the supply address does not relate to the bill, unless the amount outstanding relates to a supply address previously occupied by the customer.[266]

~~(2) For the purposes of subclause (1)(c), the Authority may approve and publish, in relation to failure to pay a bill, an amount outstanding below which a retailer must not arrange for the disconnection of a customer's supply address.~~

## 12.2 Disconnection for denying access to meter – general requirements

[Clause 7.4 of the Code]

This clause sets standards around disconnection for denying access to read the meter.[267]

### *12.2.1 Access for reasons other than a meter reading*

#### Draft Review Report (draft recommendation 60)

The ECCC proposed that the Code also set standards around disconnection for denying access to test, maintain, inspect, alter, check or replace the meter. Retailers and distributors would

265 The mock-up drafting incorporates recommendations 64, 65 and 66.

266 Item JJ in Appendix 2 (minor amendments) proposes an amendment to this paragraph.

267 Clause 7.4(1)(b) of the Code provides that disconnection may only occur if the retailer has given the customer written notice of the next scheduled meter reading and requested access for the purpose of the scheduled meter reading.

have to give customers a disconnection warning before they could disconnect a customer's supply address in these circumstances.

**Submissions received**

No submissions were received.

**Final recommendation**

The ECCC retains the recommendation as is.

NECF

**Recommendation 67**

Adopt rule 113(2) of the NERR but:

- do not adopt the words "in accordance with any requirement under the energy laws or otherwise".
- extend the application of the clause to distributors.

### *12.2.2 Clarification*

**Draft Review Report (draft recommendation 61)**

The ECCC proposed that not only the requirements of clause 7.4(1)(b) would have to be met before a disconnection warning could be issued, but also those of clauses 7.4(1)(c) to (e).

The ECCC noted that the Code only explicitly stated that notice of a scheduled meter reading had to be provided before the disconnection warning. However, the protections of clauses 7.4(1)(c) to (e) should also be met before a disconnection warning could be issued – but this was not explicitly stated. The proposal aimed to clarify this.

**Submissions received**

Perth Energy suggested to replace the reference to nine consecutive months, in clause 7.4(1)(a) of the Code, with three consecutive meter readings, similar to rule 113(1) of the NERR.

**ECCC response to submissions**

The ECCC does not propose to replace the reference to nine consecutive months with three consecutive meter readings. The ECCC notes that most retailers operating under the NECF have a three-monthly billing cycle. In Western Australia, the two incumbent retailers have a two-monthly billing cycle. Adopting Perth Energy's proposal would result in these retailers being able to disconnect their customers after six months, rather than the current nine months.

**Final recommendation**

The ECCC retains the recommendation as is.

Other issues

**Recommendation 68**

Clarify that the protections of clauses 7.4(1)(c) to (e) of the Code must be met before a disconnection warning may be issued.

### What the new clause may look like[268]

**7.4 General requirements**

(1) A retailer must not arrange for the disconnection of a customer's supply address for denying access to the meter, unless—

(a) the customer has denied access for at least 9 consecutive months;

(b) the retailer has, prior to giving the customer a disconnection warning under subclause ~~(f)~~(c)—

(i) at least once given the customer in writing 5 business days' notice—

~~(i)~~(A) advising the customer of the next date or timeframe of a scheduled meter reading at the supply address;

~~(ii)~~(B) requesting access to the meter at the supply address for the purpose of the scheduled meter reading; and

~~(iii)~~(C) advising the customer of the retailer's ability to arrange for disconnection if the customer fails to provide access to the meter;

~~(c)~~(ii) [~~the retailer has~~][269] given the customer an opportunity to provide reasonable alternative access arrangements;

~~(d)~~(iii) where appropriate, [~~the retailer has~~][270] informed the customer of the availability of alternative meters which are suitable to the customer's supply address;

~~(e)~~(iv) [~~the retailer has~~][271] used its best endeavours to contact the customer to advise of the proposed disconnection; and

~~(f)~~(c) the retailer has given the customer a disconnection warning with at least 5 business days notice of its intention to arrange for disconnection

(2) A retailer may arrange for a distributor to carry out 1 or more of the requirements referred in subclause (1) on behalf of the retailer.

(3) [**To be drafted by the PCO:** The clause will provide that a retailer or distributor may arrange for disconnection of, or disconnect, a customer's supply address if the customer does not provide the retailer, distributor or their representatives safe access to the customer's supply address for the purposes of:]

(a) testing, maintaining, inspecting or altering any metering installation at the [supply address];

(b) checking the accuracy of metered consumption at the [supply address]; or

(c) replacing meters,

and if:

(d) the retailer has given the customer a [disconnection warning]; and

(e) the customer has not rectified the matter that gave rise to the right to arrange for [disconnection] of the [supply address].

## 12.3 General limitations on disconnection

[Clause 7.6 of the Code]

This clause describes when retailers and distributors may not disconnect a customer's supply address.

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268 The mock-up drafting incorporates recommendations 67 and 68.

269 Consequential amendment of recommendation 68.

270 Consequential amendment of recommendation 68.

271 Consequential amendment of recommendation 68.

### 12.3.1 Hours during which disconnection may occur

**Draft Review Report (draft recommendations 62(c) and (e))**

The ECCC proposed to reduce the hours during which distributors could disconnect a supply address.

The ECCC considered that, consistent with the NECF, disconnection should only be allowed on Mondays to Thursdays from 8am to 3pm (except for public holidays, the day before public holidays and the Christmas period).

**Submissions received**

- Synergy did not support the proposed changes. Synergy noted it already voluntarily did not disconnect customers on a Friday and over the Christmas / New Year period so the proposed changes would not provide customers with additional protection.
- Western Power opposed the recommendation to prohibit disconnections before 8am. Western Power suggested the new 8am-restriction would require significant business changes, including system changes and re-training of staff. Western Power would prefer the change to be postponed until Advanced Metering Infrastructure (AMI) is available to all customers. AMI will allow for remote disconnections.

**ECCC response to submissions received**

The ECCC notes the significant practical difficulties the proposed changes will cause for Western Power. It also notes that Synergy already voluntarily does not disconnect customers during the proposed revised timeframes so most customers would receive little to no benefit from the revised timeframes being introduced to the Code.

The ECCC considers the disadvantages of the proposal currently outweigh the advantages and has decided not to proceed with the changes.

**Final recommendation**

The ECCC recommends no changes to the Code.

### 12.3.2 Emergency, health and safety reasons

**Draft Review Report (draft recommendation 62(d))**

The ECCC proposed that:

- The Code no longer provide that a retailer or distributor could arrange for interruption of a customer's supply address if the interruption was carried out for emergency reasons.

  The ECCC noted that the general limitations on disconnection, set out in clause 7.6, only applied when a retailer or distributor disconnected a customer's supply address. They did not apply to interruptions.[272] The ECCC therefore considered it was not necessary to

[272] The definition of disconnection specifically excludes interruptions. The *Electricity Industry (Network Quality and Reliability of Supply) Code 2005* sets standards around interruptions of supply.

provide that retailers and distributors could arrange for interruption of a customer's supply address if the interruption was carried out for emergency reasons.

- The restrictions on disconnection would not apply if the disconnection was carried out for health or safety reasons.

### Submissions received

Perth Energy also advocated for the inclusion of a provision similar to rule 114 of the NERR, that allowed retailers and distributors to immediately, without notice, disconnect a customer's supply address if electricity was being used illegally.[273]

### ECCC response to submissions

The ECCC notes that, if electricity is being used illegally, there will generally be health and safety reasons warranting the disconnection. It is therefore likely that the matter is already addressed by the draft recommendation. However, for clarity, the ECCC proposes to explicitly provide that the protections of clause 7.6 do not apply in case of illegal use.

The Code cannot, as advocated by Perth Energy, confer enforceable rights on retailers against customers, such as a right to disconnect supply in case of illegal use.[274] Other legislative instruments may already provide retailers and distributors with these rights.[275] If not, retailers should address these matters in their contracts with customers.

### Final recommendation

The ECCC proposes to retain the recommendation but add that the restrictions in clauses 7.6(1) and (2) should also not apply if electricity is being consumed illegally at the customer's supply address.

NECF

**Recommendation 69**

a) Replace clause 7.6(3) of the Code with rules 116(3), 120(2) and 120(3)(a) and (b) of the NERR.

b) Insert an additional subclause in revised clause 7.6(3) of the Code that provides that the restrictions in clauses 7.6(1) and (2) do not apply if electricity is being consumed illegally at the customer's supply address.

### What the new clause may look like

**7.6 General limitation on disconnection**

(3) ~~A retailer or a distributor may arrange for disconnection or interruption of a customer's supply address if —~~

~~(a) the disconnection was requested by the customer; or~~

~~(b) the disconnection or interruption was carried out for emergency reasons.~~

273 Perth Energy's submission included the comment against draft recommendation 61, but the comment appeared to relate to draft recommendation 62(d).

274 This is because the purpose of the Code, as set out in section 79(2) of the Act, is to regulate and control the conduct of retailers, distributors and electricity marketing agents.

275 For example, the *Energy Operators Powers Act 1979* (WA).

The restrictions in [subclauses (1) and (2)] do not apply if—
(a) the customer has requested [disconnection];
(b) there are health or safety reasons warranting [disconnection]; or
(c) there is an emergency warranting [disconnection].
[**To be drafted by the PCO:** An additional paragraph will be added that will provide that the restrictions in subclause (1) and (2) do not apply if electricity is being consumed illegally at the customer's supply address.]

## 12.4 Life support

[Clause 7.7 of the Code]

This clause sets standards around the (de-)registration of life support customers and the information that must be provided to these customers.

### *12.4.1 Prohibition on disconnection*

[Clauses 7.7(1)(d) and (4)(a) of the Code]

These clauses prohibit retailers and distributors from disconnecting a customer's supply address for failure to pay a bill while a person who requires life support equipment resides at the supply address.

**Draft Review Report (draft recommendations 62(a) and (b) and 63(b))**

The ECCC considered that there were no compelling reasons for not allowing life support customers to be disconnected for failure to pay a bill, but still allowing them to be disconnected (for example) for failure to provide access to the meter. The ECCC therefore proposed that retailers and distributors should not be allowed to disconnect supply to life support customers unless the customer had requested disconnection or in case of an emergency, for health or safety reasons or illegal use.

The proposal aimed to increase protections for life support customers and improve consistency between the Code and the NECF.

**Submissions received**

No submissions were received.[276]

**Final recommendation**

The ECCC retains the recommendations as is.[277]

The ECCC also recommends deletion of clause 7.7(1)(d), and consequentially clause 7.7(2)(g), to avoid duplication with rule 116(1)(a) of the NERR.

[276] Synergy's submission included a comment against draft recommendation 62(a), but the comment appeared to relate to clause 7.7(1) generally. The comment is discussed in section 12.4.4.

[277] The wording of the recommendations has been redrafted to clarify their intent.

NECF

**Recommendation 70**

a) Insert a new paragraph, in clause 7.6(1) of the Code, consistent with rule 116(1)(a) of the NERR.

b) Insert a new paragraph, in clause 7.6(2) of the Code, consistent with rule 120(1)(a) of the NERR.

Consequential amendments

c) Delete clauses 7.7(1)(d), (2)(g) and (4)(a)[278] of the Code.

### *12.4.2 Provision of information after registering*

**Draft Review Report (draft recommendation 63(a))**

The ECCC proposed that retailers had to provide additional written information to customers after a customer registered their supply address as a life support equipment address, including:

- Advice that the distributor had to notify them of planned interruptions.
- A recommendation that the customer had to prepare a plan of action to deal with an unplanned interruption.
- The emergency contact phone numbers for the retailer and distributor (the charge for which was to be no more than the cost of a local call, excluding mobile phones).

The proposal aimed to ensure customers were aware of their rights and obligations.

**Submissions received**

- Synergy supported the proposal, but suggested retailers be allowed to provide the information to a customer either before or after registration.
- Western Power recommended the wording remain as "when advised by the customer", instead of "when registered". Western Power explained that many registration requests are a result of a notification of planned work in a customer's area and in this context "advised" means the time of an inquiry into the registration process rather than the point of receiving registration documents from the customer.

**ECCC response to submissions received**

The ECCC notes that the proposal aimed to ensure that customers were aware of their rights and obligations when their supply address was registered as a life support equipment address. As this will also be achieved by providing the information before registration, the ECCC has no concerns about allowing retailers to provide the information before registration.

**Final recommendation**

The ECCC retains the recommendation but adds that retailers may also provide the information before registering the customer's supply address as a life support equipment address.

[278] Consequential amendment of recommendation 70(b).

NECF

**Recommendation 71**

Adopt rules 124(1)(b)(iv), (v) and (vi) of the NERR but:

- specify that the information has to be provided before or within 5 business days of the retailer registering the customer's supply address as a life support equipment address, rather than of "receipt of advice from the customer".[279]
- amend rule 124(1)(b)(v) so retailers have to recommend customers to prepare a plan of action to deal with an unplanned interruption.
- specify that the telephone service does not have to be available to mobile phones at the cost of a local call.[280]

### 12.4.3 Moving into a supply address

[Clause 7.7(1) of the Code]

Currently customers are only able to register their supply address after they have moved in.[281]

**Draft Review Report (draft recommendation 64)**

The ECCC proposed that customers also be able to register their supply address as a life support equipment address before they had moved in.

The ECCC considered this would ensure customers were protected from disconnection from the time they moved in.

**Submissions received**

- Horizon Power did not support the proposal because it would be too open to abuse.
- Synergy also did not support the proposal suggesting a customer would not forget to register in these circumstances. Most customers completed their registration as soon as possible and often on the day of move in, well before any bill was issued, thereby minimising the risk of disconnection.

  Synergy also stated they already allowed customers to advise future move in dates, however their registration would not occur until the move in date. Synergy highlighted various issues with the proposal, including what would happen if the customer did not end up moving in and how far in advance a customer should notify a retailer.

279 The protections of the Code only apply if a customer has provided the retailer with confirmation from an appropriately qualified medical practitioner that a person residing at the supply address requires life support equipment. The proposed amendment would ensure that retailers only have to provide the information to customers who have provided the required confirmation; rather than only advice.

280 Other Code provisions also provide that telephone calls from mobile phones do not have to be available at the cost of a local call.

281 Clause 7.7(1) refers to "a person residing at the customer's supply address".

**ECCC response to submissions received**

To proceed with the proposal, the ECCC would need to resolve the issues raised by Synergy. The ECCC is concerned that, in trying to resolve these issues, the provision may become overly complex. It is also likely that retailers and distributors would need to implement new processes and procedures to facilitate the new requirement, which may result in additional costs.

The ECCC further agrees that it is likely that most customers would register on the day of move in or shortly afterwards.

On balance, the ECCC considers that the advantages of the proposal are unlikely the outweigh the disadvantages. Therefore, the ECCC proposes not to proceed with the proposal.

**Final recommendation**

The ECCC recommends no changes to the Code.

### *12.4.4 Medical confirmation*

[Clause 7.7(1) of the Code]

This clause requires retailers to register a customer's supply address as a life support equipment address when the customer provides the retailer with confirmation from an appropriately qualified medical practitioner that a person at the supply address requires life support equipment.

**Draft Review Report**

The ECCC did not propose any changes to this clause in the Draft Review Report.

**Submissions received**

Synergy requested that clause 7.7(1) be amended to specify that medical confirmation needs to be provided in writing in a format acceptable to a retailer.[282] Synergy explained that sometimes customers did not provide adequate information. Synergy then required further information from a customer to add the customer to the life support register which delayed life support registration.

**ECCC response to submission received**

The ECCC considers that Synergy's proposal is unlikely to address its concerns. Stipulating in the Code that customers must provide medical confirmation in writing in a format acceptable to the retailer will not ensure customers will use the requisite form. It will only allow retailers to refuse to register customers who do not submit the correct form or fail to complete the form correctly.

The ECCC understands that retailers sometimes receive medical confirmation that does not include sufficient information for retailers to register the customer. For example, the confirmation does not include the customer's supply address. The ECCC considers that the obligations of clause 7.7 only commence once the customer has provided sufficient

[282] Synergy's submission included the comment against draft recommendation 62.

information for the retailer to complete the registration. The ECCC considers it not necessary to clarify this in the Code.

**Final recommendation**

The ECCC recommends no changes to the Code.

### 12.4.5 Timeframes for registering customer details

[Clauses 7.7(1) and (2) of the Code]

These clauses require retailers to pass certain information on to the distributor within prescribed timeframes.[283]

The timeframes were introduced following the 2011 review of the Code. The ECCC's 2011 Final Review Report noted:[284]

> The ECCC also recommends that timeframes be introduced into the Code to cover the following requirements:
>
> - for a retailer to register the customer's supply address as a life support equipment address;
> - for a retailer to pass information regarding life support customers to a distributor; and
> - for a distributor to register the customer's supply address as a life support equipment address

Despite the ECCC's recommendation at the time, the final drafting provides that the timeframes in clauses 7.7(1) and (2) only apply to the requirement to pass information on to the distributor; not to the requirement to register a supply address or update contact details.

**Draft Review Report (draft recommendation 65)**

The ECCC proposed that the maximum timeframes for passing on information also apply to the registration requirements.[285]

**Submissions received**

Synergy supported the proposal provided the timeframes specified under clause 7.7(1)(c) and 7.7(2)(f) continue to apply.

**ECCC response to submissions received**

The ECCC notes that the proposal will ensure that the timeframes set out in clauses 7.7(1)(c) and (f) will apply to clauses 7.7(1)(a), (1)(b), (1)(c), (2)(e) and (2)(f).

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283 *Code of Conduct for the Supply of Electricity to Small Use Customers 2018* (WA) clause 7.7(1)(c) and (2)(f)

284 ECCC, *Final Review Report - 2011 Review of the Code of Conduct for the Supply of Electricity to Small Use Customers*, pg 30-31

285 *Code of Conduct for the Supply of Electricity to Small Use Customers 2018* (WA) clause 7.7(1)(a), (b) and (2)(e)

**Final recommendation**

The ECCC retains the recommendation as is.

Other issues

**Recommendation 72**

Amend clause 7.7(1) and (2) of the Code by providing that the timeframes for acting on information also apply to the registration requirements.

### 12.4.6 Information from relevant government agency

[Clause 7.7(3) of the Code]

This clause requires distributors to register a life support address on notification by a relevant government agency.

**Draft Review Report (draft recommendation 66)**

The ECCC proposed that distributors no longer be required to register a life support address on notification by a relevant government agency.

The ECCC noted that distributors did not receive notifications from relevant government agencies about customers requiring life support equipment. The Code also did not prescribe what a retailer had to do if it was notified by a distributor.

**Submissions received**

No submissions were received.

**Final recommendation**

The ECCC retains the recommendation as is.

Other issues

**Recommendation 73**

a) Amend clause 7.7(3) of the Code by removing the words "or by a relevant government agency".

b) Delete clause 7.7(3)(b) of the Code.

### 12.4.7 In writing

[Clause 7.7(4) of the Code]

This clause requires distributors to obtain a customer's acknowledgement that the customer has been notified of a planned interruption. Customers can ask their distributor, in writing, to stop seeking their acknowledgement.

**Draft Review Report**

The ECCC did not propose any changes to this clause in the Draft Review Report.

**Submission received**

Western Power advised that some customers "have expressed the desire to be able to provide this request verbally rather than in writing".

**ECCC response to submissions**

The ECCC considers that amending the requirement so customers can also verbally ask distributors to stop seeking their acknowledgement that they have been notified of a planned interruption, should not materially affect customers. In fact, it is likely to make it easier for customers to enforce their rights. The ECCC therefore supports Western Power's proposal.

**Final recommendation**

The ECCC recommends deleting the words "in writing" from clause 7.7(4)(b) of the Code.

Other issues

**Recommendation 74**

Delete the words "in writing" from clause 7.7(4)(b) of the Code.

### *12.4.8 Information to be provided when seeking re-certification or confirmation*

[Clause 7.7(7)(b) of the Code]

This clause sets out the minimum contact attempts retailers must make with life support customers when seeking re-certification or confirmation.

**Draft Review Report (draft recommendation 67)**

The ECCC proposed that retailers would have to provide additional written information to customers before they could de-register a customer's supply address.

The proposal aimed to ensure customers were aware of their rights and obligations, in particular that their supply address could be deregistered if they did not provide re-certification or confirmation of their life support requirements.

**Submissions received**

No submissions were received.

**Final recommendation**

The ECCC retains the recommendation as is.

Other issues

**Recommendation 75**

Amend clause 7.7(7)(b) of the Code by specifying that the following information must be included in the written correspondence to the customer:

***(cont'd)***

Other issues

**Recommendation 75 *(cont'd)***

- the date by which the customer must provide re-certification or confirm that a person residing at the supply address still requires life support equipment;
- that the retailer will deregister the customer's supply address if the customer does not provide the required information or informs the retailer that the person at the supply address no longer requires life support equipment; and
- that the customer will no longer receive the protections under the Code when the supply address is deregistered.

### *12.4.9 Retailer to advise distributor of de-registration*

[Clauses 7.7(7)(a) and (c) of the Code]

These clauses deal with de-registration of a life support customer.

**Draft Review Report (draft recommendation 68)**

The ECCC proposed that:

- Distributors only be allowed to remove a customer from their life support equipment address register upon notification by a retailer.

  The ECCC noted that the Code implied that customers could de-register with their retailer or distributor. This was different from the registration process; for registration, the Code clearly provided that customers had to register with their retailer. The Code also did not require distributors to notify retailers of a de-registration.

  The proposal aimed to ensure that all de-registrations were initially processed by the retailer, who had to forward the information on to the distributor. This would minimise the chance of inconsistencies between the retailer's and distributor's registers.

- Retailers had to notify distributors if the person requiring life support equipment had vacated the supply address or no longer required the equipment.

  The ECCC noted that retailers currently only had to notify distributors of a de-registration if the customer had not provided confirmation or recertification on time.[286]

- A retailer's or distributor's obligations for life support customers ended from the time the retailer or distributor had removed the supply address from the life support equipment address register.

  The ECCC noted that, under the current drafting, the obligations ended "when a person who required life support equipment no longer requires the life support equipment" or "vacates the supply address",[287] rather than when the retailer was notified of this.

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286 *Code of Conduct for the Supply of Electricity to Small use Customers 2018* (WA) clause 7.7(7)(c).

287 And at the expiry of the time period referred to in the retailer's confirmation or re-certification request (if the customer has failed to provide confirmation or re-certification before that time).

The proposal aimed to clarify when a retailer's and distributor's obligations for life support customers ended.

**Submissions received**

- Synergy requested further details on the drafting to ensure the scope of the obligation would align to Synergy's current practices which, according to Synergy, had adequately protected customers to date.
- Synergy suggested the proposed amendments to clauses 7.7(7)(a) and (c) of the Code also needed to allow retailers to remove a customer's supply address from the register when becoming aware that a life support registration was no longer required, to cover the unfortunate scenario where the customer was deceased.

**ECCC response to submissions received**

- The ECCC cannot provide specific drafting as all drafting will be undertaken by the PCO after the ECCC has provided its Final Review Report to the ERA. Nonetheless, the ECCC considers that the proposed changes should result in much clearer drafting.
- The ECCC agrees with Synergy that the draft recommendation does not allow for de-registration if the customer has passed away (as it requires notification to be provided by the customer). The ECCC therefore proposes to amend the recommendation so de-registration must occur when a retailer is notified (instead of when a customer notifies a retailer) that a person who required life support equipment, no longer requires the life support equipment. This is consistent with the current wording of clause 7.7(7) of the Code.

**Final recommendation**

The ECCC retains the recommendation but no longer proposes to prescribe who must notify a retailer that a person who required life support equipment, no longer requires the life support equipment.

Other issues

**Recommendation 76**

Amend clauses 7.7(7)(a) and (c) of the Code to provide that:

- if:
  - a customer informs a retailer that a person who requires life support equipment has vacated the supply address; or
  - a retailer is notified that a person who required life support equipment, no longer requires the life support equipment; or
  - a customer has failed to provide the information requested by a retailer under clause 7.7(6)(a)(i) or re-certification under clause 7.7(6)(a)(ii), within the time period specified by the retailer,

  the retailer must:

***(cont'd)***

Other issues

**Recommendation 76 *(cont'd)***

- remove the customer's supply address from its life support equipment address register within the timeframes set out in clauses 7.7(7)(a)(iv) and (v); and
- notify the customer's distributor within the timeframes set out in clause 7.7(7)(c).

– upon notification by the retailer, the distributor must remove the customer's supply address from its life support equipment address register within the timeframes set out in clauses 7.7(7)(a)(iv) and (v).

– the retailer's and distributor's obligations under clauses 7.7(1) to (6), and clause 7.6 (to the extent that it provides a retailer or distributor must not disconnect a life support equipment address), terminate from the time the retailer or distributor has removed the customer's supply address from their life support equipment address register.

## What the new clauses may look like[288]

**7.6 General limitation on disconnection**

(1) Subject to subclause (3), a retailer must not arrange for disconnection of a customer's supply address ~~if~~—

(a) where the [supply address is] registered under [Part ⋯] as having life support equipment;

[⋯]

(2) Subject to subclause (3), a distributor must not disconnect a customer's supply address—

(a) where the [supply address is] registered under [Part ⋯] as having life support equipment;

**7.7 Life support**

(1) ~~If a customer provides a retailer with confirmation from an appropriately qualified medical practitioner that a person residing at the customer's supply address requires life support equipment, the retailer must—~~

[**To be drafted by the PCO:** The clause will provide that if a customer provides the retailer with confirmation from an appropriately qualified medical practitioner that a person residing at the customer's supply address requires life support equipment, the retailer must]

(a) register the customer's supply address as a life support equipment address;

(b) register the customer's contact details; and

(c) notify the customer's distributor that the customer's supply address is a life support equipment address, and of the contact details of the customer—

~~(i) that same day, if the confirmation is received before 3pm on a business day; or~~

~~(ii) no later than the next business day, if the confirmation is received after 3pm or on a Saturday, Sunday or public holiday; and~~[289]

~~(d) not arrange for disconnection of that customer's supply address for failure to pay a bill while the person continues to reside at that address and requires the use of life support equipment~~.

(2) If a customer registered with a retailer under subclause (1) notifies the retailer—

(a) that the person residing at the customer's supply address who requires life support equipment is changing supply address;

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288 The mock-up drafting incorporates recommendations 71, 72, 73, 75 and 76.

289 This matter would be addressed in subclause (2A).

(b) that the customer is changing supply address but the person who requires life support equipment is not changing supply address;

(c) of a change in contact details; or

(d) that the customer's supply address no longer requires registration as a life support equipment address,

the retailer must—

(e) register the change; and

(f) notify the customer's distributor of the change—

~~(i) that same day, if the notification is received before 3pm on a business day; or~~

~~(ii) no later than the next business day, if the notification is received after 3pm or on a Saturday, Sunday or public holiday; and~~[290]

~~(g) continue to comply with subclause (1)(d) with respect to that customer's supply address~~.

(2A) [**To be drafted by the PCO:** The clause will provide that a retailer must comply with subclauses (1) and (2) within the timeframes specified in current clauses 7.7(1)(c) and (2)(f).]

(3) If a distributor has been informed by a retailer under subclause (1)(c) ~~or by a relevant government agency~~ that a person residing at a customer's supply address requires life support equipment, or of a change of details notified to the retailer under subclause (2), the distributor must—

~~(a)~~ register the customer's supply address as a life support equipment address or update the details notified by the retailer under subclause (2)—

(i) the next business day, if the notification is received before 3pm on a business day; or

(ii) within 2 business days, if the notification is received after 3pm or on a Saturday, Sunday or public holiday~~; and~~

~~(b) if informed by a relevant government agency, notify the retailer in accordance with the timeframes specified in subclause (3)(a)~~.

(3A) [**To be drafted by the PCO:** The clause will provide that, before or no later than 5 business days after registering the customer's supply address as a life support equipment address under subclause (1)(a), the retailer must in writing:

(a) advise the customer that there may be planned or unplanned interruptions to the supply at the address and that the distributor is required to notify the customer of a planned interruption;

(b) recommend that the customer prepare a plan of action in the case of an unplanned interruption; and

(c) provide the customer with the emergency telephone contact number for the distributor and the retailer (the charge for which is no more than the cost of a local call, excluding mobile telephones).]

(4) If life support equipment is registered at a customer's supply address under subclause (3)~~(a)~~, a distributor must—

~~(a) not disconnect that customer's supply address for failure to pay a bill while the person continues to reside at that address and requires the use of life support equipment; and~~

~~(b)~~ prior to any planned interruption, provide at least 3 business days written notice to the customer's supply address and any other address nominated by the customer, or notice by electronic means to the customer, and unless expressly requested ~~in writing~~ by the customer not to, use best endeavours to obtain verbal acknowledgement, written acknowledgement or acknowledgement by electronic means from the customer or someone residing at the supply address that the notice has been received.

(4A) Notwithstanding clause 7.7(4)~~(b)~~—

(a) an interruption, planned or otherwise, to restore supply to a supply address that is registered as a life support equipment address is not subject to the notice requirements in subclause (1); however

(b) a distributor must use best endeavours to contact the customer, or someone residing at the supply address, prior to an interruption to restore supply to a supply address that is registered as a life support equipment address.

(5) If a distributor has already provided notice of a planned interruption under the Electricity Industry Code that will affect a supply address, prior to the distributor registering a customer's supply address as a life support equipment address under clause 7.7(3)~~(a)~~, the distributor must use best endeavours to contact that customer or someone residing at the supply address prior to the planned interruption.

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290 This matter would be addressed in subclause (2A).

(6) (a) No earlier than 3 months prior to the 12 month anniversary of the confirmation from the appropriately qualified medical practitioner referred to in subclause (1), and in any event no later than 3 months after the 12 month anniversary of the confirmation, a retailer must contact a customer to—

(i) ascertain whether a person residing at the customer's supply address continues to require life support equipment; and

(ii) if the customer has not provided the initial certification or re-certification from an appropriately qualified medical practitioner within the last 3 years, request that the customer provide that re-certification.[291]

(b) A retailer must provide a minimum period of 3 months for a customer to provide the information requested by the retailer in subclause (6)(a).

(7) (a) When—

(i) a person who requires life support equipment, vacates the supply address; or

(ii) a person who required life support equipment, no longer requires the life support equipment; or

(iii) subject to subclause (7)(b), a customer fails to provide the information requested by a retailer for the purposes of subclause (6)(a)(i) or the re-certification referred to in subclause (6)(a)(ii), within the time period referred to in subclause (6)(b), or greater period if allowed by the retailer,

the retailer's and distributor's obligations under [**To be drafted by the PCO:** a reference would be inserted to the new paragraphs in clauses 7.6(1) and (2) that provide that a supply address that is registered under this clause 7.7 should not be disconnected.] and ~~sub~~clauses 7.7(1) to (6) terminate and the retailer or distributor (as applicable) must remove the customer's details from the life support equipment address register upon being made aware of any of the matters in subclauses (7)(a)(i), (ii) or (iii)—

(iv) the next business day, if the retailer or distributor (as applicable) becomes aware of the relevant matter in subclause (7)(a)(i), (ii) or (iii) before 3pm on a business day; or

(v) within 2 business days, if the retailer or distributor (as applicable) becomes aware of the relevant matter in subclause (7)(a)(i), (ii) or (iii) after 3pm or on a Saturday, Sunday or public holiday.

[**To be drafted by the PCO:** Paragraph (a) would be amended to provide that:

– if:
  - a customer informs a retailer that a person who requires life support equipment has vacated the supply address; or
  - a retailer is notified that a person who required life support equipment, no longer requires the life support equipment; or
  - a customer has failed to provide the information requested by a retailer under clause 7.7(6)(a)(i) or re-certification under clause 7.7(6)(a)(ii), within the time period specified by the retailer,

  the retailer must:
  - remove the customer's supply address from the life support equipment address register within the timeframes set out in clauses 7.7(7)(a)(iv) and (v); and
  - notify the customer's distributor within the timeframes set out in clause 7.7(7)(d).
– upon notification by the retailer, the distributor must remove the customer's supply address from its life support equipment address register within the timeframes set out in clauses 7.7(7)(a)(iv) and (v).
– the retailer's and distributor's obligations under clauses 7.7(1) to (6), and clause 7.6 (to the extent that it provides a retailer or distributor must not disconnect a life support equipment address), terminate from the time the retailer or distributor has removed the customer's supply address from their life support equipment address register.]

(b) A customer will have failed to provide the information requested by a retailer for the purposes of subclause (6)(a)(i) or the re-certification referred to in subclause (6)(a)(ii) if the contact by the

[291] Item LL in Appendix 2 (minor amendments) proposes an amendment to this paragraph.

retailer consisted of at least the following, each a minimum of 10 business days from the date of the last contact—

(i) written correspondence sent by registered post to the customer's supply address and any other address nominated by the customer; and

(ii) a minimum of 2 other attempts to contact the customer by any of the following means—[292]

(A) electronic means;

(B) telephone;

(C) in person; or

(D) Not Used

(E) by post sent to the customer's supply address and any other address nominated by the customer.

(c) [**To be drafted by the PCO:** The paragraph will require retailers to inform customers, as part of their written correspondence under subclause (7)(b), of:

- the date by which the customer must provide the information required under subclause (6)(a) to the retailer;
- that the retailer will deregister the customer's supply address if the customer does not provide the information by that date;
- that the customer will no longer receive the protections under the Code when the supply address is deregistered.]

~~(c)~~(d) If a distributor's obligations under subclauses (3), (4), (4A) and (5), terminate as a result of the operation of subclause (7)(a)(iii), a retailer must notify the distributor of this fact as soon as reasonably practicable, but in any event, within 3 business days.

[**To be drafted by the PCO:** This paragraph would be incorporated into amended clause 7.7(7)(a).]

~~(d)~~(e) For the avoidance of doubt, the retailer's and distributor's obligations under subclauses (1) to (6) do not terminate by operation of this subclause (7) if the retailer or distributor has been informed in accordance with subclause (1) that another person who resides at the supply address continues to require life support equipment.

[292] Item MM in Appendix 2 (minor amendments) proposes an amendment to this paragraph.

# 13. Part 8 of the Code: Reconnection

## 13.1 Reconnection by retailer

[Clause 8.1 of the Code]

This clause requires retailers to arrange for the reconnection of a supply address if certain conditions are met.

### Draft Review Report (draft recommendation 69)

The ECCC proposed to include a general requirement that the customer had to have rectified the matter that led to the disconnection (instead of setting out for each ground of disconnection how the customer had to rectify the issue).

The proposal aimed to simplify the drafting of the clause and improve consistency between the Code and the NECF. The change would not materially affect retailers or customers.

### Submissions received

No submissions were received.

### Final recommendation

The ECCC retains the recommendation as is.

NECF

**Recommendation 77**

a) Replace clause 8.1(1) of the Code with rule 121(1) of the NERR but:
   - do not adopt the requirement that a customer must rectify the issue and request reconnection within 10 business days.[293]
   - retain clause 8.1(1)(e)(ii) of the Code.[294]
   - do not adopt the words "in accordance with any requirements under the energy laws" and "or arrange to re-energise the customer's premises remotely if permitted under energy laws".[295]

b) Retain clauses 8.1(2)[296] and (3)[297] of the Code.

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293 To retain the existing level of protection for customers.

294 To retain the existing level of protection so customers can continue to pay their reconnection fee as part of an instalment plan.

295 The words are likely unnecessary. A retailer should always comply with any requirements under other laws. Also, the Code does not distinguish between physical and remote reconnections.

296 To retain the existing level of protection for customers.

297 Upon recommendation by the ECCC, the ERA inserted clause 8.1(3) in 2018 to clarify that retailers who have not met the timeframes of subclause (2), but have taken measures to ensure a customer is reconnected on time (for example, by issuing an urgent reconnection request), have not breached clause 8.1. Reasons for previous amendment still apply.

### What the new clause may look like

**8.1 Reconnection by retailer**

(1) ~~If a retailer has arranged for disconnection of a customer's supply address due to—~~

~~(a) failure to pay a bill, and the customer has paid or agreed to accept an offer of an instalment plan, or other payment arrangement;~~

~~(b) the customer denying access to the meter, and the customer has subsequently provided access to the meter; or~~

~~(c) illegal use of electricity, and the customer has remedied that breach, and has paid, or made an arrangement to pay, for the electricity so obtained,~~

~~the retailer must arrange for reconnection of the customer's supply address, subject to—~~

~~(d) the customer making a request for reconnection; and~~

~~(e) the customer—~~

~~(i) paying the retailer's reasonable charge for reconnection, if any; or~~

~~(ii) accepting an offer of an instalment plan for the retailer's reasonable charges for reconnection, if any.~~

Where a retailer has arranged for the [disconnection] of a [customer's] [supply address] and the customer has—

(a) if relevant, rectified the matter that led to the [disconnection] or made arrangements to the satisfaction of the retailer;

(b) made a request for reconnection; and

(c) [either—]

(i) paid any charge for reconnection; or

[(ii) accepted an offer of an instalment plan for the retailer's reasonable charges for reconnection, if any];[298]

the retailer must initiate a request to the distributor for [reconnection] of the [supply address].

(2) For the purposes of subclause (1), a retailer must forward the request for reconnection to the relevant distributor—

(a) that same business day, if the request is received before 3pm on a business day; or

(b) no later than 3pm on the next business day, if the request is received—

(i) after 3pm on a business day, or

(ii) on a Saturday, Sunday or public holiday.

(3) If a retailer does not forward the request for reconnection to the relevant distributor within the timeframes in subclause (2), the retailer will not be in breach of this clause 8.1 if the retailer causes the customer's supply address to be reconnected by the distributor within the timeframes in clause 8.2(2) as if the distributor had received the request for reconnection from the retailer in accordance with subclause (2).

## 13.2 Reconnection by distributor

[Clause 8.2 of the Code]

This clause requires distributors to reconnect a supply address upon request by a retailer.

### Draft Review Report (draft recommendation 70)

The ECCC proposed to include a new provision that would set standards for reconnections following distributor initiated disconnections. Under the provision, distributors would have to reconnect a customer if the customer had rectified the matter that led to the disconnection, requested reconnection and paid the charge for reconnection (if any).

[298] Currently included in clause 8.1(1)(e)(ii) of the Code.

The proposal aimed to increase protections for customers and improve consistency between the Code and the NECF.

### Submissions received

No submissions were received.

### Final recommendation

The ECCC retains the recommendation as is.

NECF

**Recommendation 78**

a) Replace clause 8.2(1) of the Code with rule 122(1) of the NERR except for the words "in accordance with the distributor service standards".[299]

b) Adopt rule 122(2) of the NERR except for:

- the requirement that a customer must rectify the issue and request reconnection within 10 business days.[300]
- the words "in accordance with the distributor service standards".[301]

c) Retain clauses 8.2(2) and (3) of the Code.[302]

### What the new clause may look like

**8.2 Reconnection by distributor**

(1) ~~If a distributor has disconnected a customer's supply address on request by the customer's retailer, and a retailer has subsequently requested the distributor to reconnect the customer's supply address, the distributor must reconnect the customer's supply address.~~

**Reconnection where disconnection was retailer-initiated**

Where—

(a) a distributor has [disconnected] a [customer's] [supply address] at the request of a retailer, and

(b) the retailer has initiated a request to the distributor for [reconnection] of the [supply address],

the distributor must [reconnect] the [supply address].

(2) **Reconnection where disconnection was not retailer-initiated**

Where a distributor has [disconnected] a [customer's] [supply address] otherwise than at the request of a retailer and the customer has—

(a) if relevant, rectified the matter that led to the [disconnection]; and

(b) made a request for [reconnection]; and

(c) paid any charge for [reconnection],

the distributor must [reconnect] the [supply address].

~~(2)~~(3) For the purposes of ~~subclause (1)~~ subclauses (1) and (2), a distributor must reconnect a customer's supply address—

(a) for supply addresses located within the metropolitan area—

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299 The term "distributor service standards" is not defined in the NERR. As it is unclear to which standards the term refers, it is difficult to determine the equivalent standards for WA distributors. Also, clause 8.2 of the Code currently does not include a similar requirement.

300 To retain the existing level of protection for customers.

301 See footnote 299.

302 To retain the existing level of protection for customers.

(i) within 1 business day of receipt of the request, if the request is received prior to 3pm on a business day; and

(ii) within 2 business days of receipt of the request, if the request is received after 3pm on a business day or on a Saturday, Sunday or public holiday;

(b) for supply addresses located within the regional area—

(i) within 5 business days of receipt of the request, if the request is received prior to 3pm on a business day; and

(ii) within 6 business days of receipt of the request, if the request is received after 3pm on a business day, or on a Saturday, Sunday or public holiday.

~~(3)~~(4) Subclause ~~(2)~~(3) does not apply in the event of an emergency.

# 14. Part 9 of the Code: Pre-payment meters

## 14.1 Reversion

[Clause 9.4(1)(a) of the Code]

This clause requires retailers to give general information about the supply of electricity to a customer who switches from a pre-payment meter to a standard meter but continues to be supplied under the same contract.

### Draft Review Report (draft recommendation 71)

The ECCC noted that retailers had to send a pre-payment meter customer who wanted to switch to a standard meter the information "referred to in clauses 2.3 and 2.4". These clauses used to list the information a retailer had to give to a customer who entered into a standard form or non-standard contract.

Both clauses were extensively amended in 2014. Similar information requirements were now included in clauses 2.2 and 2.3.

Instead of amending the clause references, the ECCC proposed to delete clause 9.4(1)(a) because:

- If the customer entered into a different contract,[303] the retailer had to provide the same information under clause 2.2 or 2.3.
- If the customer continued to be supplied under the same contract, the customer had already received this information when they entered into the pre-payment meter contract.

Further, the ECCC considered the information was unlikely to assist the customer understand the difference between their current pre-payment meter supply arrangement and the new arrangement. This was because only general supply information had to be provided, such as information on interpreter services, the Code, complaints and concessions. No information had to be provided, for example, on available payment methods or billing cycles.

### Submissions received

No submissions were received.

### Final recommendation

The ECCC retains the recommendation as is.

Other issues

**Recommendation 79**

Delete clause 9.4(1)(a) from the Code.

[303] From a standard form contract to a non-standard contract or vice versa, or from one non-standard contract to another non-standard contract.

**What the new clause may look like**

**9.4 Reversion**

(1) If a pre-payment meter customer notifies a retailer that it wants to replace or switch the pre-payment meter to a standard meter, the retailer must within 1 business day of the request—

~~(a) send the information referred to in clauses 2.3 and 2.4 to the pre-payment meter customer in writing or by electronic means; and~~

~~(b)~~ arrange with the relevant distributor to—

(i) remove or render non-operational the pre-payment meter; and

(ii) replace or switch the pre-payment meter to a standard meter.

## 14.2 Requirements for pre-payment meters

[Clause 9.6(a) of the Code]

This clause requires retailers to ensure that pre-payment meter customers have access to an emergency credit of $20 outside normal business hours. Once the emergency credit is used, and no additional credit has been applied, the pre-payment meter service will be de-energised.

### Draft Review Report (draft recommendation 72)

The ECCC proposed:

- To clarify that a retailer who had de-energised a pre-payment meter during normal business hours, would not have to re-energise the meter after business hours if the customer had not made a payment to the account, even if the customer still had emergency credit available.
- That a pre-payment meter could be de-energised during normal business hours even if the customer still had all or some emergency credit available.

The ECCC noted that if a pre-payment meter customer ran out of credit outside of business hours, the retailer had to make an emergency credit of up to $20 available to the customer. The purpose of emergency credit was to ensure that the customer continued to receive supply until the customer was able to go to a shop to purchase additional credit.

The ECCC considered that, once the customer had had an opportunity to purchase additional credit, the retailer should be allowed to de-energise the pre-payment meter. This was currently unclear.[304]

Also, once a pre-payment meter had been de-energised, a retailer should not have to re-energise the meter until the customer had made a payment to the account; even if the customer still had all or some emergency credit available.[305] The purpose of emergency credit was to ensure a customer continued to receive supply until the customer was able to go to a shop to purchase additional credit, not to provide a $20 credit to the customer.

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[304] Clause 9.6(a) of the Code implies that a pre-payment meter may only be de-energised once all emergency credit has been used.

[305] Horizon Power currently re-energises customers after business hours if the customer still has (some) emergency credit available. This has resulted in a large increase in disconnection numbers. For 2019-20, Horizon Power reported 31,969 disconnections for 1,296 pre-payment meter customers.

### Submissions received

No submissions were received.

### Final recommendation

The ECCC retains the recommendation as is.

Other issues

**Recommendation 80**

Amend clause 9.6(a) of the Code to provide that:

- A retailer must ensure that a pre-payment meter customer has access to emergency credit of $20 outside normal business hours.
- A retailer may only de-energise a pre-payment meter:
  - during normal business hours, if the customer has no more credit available (regardless of whether the customer still has emergency credit available); or
  - at any time, if the customer has no more emergency credit available.
- If a retailer has de-energised a pre-payment meter during normal business hours, a retailer does not have to re-energise the meter after business hours if the customer has not made a payment to the account, even if the customer still has all or some emergency credit available.

### What the new clause may look like

**9.6 Requirements for pre-payment meters**

(a) A retailer must ensure that a pre-payment customer has access to emergency credit of $20 outside normal business hours. Once the emergency credit is used, and no additional credit has been applied, the pre-payment meter will be de-energised.

[**To be drafted by the PCO:** The clause would be amended to provide that:

- A retailer must ensure that a pre-payment meter customer has access to emergency credit of $20 outside normal business hours.
- A retailer may only de-energise a pre-payment meter:
  - during normal business hours, if the customer has no more credit available (regardless of whether the customer still has emergency credit available); or
  - at any time, if the customer has no more emergency credit available.
- If a retailer has de-energised a pre-payment meter during normal business hours, a retailer does not have to re-energise the meter after business hours if the customer has not made a payment to the account, even if the customer still has all or some emergency credit available.]

## 14.3 Recharge facilities

[Clause 9.7(a) of the Code]

This clause requires retailers to ensure that at least one recharge facility is located as close as practicable to a pre-payment meter customer, and in any case no further than 40 kilometres away.

A recharge facility is defined as "a facility where a pre-payment meter customer can purchase credit for the pre-payment meter". A mobile application or other digital payment option would be a facility through which a customer could purchase credit.

This means that a retailer can currently comply with clause 9.7(a) by only providing a mobile application as a recharge facility. Retailers are not required to provide recharge facilities at a physical location (for example a service station or shop).

**Draft Review Report (draft recommendation 73)**

The ECCC proposed to clarify that retailers had to offer customers physical access to a recharge facility. The requirements of clause 9.7(a) would no longer be able to be met by only offering mobile recharge facilities (for example, through a mobile application (app) or the internet).

The ECCC considered that to use a mobile application to recharge a pre-payment meter, the customer required access to the internet. Not all customers would have access to the internet at all times (for example, customers whose internet services had been terminated for failure to pay). If a retailer only provided a mobile application as a recharge facility, customers without access to the internet would be unable to recharge their pre-payment meter.

The proposal aimed to ensure that customers were not reliant on internet access to recharge their pre-payment meter.

**Submissions received**

Horizon Power did not support the amendment. It stated that while a physical recharge facility was highly desirable where pre-payment metering services were offered, the amendment would constrain retailers from offering this option to customers in some situations, particularly where only a handful of customers wished to adopt the services in a locality.

**ECCC response to submissions received**

The ECCC understands that many customers who have pre-payment meters prefer them over conventional credit meters.

Obliging retailers to offer at least one physical recharge facility within 40 kilometres of the customer's supply address, may result in existing pre-payment meter customers having to revert to credit meters if their local recharge facility closes permanently. The ECCC understands that this is a real possibility is some areas. The obligation would also prevent retailers from offering pre-payment meter services to customers who live too far away from an existing recharge facility or who live in an area where there are no viable options for the retailer to offer a physical recharge facility (for example, there is no shop or service station in or near the customer's community).

Although the ECCC considers it is highly desirable for customers to have access to a physical recharge facility, it does not want to inadvertently reduce customer access to pre-payment meter services by requiring a physical recharge facility to be available within 40 kilometres of the customer's supply address.

The ECCC therefore proposes to delete the requirement that a physical recharge facility must be available within 40 kilometres of the customer's supply address. A physical recharge facility would still have to be available "as close as practicable".

The proposed amendment will not affect retailers' ability to offer, in addition to a physical recharge facility, recharge facilities through mobile applications or other digital payment options.

### Final recommendation

The ECCC retains the recommendation but deletes the words ", and in any case no further than 40 kilometres away".

Other issues

**Recommendation 81**

Amend clause 9.7(a) of the Code to clarify that retailers must ensure that at least 1 physical recharge facility is located as close as practicable to a pre-payment meter.

### What the new clause may look like

**9.7 Recharge facilities**

Unless otherwise agreed with the customer, a retailer must ensure that—[306]

(a) at least 1 recharge facility is located as close as practicable to a pre-payment meter, and in any case no further than 40 kilometres away;

[**To be drafted by the PCO:** The clause would be amended to provide that a retailer must ensure that at least 1 physical recharge facility is located as close as practicable to a pre-payment meter.]

[306] Recommendation 5 proposes an amendment to this clause.

# 15. Part 10 of the Code: Information and communication

## 15.1 Information and communication

[Part 10 of the Code]

This Part requires retailers and distributors to provide certain information to customers.

### Draft Review Report (draft recommendation 74)

The ECCC proposed to:

- Consolidate several information provision clauses into two clauses (one for retailers and one for distributors) to simplify the drafting of the Code.
- Require retailers and distributors to make specified information available on their website to improve customer access to the information.
- Clarify that retailers and distributors could refer customers to their website for the information, unless the customer had requested a copy of the information.

The proposal would improve consistency between the Code and the NECF.

### Submissions received

Synergy supported the proposal but suggested a limit be imposed on the number of times a customer could request the information free of charge, like the limits specified in rules 56 and 80 of the NERR.

### ECCC response to submissions received

The ECCC notes that the Code currently requires this type of information to be provided free of charge. The ECCC is not aware of customers abusing this right.

### Final recommendation

The ECCC retains the recommendation as is.

NECF

**Recommendation 82**

Adopt rules 56 and 80 of the NERR to the extent that they explain how information must be provided to customers[307] but do not adopt the words "but information requested more than once in any 12 month period may be provided subject to a reasonable charge" (in rules 56(4) and 80(4)).[308]

[307] Adoption of subrules 56(1)(a) to (b) and 80(1)(c), (e), (f), (g) and (h) is discussed in recommendations 89 and 100.

[308] To retain the existing level of protection for customers that the information must be provided free of charge.

**What the new clause may look like**

**[new clause] Provision of information to customers by retailers**[309]

(1) A retailer must publish [the following information] on its website:
  (a) […];[310]
  (b) […]; and
  (c) […]

(2) If a [customer] requests information of the kind referred to in [subclause (1)], the retailer must either:
  (a) refer the customer to the retailer's website; or
  (b) provide the information to the customer.

(3) The retailer must provide a copy of any information of that kind to the customer if the customer requests a copy.

(4) The information or a copy of the information requested under this [clause] must be provided without charge.

**[new clause] Provision of information to customers by distributors**

(1) A distributor must publish the following information on its website:
  (a) […];[311]
  (b) […]; and
  (c) […]

(2) If a customer requests information of the kind referred to in [subclause (1)], the distributor must either:
  (a) refer the customer to the distributor's website; or
  (b) provide the information to the customer.

(3) [The] distributor must provide a copy of any information of that kind to the customer if the customer requests a copy.

(4) The information or a copy of the information requested under this [clause] must be provided without charge.

## 15.2 Tariff information

[Clause 10.1 of the Code]

This clause requires retailers to notify customers of changes to their tariffs, fees and charges no later than the customer's next bill.

### *15.2.1 Advance notice of tariff changes*

**Draft Review Report (draft recommendation 75)**

The ECCC proposed that, for customers whose tariffs were not regulated, retailers would have to provide 5 business days' advance notice of tariff variations. The ECCC also proposed to prescribe the information that would have to be included in the notice.

The obligation to give advance notice would not apply:

- If the customer had entered into the contract less than 10 business days before the variation and the retailer had already advised the customer of the upcoming variation.

309 Wording based on the proposed new clause "Provision of information to customers by distributors".

310 See footnote 307.

311 See footnote 307.

- If the customer was supplied on a tariff that continually varied in relation to the prevailing spot price of electricity.
- If the variations were a direct result of a change to any bank charges or fees, credit card charges or fees, or payment processing charges or fees applicable to the customer.

The proposal aimed to help customers make an informed choice about whether to stay with their retailer or switch. It also aimed to improve consistency between the Code and the NECF.

### Submissions received

Synergy requested clarification if the omission of a reference to rule 46(4B)(d) of the NERR in the draft recommendation meant that any changes as a result of concession changes would need to be notified to the customer.

### ECCC response to submissions received

In the Draft Review Report, the ECCC did not propose to adopt rule 46(4B)(d) of the NERR because it assumed that all residential customers were on regulated tariffs. As rule 46(4B)(d) related to concessions, which were only relevant to residential customers, the ECCC considered that there was no need to adopt rule 46(4B)(d) in a provision that would apply only to non-regulated tariffs.

The ECCC has since become aware that some residential customers are on non-regulated tariffs. The ECCC therefore proposes to adopt rule 46(4B)(d) for customers whose tariffs are not regulated.

### Final recommendation

The ECCC retains the recommendation but proposes to also adopt rule 46(4B)(d) of the NERR for customers whose tariffs are not regulated.

NECF

**Recommendation 83**

a) Adopt rules 46(3), (4)(a), (4A) (except for (4A)(e)),[312] (4B)(a), (c), (d) and (e) of the NERR for customers whose tariffs are not regulated, but:
   - amend rule 46(4A)(f) by deleting the words "and, if they are being sold electricity, energy consumption data".[313]
   - amend rule 46(4B)(a) by deleting the words "pursuant to rule 46A and section 39(1)(a) of the Law".
   - amend rule 46(4B)(d) by replacing the words "government funded energy charge rebate, concession or relief scheme" with "concession".[314]

***(cont'd)***

[312] This subrule requires a notice to specify that the tariffs and charges are inclusive of GST. However, subrules (4A)(c) and (d) already require the retailer to identify the tariffs and charges inclusive of GST.

[313] Under the Code, retailers are not required to provide historical consumption data to customers.

[314] Clause 1.5 of the Code defines concession as "means a concession, rebate, subsidy or grant related to the supply of electricity available to residential customers only".

NECF

**Recommendation 83 (cont'd)**

b) Amend clause 10.1(1) of the Code so it only applies to customers whose tariffs are regulated.

## *15.2.2 Maximum timeframe for providing tariff information*

[Clause 10.1(3) of the Code]

This clause requires retailers to provide general tariff information within 8 business days of a customer's request.

### Draft Review Report (draft recommendation 76)

The ECCC proposed to delete clause 10.1(3) from the Code.

The ECCC noted that, under the WA regulatory framework, retailers and distributors had to report on their compliance with the Code. This meant that retailers and distributors had to have processes in place that captured their compliance with each obligation, including any regulatory timeframes. To minimise regulatory burden, the ECCC considered that the Code should only prescribe a timeframe if necessary.

The ECCC considered that timeframes for the provision of general tariff information were not critical to the supply of electricity; unlike for example timeframes for connecting or reconnecting a customer's supply address. The ECCC considered it was overly prescriptive to regulate the timeframe within which tariff information had to be provided.

### Submissions received

No submissions were received.

### Final recommendation

The ECCC retains the recommendation as is.

Other issues

**Recommendation 84**

Delete clause 10.1(3) of the Code.

### What the new clause may look like[315]

**10.1 Tariff information**

(1) **[Customers whose tariffs, fees or charges are regulated]**[316] ~~A retailer must give notice to each of its customers affected by a variation in its tariffs, fees and charges no later than the next bill in a customer's billing cycle.~~

[315] The mock-up drafting incorporates recommendations 83 and 84.

[316] The words "Customers whose tariffs, fees or charges are regulated" are tentative only; they are not based on existing wording in the Code or NECF. The PCO to provide draft wording.

[**To be drafted by the PCO:** The clause will provide that a retailer must notify a customer whose tariffs, fees or charges are regulated of any variation to the tariffs, fees or charges payable by the customer. Notification must occur no later than the next bill in a customer's billing cycle.]

(2) **[Customers whose tariffs, fees or charges are not regulated]**[317]

[**To be drafted by the PCO:** The clause will provide that a retailer must give notice to a customer whose tariffs, fees or charges are not regulated of any variation to the tariffs, fees or charges that affects the customer.]

(3) The notice [under subclause (2)] must be given at least five business days before the variation in the [tariffs, fees or charges] are to apply to the customer.

(4) The notice [under subclause (2)] must—

(a) specify that the customer's [tariffs, fees or charges] are being varied;

(b) specify the date on which the variation will come into effect;

(c) identify the customer's existing [tariffs, fees or charges] inclusive of GST;

(d) identify the customer's [tariffs, fees or charges] as varied inclusive of GST; and

(e) specify that the customer can request historical billing data from the retailer.

(5) Despite this [clause 10.1], a retailer is not required to provide a notice under [subclause (2)]—

(a) where the customer has entered into a [contract] with the retailer within 10 business days before the date on which the variation referred to in subclause (2) is to take effect, and the retailer has already informed the customer of such variation;

(b) with respect to a [tariff, fee or charge] that continually varies in relation to the prevailing spot price of [electricity]. For the avoidance of doubt, this exemption does not apply (and the retailer must provide notice under [subclause (2)]) with respect to variations to any remaining [tariffs, fees or charges] that form part of the same [contract];

(c) where the variations to the tariffs and charges are a direct result of a change to, or withdrawal or expiry of, a [concession]; or

(d) where the variations to the [tariffs, fees or charges] are a direct result of a change to any bank charges or fees, credit card charges or fees, or payment processing charges or fees applicable to the customer.

**[10.1A General tariff information]**[318]

~~(2)~~ A retailer must give or make available to a customer on request, at no charge, reasonable information on the retailer's tariffs, fees and charges, including any alternative tariffs that may be available to that customer.[319]

~~(3) A retailer must give or make available to a customer the information referred to under subclause (2) within 8 business days of the date of receipt. If requested by the customer, the retailer must give the information in writing.~~

## 15.3 Historical billing data

[Clause 10.2 of the Code]

This clause requires retailers to give non-contestable customers on request their billing data.

317 The words "Customers whose tariffs, fees and charges are not regulated" are tentative only; they are not based on existing wording in the Code or NECF. The PCO to provide draft wording.

318 The words "General tariff information" are tentative only; they are not based on existing wording in the Code or NECF. The PCO to provide draft wording.

319 Item NN in Appendix 2 (minor amendments) recommends an amendment to clause 10.1(2) of the Code.

### 15.3.1 Maximum timeframe for providing historical billing data

[Clause 10.2(3) of the Code]

**Draft Review Report (draft recommendation 77)**

The ECCC proposed that retailers no longer had to provide historical billing data within 10 business days of a customer's request.

The ECCC considered that the Code should only prescribe a timeframe if necessary. As both Synergy and Horizon Power allowed customers to access their historical billing data online at any time, the ECCC considered it was not necessary to prescribe a maximum timeframe in the Code for providing the data.

**Submissions received**

No submissions were received.

**Final recommendation**

The ECCC retains the recommendation as is.

Other issues

**Recommendation 85**

Delete clause 10.2(3) of the Code.

### 15.3.2 Minimum timeframe for keeping historical billing data

[Clause 10.2(4) of the Code]

**Draft Review Report (draft recommendation 78)**

The ECCC proposed that retailers no longer had to keep billing data for seven years.

The ECCC noted that the Corporations Act already required financial records to be kept for at least seven years after the transactions covered by the records were complete.[320] A similar requirement applied to Synergy and Horizon Power under the Electricity Corporations Act.[321]

**Submissions received**

No submissions were received.

**Final recommendation**

The ECCC retains the recommendation as is.

Other issues

**Recommendation 86**

Delete clause 10.2(4) of the Code.

320 *Corporations Act 2001* section 286.

321 *Electricity Corporations Act 2005* (WA) Schedule 4, clause 2.

### What the new clause may look like[322]

**10.2 Historical billing data**

(1) A retailer must give a non-contestable customer on request the non-contestable customer's billing data.

(2) If a non-contestable customer requests billing data under subclause (1)—

(a) for a period less than the previous 2 years and no more than once a year; or

(b) in relation to a dispute with a retailer,

the retailer must give the billing data at no charge.

~~(3) A retailer must give a non-contestable customer the billing data requested under subclause (1) within 10 business days of the date of receipt of—~~

~~(a) the request; or~~

~~(b) payment for the retailer's reasonable charge for providing the billing data (if requested by the retailer).~~

~~(4) A retailer must keep a non-contestable customer's billing data for 7 years.~~

## 15.4 Concessions

[Clause 10.3 of the Code]

This clause requires retailers to give residential customers, on request, information on concessions.

### Draft Review Report (draft recommendation 79)

The ECCC proposed to move clause 10.3 into the new, general information provision.[323]

The proposal aimed to make it easier for customers to access concession information (as the information would have to published on the retailer's website). It also ensured retailers could refer customers to their website for the information.

As the information would have to be published online, the information could no longer be specific to the customer's individual circumstances.

### Submissions received

No submissions were received.

### Final recommendation

The ECCC retains the recommendation as is.

Other issues

**Recommendation 87**

Retain clause 10.3 of the Code but:

- incorporate into the new, general information provision.[324]
- delete the words "to the residential customer".

322 The mock-up drafting incorporates recommendations 85 and 86.

323 See recommendation 82.

324 See recommendation 82.

### What the new clause may look like

~~**10.3 Concessions**~~
~~A retailer must give a residential customer on request at no charge—~~
~~(a) information on the types of concessions available to the residential customer; and~~
~~(b) the name and contact details of the organisation responsible for administering those concessions (if the retailer is not responsible).~~

**[new clause]** **Provision of information to customers by retailers**
(1) A retailer must publish the following information on its website:
(a) information on the types of concessions available and the name and contact details of the organisation responsible for administering those concessions (if the retailer is not responsible); and
[…]

## 15.5 Energy efficiency advice

[Clause 10.4 of the Code]

This clause requires retailers to give customers, on request, general energy efficiency advice.

### Draft Review Report (draft recommendation 80)

The ECCC proposed to move clause 10.4 into the new, general information provision.[325]

The proposal aimed to make it easier for customers to access energy efficiency information (as the information would have to published on the retailer's website). It also ensured retailers could refer customers to their website for the information.

### Submissions received

No submissions were received.

### Final recommendation

The ECCC retains the recommendation as is.

Other issues

**Recommendation 88**

Retain clause 10.4 of the Code but:

- incorporate into the new, general information provision.[326]
- insert the word "electrical" before "appliances" in paragraph (b).[327]

### What the new clause may look like

~~**10.4 Energy efficiency advice**~~
~~A retailer must give, or make available to a customer on request, at no charge, general information on—~~

[325] See recommendation 82.

[326] See recommendation 82.

[327] To clarify that retailers only have to provide information on the typical running costs of electrical appliances.

~~(a) cost effective and efficient ways to utilise electricity (including referring the customer to a relevant information source); and~~
~~(b) the typical running costs of major domestic appliances.~~

**[new clause] Provision of information to customers by retailers**
(1) A retailer must publish the following information on its website: [···]
(b) general information on—
(i) cost effective and efficient ways to utilise electricity (including [reference] to a relevant information source); and
(ii) the typical running costs of major domestic electrical appliances.
[···]

## 15.6 Obligations particular to distributors – general information

[Clause 10.6 of the Code]

This clause requires distributors to give certain distribution information, on request, to customers.

### Draft Review Report (draft recommendation 81)

The ECCC proposed that distributors had to:

- Publish information on their website about their connection and distribution services.[328]
- Provide the following new information:
  - details of charges for connection services.
  - details of applicable connection and reconnection timeframes.

The proposal aimed to make it easier for customers to access distribution information (as the information would have to published on the retailer's website).[329] It also ensured distributors could refer customers to their website for the information.

The ECCC also proposed that the Code would no longer set out explicitly the type of distribution information distributors had to provide to a customer on request. Instead, it would require distributors to provide customers with a description of the distributor's and customer's rights and obligations. This was to make a broader range of information available to customers.

The proposal also aimed to improve consistency between the Code and the NECF.

### Submissions received

No submissions were received.

### Final recommendation

The ECCC retains the recommendation as is.

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328 Currently, the information only has to be given to customers on request.

329 See recommendation 82.

NECF

**Recommendation 89**

a) Replace clauses 10.6(a), (d), (e) and (f) of the Code with rule 80(1)(g) of the NERR but:

- incorporate into the new, general information provision.[330]
- amend rule 80(1)(g) by replacing the term "customer connection services" with a description of those services.[331]

b) Adopt rules 80(1)(c), (e) and (f) of the NERR and incorporate into the new, general information provision.[332]

c) Retain clauses 10.6(g), (h) and (i) of the Code, but incorporate the clauses into the new, general information provision.[333]

d) Retain clauses 10.6(b) and (c) of the Code.[334]

## What the new clause may look like

**10.6 General information**

A distributor must give a customer on request, at no charge, the following information—

~~(a) information on the distributor's requirements in relation to the customer's proposed new electrical installation, or changes to the customer's existing electrical installation, including advice about supply extensions;~~

~~(b)~~(a) an explanation for any unplanned or approved change in the quality of supply of electricity outside of the limits prescribed by law; and

~~(c)~~(b) an explanation for any unplanned interruption of supply to the customer's supply address~~;~~

~~(d) advice on facilities required to protect the distributor's equipment;~~

~~(e) advice on how to obtain information on protecting the customer's equipment;~~

~~(f) advice on the customer's electricity usage so that it does not interfere with the operation of a distribution system or with supply to any other electrical installation;~~

~~(g) general information on safe use of electricity;~~

~~(h) general information on quality of supply; and~~

~~(i) general information on reliability of supply~~.

**[new clause] Provision of information to customers by distributors**

(1) A distributor must publish the following information on its website:

(a) details of applicable [connection] and [reconnection] timeframes;

(b) [**To be drafted by the PCO:** The clause will require distributors to publish details of charges for connecting a supply address];

(c) information relating to new connections or connection alterations;

(d) [**To be drafted by the PCO:** The clause will require distributors to publish a description of the distributor's and customer's respective rights and obligations concerning the connection and supply of electricity];

(e) general information on safe use of electricity;

(f) general information on quality of supply;

330 See recommendation 82.

331 The term "customer connection services" is not a defined term in the Code.

332 See recommendation 82.

333 See recommendation 82.

334 To retain the existing level of protection for customers.

(g) general information on reliability of supply;
[…]

## 15.7 Historical consumption data

[Clause 10.7 of the Code]

This clause requires distributors to give customers on request their consumption data. The data must be provided within 10 business days of a customer's request. Retailers must also keep the data for seven years.

### *15.7.1 Provision of historical consumption data*

**Draft Review Report**

The ECCC did not propose any changes to the requirement that distributors must give customers their consumption data on request.

**Submissions received**

Alinta Energy suggested that the obligations of clauses 10.7(1) and (2) were already covered by clause 5.17A of the *Electricity Industry Metering Code 2012*.

**ECCC response to submissions**

The ECCC agrees that the obligations of clauses 10.7(1) and (2) of the Code are already covered by clause 5.17A of the Metering Code. To remove duplication, the ECCC proposes to delete the clauses from the Code.

**Final recommendation**

The ECCC recommends deleting clauses 10.7(1) and (2) from the Code.

Other issues

**Recommendation 90**

Delete clauses 10.7(1) and (2) of the Code.

### *15.7.2 Maximum timeframe for providing historical consumption data*

**Draft Review Report (draft recommendation 82)**

The ECCC proposed that distributors would no longer have to provide historical consumption data within 10 business days of a customer's request.

The ECCC noted that, under the WA regulatory framework, retailers and distributors had to report on their compliance with the Code. This meant that retailers and distributors had to have processes in place to capture their compliance with each obligation, including any regulatory timeframes. To minimise regulatory burden, the ECCC considered that the Code should only prescribe a timeframe if necessary.

As the timeframe for the provision of historical consumption data was not critical to the supply of electricity (unlike for example timeframes for connection and reconnection), the ECCC considered it unnecessary to regulate the timeframe within which the data had to be provided.

**Submissions received**

No submissions were received.

**Final recommendation**

The ECCC retains the recommendation as is.[335]

Other issues

**Recommendation 91**

Delete clause 10.7(3) of the Code.

### *15.7.3 Minimum timeframe for keeping historical consumption data*

**Draft Review Report (draft recommendation 83)**

The ECCC proposed that distributors would no longer have to keep consumption data for 7 years.

The ECCC considered the requirement to keep consumption data for 7 years unnecessary. To comply with clause 10.7, a distributor had to keep the data for at least 2 years.

Also, Western Power and Horizon Power had recordkeeping obligations under the *State Records Act 2000* (WA).

**Submissions received**

No submissions were received.

**Final recommendation**

The ECCC retains the recommendation as is.[336]

Other issues

**Recommendation 92**

Delete clause 10.7(4) of the Code.

335 The ECCC notes that acceptance of recommendation 90 would also require deletion of clause 10.7(3) of the Code.

336 The ECCC notes that acceptance of recommendation 90 would also require deletion of clause 10.7(4) of the Code.

**What the new clause may look like**[337]

~~**10.7 Historical consumption data**~~

~~(1) A distributor must give a customer on request the customer's consumption data.~~

~~(2) If a customer requests consumption data under subclause (1)—~~

~~(a) for a period less than the previous 2 years, provided the customer has not been given consumption data pursuant to a request under subclause (1) more than twice within the 12 months immediately preceding the request; or~~

~~(b) in relation to a dispute with a distributor,~~

~~the distributor must give the consumption data at no charge.~~

~~(3) A distributor must give a customer the consumption data requested under subclause (1) within 10 business days of the date of receipt of—~~

~~(a) the request; or~~

~~(b) if payment is required (and is requested by the distributor within 2 business days of the request) payment for the distributor's reasonable charge for providing the data.~~

~~(4) A distributor must keep a customer's consumption data for 7 years.~~

## 15.8 Distribution standards

[Clause 10.8 of the Code]

This clause requires distributors to tell customers, on request, how to obtain information on distribution and metering matters.

### Draft Review Report (draft recommendation 84)

The ECCC proposed to move clause 10.8 into the new, general information provision.[338]

The ECCC considered that the proposal would simplify the drafting of the Code without materially affecting distributors or customers.

### Submissions received

No submissions were received.

### Final recommendation

The ECCC retains the recommendation as is.

Other issues

**Recommendation 93**

Retain clause 10.8 of the Code but incorporate into the new, general information provision.[339]

337 The mock-up drafting incorporates recommendations 90, 91 and 92.

338 See recommendation 82.

339 See recommendation 82.

**What the new clause may look like**

~~**10.8 Distribution standards**~~

~~(1) A distributor must tell a customer on request how the customer can obtain information on distribution standards and metering arrangements—~~

~~(a) prescribed under the Act or the *Electricity Act 1945*; or~~

~~(b) adopted by the distributor,~~

~~that are relevant to the customer.~~

~~(2) A distributor must publish on its website the information specified in subclause (1).~~

**[new clause]** **Provision of information to customers by distributors**

(1) A distributor must publish the following information on its website: [···]

(h) information on distribution standards and metering arrangements—

(i) prescribed under the Act or the *Electricity Act 1945*; or

(ii) adopted by the distributor,

that are relevant to its customers;

[···]

# 15.9 Code of Conduct

[Clause 10.10 of the Code]

This clause requires retailers and distributors to tell customers, on request, how to obtain a copy of the Code.

### Draft Review Report (draft recommendation 85)

The ECCC proposed to move clause 10.10 into the new, general information provision.[340]

The ECCC considered that the proposal would simplify the drafting of the Code without affecting retailers, distributors or customers.

### Submissions received

No submissions were received.

### Final recommendation

The ECCC retains the recommendation as is.

Other issues

**Recommendation 94**

Retain clause 10.10 of the Code but incorporate into the new, general information provision.[341]

[340] See recommendation 82.

[341] See recommendation 82.

**What the new clause may look like**

~~**10.10 Code of conduct**~~

~~(1) A retailer and a distributor must tell a customer on request how the customer can obtain a copy of the Code.~~

~~(2) A retailer and a distributor must make electronic copies of the Code available, at no charge, on the retailer's or distributor's website.~~

~~(3) Not Used~~

**[new clause] Provision of information to customers by retailers**

(1) A retailer must publish the following information on its website: [···]

(c) the Code;

[···]

**[new clause] Provision of information to customers by distributors**

(1) A distributor must publish the following information on its website: [···]

(i) the Code;

[···]

# 15.10 Special information needs

## *15.10.1 Interpreter services*

[Clauses 10.11(2)(b) and (c) of the Code]

These clauses require retailers and distributors to include the telephone numbers for "independent multi-lingual services" and "interpreter services" on bill related information.

**Draft Review Report (draft recommendation 86(a))**

The ECCC proposed to remove the duplication between clauses 10.11(2)(b) and (c) by deleting clause 10.11(2)(b).

**Submissions received**

No submissions were received.

**Final recommendation**

The ECCC retains the recommendation as is.

Other issues

**Recommendation 95**

Delete clause 10.11(2)(b) of the Code.

## *15.10.2 The words "Interpreter Services"*

[Clause 10.11(2)(c) of the Code]

This clause requires retailers and distributors to include the words "Interpreter Services" with the telephone number for interpreter services.

In November 2019, the ERA amended the equivalent clause in the *Compendium of Gas Customer Licence Obligations*:

> **10.11 Special Information Needs**
>
> (2) A retailer and, if appropriate, a distributor must include in relation to residential customers—
>
> (c) the telephone number for interpreter services together with the National Interpreter Symbol ~~and the words "Interpreter Services"~~.

The amendment followed a similar amendment to the Gas Marketing Code of Conduct. The amendment was made to provide retailers and distributors with more flexibility for the wording they use when informing customers about the availability of interpreter services.

### Draft Review Report (draft recommendation 86(b))

The ECCC proposed to make the same amendment to clause 10.11(2)(c) of the Code.

### Submissions received

No submissions were received.

### Final recommendation

The ECCC retains the recommendation as is.

Other issues

**Recommendation 96**

Delete the words "and the words "Interpreter Services" " from clause 10.11(2)(c) of the Code.

### What the new clause may look like

**10.11 Special information needs**

(1) A retailer and a distributor must make available to a residential customer on request, at no charge, services that assist the residential customer in interpreting information provided by the retailer or distributor to the residential customer (including independent multi-lingual interpreter and TTY services, and large print copies).[342]

(2) A retailer and, if appropriate, a distributor must include in relation to residential customers—

(a) the telephone number for its TTY services;[343]

~~(b) the telephone number for independent multi-lingual services; and~~

~~(c)~~(b) the telephone number for interpreter services together with the National Interpreter Symbol ~~and the words "Interpreter Services"~~,

on the—

~~(d)~~(c) bill and bill related information (including, for example, the notice referred to in clause 4.2(3) and statements relating to an instalment plan);

~~(e)~~(d) reminder notice; and

~~(f)~~(e) disconnection warning.

[342] Recommendation 4 proposes an amendment to this subclause.

[343] Recommendation 4 proposes an amendment to this paragraph.

# 16. Part 12 of the Code: Complaints and dispute resolution

## 16.1 Obligation to establish complaints handling process

[Clause 12.1 of the Code]

This clause sets standards for the handling of complaints by retailers and distributors.

### *16.1.1 Responding to complaints*

**Draft Review Report (draft recommendation 87)**

The ECCC proposed that:

- Following every complaint, customers would have to be advised of the outcome of, and reasons for, the decision.

  Customers also had to be advised of the availability of the electricity ombudsman, unless the customer had advised the retailer or distributor that their complaint had been resolved in a manner acceptable to them.

  The proposal aimed to clarify when information about the availability of the electricity ombudsman had to be provided.[344]

- Customers would no longer have to be advised of external dispute resolution bodies other than the electricity ombudsman.

  The ECCC noted that the Energy and Water Ombudsman was a free, independent body that was available to all small use customers. The ECCC considered it sufficient for retailers and distributors to advise customers of the existence of this free service, without also having to advise them of other external dispute resolution services.

**Submissions received**

Synergy did not support the proposal, suggesting that if a customer was satisfied with their resolution at the time of call, providing formal notification of the outcome, reason and ombudsman details would be an unreasonable administrative burden that would be costly with no extra benefit to the customer.

Synergy was also concerned that the proposal would result in retailers having to advise customers of the electricity ombudsman's contact details in situations where a complaint had been resolved but the customer had not explicitly stated "it was in a manner acceptable to them".

**ECCC response to submissions received**

The ECCC notes that, in many cases, a complaint will simply involve a customer calling a retailer or distributor to question something and the retailer or distributor acknowledging the mistake.

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344 Currently, retailers and distributors have to advise customers of the reasons for the outcome if the complaint "has not been resolved internally in a way acceptable to the customer".

In these cases, it seems unnecessary to advise the customer of the reasons for the decision. The ECCC therefore proposes to amend the proposal so that, if a customer has advised that they consider the complaint resolved, a retailer or distributor only has to advise the customer of the outcome. The reasons for the outcome and the electricity ombudsman's contact details, would only have to be provided if the customer has not advised that they consider the complaint resolved.

The ECCC does not propose any additional changes to its proposal. The ECCC notes it is common practice for service providers (such as banks or telecom providers) to confirm with customers at the end of a conversation whether their response addresses the customer's concerns or not. The words "if the customer has advised the retailer or distributor that the complaint has been resolved in a manner acceptable to the customer" are intended to cover these forms of confirmation.

**Final recommendation**

The ECCC retains the recommendation but proposes to specify that the reasons for the decision of the outcome do not have to be provided if the customer has advised that they consider the complaint resolved.

NECF

**Recommendation 97**

a) Insert the words "including the obligations set out in [clause ⋯]" in clause 12.1(2)(b)(ii)(B) of the Code.[345]

b) Delete clause 12.1(3) of the Code and include a new clause that requires retailers and distributors, when they respond to a complaint, to inform the customer of the information set out in:

- Section 82(4) of the NERL, but:
  - do not adopt the words "as soon as reasonably possible but, in any event, within any time limits applicable under the retailer's or distributor's standard complaints and dispute resolution procedures".[346]
  - provide that a retailer or distributor does not have to inform the customer of the reasons for the decision regarding the outcome if the customer has advised the retailer or distributor that the complaint has been resolved in a manner acceptable to the customer.
- Section 82(5) of the NERL, other than the words "may make a complaint or" and "if the customer is not satisfied with the outcome" and provide instead that the information does not have to be provided if the customer has advised the retailer or distributor that the complaint has been resolved in a manner acceptable to the customer.

345 Consequential amendment of recommendation 97(b).

346 The reference to time limits would not be necessary as clause 12.1(4) of the Code already prescribes time limits for acknowledging and responding to complaints.

### 16.1.2 Removing duplication

[Clause 12.1(2)(c) of the Code]

This clause requires retailers to detail in their complaints handling process how they handle complaints.

**Draft Review Report (draft recommendation 88)**

The ECCC noted that the obligation in clause 12.1(2)(c) overlapped with clause 12.1(2)(b)(ii), which required the complaints handling process to address how complaints would be handled. The ECCC proposed to delete clause 12.1(2)(c) from the Code to remove unnecessary duplication.

**Submissions received**

No submissions were received.

**Final recommendation**

The ECCC retains the recommendation as is.

Other issues

**Recommendation 98**

Delete clause 12.1(2)(c) of the Code.

### 16.1.3 Compliance with response times for complaints

[Clause 12.1(4) of the Code]

This clause requires retailers and distributors to address in their complaints handling process their timeframes for acknowledging and responding to complaints.

**Draft Review Report (draft recommendation 89)**

The ECCC noted that it could be argued that the Code only required retailers and distributors to address their response times for complaints in their complaints handling processes. The ECCC proposed to clarify that these matters not only had to be addressed in a complaints handling process but were also obligations retailers and distributors had to comply with.

**Submissions received**

No submissions were received.

**Final recommendation**

The ECCC retains the recommendation as is.

Other issues

**Recommendation 99**

Move clause 12.1(4) of the Code to a new clause and delete the words "for the purposes of subclause (2)(b)(iii)".

### 16.1.4 Summary of complaints procedure online

**Draft Review Report (draft recommendation 90)**

The ECCC proposed that retailers and distributors had to publish on their websites:

- A summary of the customer's rights, entitlements and obligations under their complaints handling process.
- The contact details of the electricity ombudsman.

The proposal aimed to make it easier for customers to access the information (as the information would be available on the retailer's and distributor's website).

**Submissions received**

No submissions were received.

**Final recommendation**

The ECCC retains the recommendation as is.

NECF

**Recommendation 100**

Add the following subclauses to the new, general information provisions:[347]

- a summary of the customer's rights, entitlements and obligations under the retailer's or distributor's standard complaints and dispute resolution procedure.
- the contact details for the electricity ombudsman.

**What the new clause may look like**[348]

**12.1 Obligation to establish complaints handling process**

(1) A retailer and distributor must develop, maintain and implement an internal process for handling complaints and resolving disputes.[349]

(2) The complaints handling process[350] under subclause (1) must—

(a) comply with Australian Standard AS/NZS 10002:2014;

(b) address at least—

(i) how complaints must be lodged by customers;

(ii) how complaints will be handled by a retailer or distributor, including—

(A) a right of a customer to have its complaint considered by a senior employee within each organisation of the retailer or distributor if the customer is not satisfied with the manner in which the complaint is being handled;

(B) the information that will be provided to a customer including the obligations set out in [clause ⋯];[351]

347 See recommendation 82.

348 The mock-up drafting incorporates recommendations 97, 98, 99, and 100.

349 Item OO in Appendix 2 (minor amendments) proposes an amendment to this subclause.

350 Item PP in Appendix 2 (minor amendments) proposes an amendment to this subclause.

351 This paragraph would refer to new clause "Responding to complaints".

(iii) response times for complaints; and
(iv) method of response; and
(c) ~~detail how a retailer will handle complaints about the retailer, electricity marketing agents or marketing; and~~
~~(d)~~ be available at no cost to customers.

~~(3) For the purposes of subclause (2)(b)(ii)(B), a retailer or distributor must at least—~~[352]
~~(a) when responding to a complaint, advise the customer that the customer has the right to have the complaint considered by a senior employee within the retailer or distributor (in accordance with its complaints handling process); and~~
~~(b) when a complaint has not been resolved internally in a manner acceptable to a customer, advise the customer—~~
~~(i) of the reasons for the outcome (on request, the retailer or distributor must supply such reasons in writing); and~~
~~(ii) that the customer has the right to raise the complaint with the electricity ombudsman or another relevant external dispute resolution body and provide the Freecall telephone number of the electricity ombudsman.~~

~~(4) For the purpose of subclause (2)(b)(iii), a retailer or distributor must, on receipt of a written complaint by a customer—~~[353]
~~(a) acknowledge the complaint within 10 business days; and~~
~~(b) respond to the complaint by addressing the matters in the complaint within 20 business days.~~

**[new clause] Responding to complaints**[354]
(1) [To be drafted by the PCO: The clause will provide that, when responding to a complaint, a retailer or distributor must inform the customer:]
(a) of the outcome of the complaint process;
(b) of the retailer's or distributor's reasons for the decision regarding the outcome;
(c) that the customer may take a dispute to the electricity ombudsman; and
(d) of the telephone number and other contact details of the electricity ombudsman.
[**To be drafted by the PCO:** The information in paragraphs (b), (c) and (d) would not have to be provided if the customer has advised the retailer that the complaint has been resolved in a manner acceptable to the customer.]
(2) A retailer or distributor must, on receipt of a written complaint by a customer—[355]
(a) acknowledge the complaint within 10 business days; and
(b) respond to the complaint by addressing the matters in the complaint within 20 business days.

**[new clause] Provision of information to customers by retailers**
(1) A retailer must publish the following information on its website— [···]
(d) a summary of the rights, entitlements and obligations of customers under the retailer's standard complaints and dispute resolution procedure; and
(e) the contact details for the [electricity] ombudsman.

**[new clause] Provision of information to customers by distributors**
(1) A distributor must publish the following information on its website— [···]
(j) a summary of the rights, entitlements and obligations of customers under the distributor's standard complaints and dispute resolution procedure; and
(k) the contact details for the [electricity] ombudsman.

352 This matter would be addressed in new clause "Responding to complaints".

353 This matter would be addressed in new clause "Responding to complaints".

354 The words "Responding to complaints" are tentative only; they are not based on existing wording in the Code or NECF. The PCO to provide draft wording.

355 Currently addressed in clause 12.1(4) of the Code.

## 16.2 Obligation to comply with guideline that distinguishes customer queries from complaints

[Clause 12.2 of the Code]

This clause requires retailers to comply with any ERA guidelines about distinguishing queries from complaints.

### Draft Review Report (draft recommendation 91)

The ECCC proposed to delete clause 12.2 from the Code.

The ECCC noted that the ERA's guidelines did not include any obligations that retailers had to comply with. Therefore, there was no need for the Code to require retailers to comply with the guidelines.

The ECCC also noted that removing clause 12.2 did not affect the ERA's ability to publish guidelines that explained the difference between a complaint and a query.

### Submissions received

No submissions were received.

### Final recommendation

The ECCC retains the recommendation as is.

Other issues

**Recommendation 101**

Delete clause 12.2 of the Code.

### What the new clause may look like

~~**12.2 Obligation to comply with a guideline that distinguishes customer queries from complaints**~~

~~A retailer must comply with any guideline developed by the Authority relating to distinguishing customer queries from complaints.~~

## 16.3 Information provision

[Clause 12.3 of the Code]

This clause requires retailers, distributors and electricity marketing agents to give customers, on request, information that will assist them in 'utilising' the complaints handling process.

### Draft Review Report (draft recommendation 92)

The ECCC proposed to delete clause 12.3 from the Code.

The ECCC noted that the complaints handling process already had to set out how complaints had to be lodged, the response times, the method of response and how complaints would be

handled.[356] Under the proposed new, general information provision, a summary of the process also had to be published on the retailer's and distributor's website.[357]

The ECCC considered that this information was sufficient for customers to follow and use the procedure process without retailers and distributors also having to provide information on utilising the process.

### Submissions received

No submissions were received.

### Final recommendation

The ECCC retains the recommendation as is.

Other issues

**Recommendation 102**

Delete clause 12.3 of the Code.

### What the new clause may look like

~~**12.3 Information provision**~~

~~A retailer, distributor and electricity marketing agent must give a customer on request, at no charge, information that will assist the customer in utilising the respective complaints handling processes.~~

[356] Clause 12.1(2)(a) also requires retailers' and distributors' complaints handling processes to comply with AS/NZS 1002:2014 (*Guidelines for complaint management in organizations*). Clause 8.2 of this standard requires organisations to provide support and practical assistance to people to make a complaint if required.

[357] See recommendation 100.

# 17. Part 13 of the Code: Reporting

## 17.1 Performance reporting

[Part 13 of the Code]

This Part deals with reporting. It requires retailers and distributors to "prepare a report in respect of each reporting year setting out the information specified by the Authority". The Code does not specify what information must be included in the report.

Until 30 June 2014, Part 13 set out performance indicators that retailers and distributors had to report on to the ERA. The indicators were removed from the Code as the same (and other) indicators were also included in the ERA's Electricity Retail and Distribution Licence Performance Reporting Handbooks.

At the time, the ECCC agreed to retain the requirement in the Code that retailers and distributors must prepare a report, publish it, and provide a copy to the ERA.

Under the electricity retail and distribution licences, the ERA can also direct a licensee to provide and publish specified information. In fact, the Electricity Retail and Distribution Licence Performance Reporting Handbooks refer to the licence rather than the Code:[358]

> Electricity licences contain terms and conditions, including a requirement for licensees to provide to the ERA specified information on matters relevant to the licence.

### Draft Review Report (draft recommendation 93)

To remove duplication, the ECCC proposed to delete Part 13 from the Code.

The proposal would not materially affect retailers, distributors or customers.

### Submissions received

No submissions were received.

### Final recommendation

The ECCC retains the recommendation as is.

Other issues

**Recommendation 103**

Delete Part 13 of the Code.

### What the new clause may look like

~~**13.1 Preparation of an annual report**~~

~~A retailer and a distributor must prepare a report in respect of each reporting year setting out the information specified by the Authority.~~

[358] Economic Regulation Authority, 2019, *Electricity Retail Licence Performance Reporting Handbook – April 2019*, p. 1; Economic Regulation Authority, 2019, *Electricity Distribution Licence Performance Reporting Handbook – April 2019*, p. 1.

**13.2 Provision of annual report to the Authority**

A report referred to in clause 13.1 must be provided to the Authority by the date, and in the matter and form, specified by the Authority.

**13.3 Publication of reports**

(1) A report referred to in clause 13.1 must be published by the date specified by the Authority.

(2) A report is published for the purposes of subclause (1) if—

(a) copies of it are available to the public, without cost, at places where the retailer or distributor transacts business with the public; and

(b) a copy of it is posted on an internet website maintained by the retailer or distributor.

# 18. Family violence

## 18.1 Background

In November 2019, the ERA received a request from the Hon. Bill Johnston MLA, Minister for Energy, to consider including obligations on retailers in the Code, to assist customers affected by family and domestic violence.

In his letter, the Minister referred to provisions that were recently adopted by the Victorian State Government in its *Energy Retail Code*. The provisions require retailers to comply with minimum standards of conduct when assisting customers affected by family violence and to have a family violence policy.

## 18.2 Approaches in other jurisdictions

### *18.2.1 Victoria*

The family violence provisions in the Victorian *Energy Retail Code* were adopted following a recommendation made by the Victorian Royal Commission into Family Violence.[359]

The Commission was concerned that essential services were sometimes used by perpetrators of family violence as a form of economic abuse, particularly due to the critical function essential services play in daily life. For example, some perpetrators would:

- Put a service in the sole name of the victim without the victim's knowledge or consent.
- Refuse to contribute to bills leading to high debt in the victim's name or disconnection of the victim's supply.
- Intercept mail from a service provider that identified a victim's safe location.

The family violence provisions in the Victorian code aimed to address these concerns by providing "customers affected by family violence with an entitlement to safe, supportive and flexible assistance from their energy retailer in managing their personal and financial security. In particular, the code [requires] retailers to have a family violence policy and meet minimum standards of conduct relating to training, account security, customer service, debt management, external support and evidence."[360]

### *18.2.2 Western Australian water service providers*

The Department of Water and Environmental Regulation recently released the *Water Services Code of Practice (Family Violence) 2020* for Western Australian water service providers

The Water Code of Practice is broadly similar to the Victorian *Energy Retail Code*. The main difference is that the Victorian code places direct obligations on retailers to do, or not do,

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359 State of Victoria, *Royal Commission into Family Violence: Summary and recommendations*, Parl Paper No 132 (2014–16), recommendation 109.

360 Essential Services Commission, 2019, *Energy Retail Code Changes to Support Family Violence Provisions for Retailers: Final Decision*, 22 May, pg. iii.

certain things, whereas the Water Code of Practice only obliges water service providers to have a family violence policy. The Water Code of Practice specifies the minimum requirements that the family violence policy must address, including training, identifying vulnerable customers and protecting customer information.

## 18.3 ECCC's proposed approach

**Draft Review Report**

The ECCC recommended that the Code be amended to include protections for customers affected by family violence.

As each customer's circumstances differed, the ECCC considered any obligations should be flexible enough to ensure retailers could tailor their assistance to suit the needs of their customers. Therefore, rather than prescribing detailed obligations in the Code, the ECCC proposed that retailers would have to have a family violence policy. The Code would prescribe what matters had to be addressed in the policy but not how those matters had to be addressed.[361] For example, the ECCC proposed that a retailer's family violence policy had to provide for the training of staff about family violence, but did not propose to prescribe which staff members had to be trained and what the training had to cover. This approach ensured minimum standards were set, while providing flexibility for retailers to tailor their family violence policy to suit the needs of their customers.

**Submissions received**

All retailers who made submissions[362], as well as the AEC and WACOSS, supported the introduction of customer protections for customers affected by family violence. Both Alinta Energy and Perth Energy outlined their support for the planned approach agreeing the obligations were, in general, flexible enough to ensure retailers could tailor their family violence policy and assistance to best suit the needs of their customers and would also provide a minimum requirement to protect customers affected by family violence.

Some retailers also explained their current programs and protections for customers affected by family violence. Synergy outlined its Fresh Start program that provided assistance for customers experiencing family violence, and described how it considered customer's individual needs. Simply Energy stated that it had successfully rolled out similar protections to its Victorian energy retail customers.

**ECCC response to submissions received**

The ECCC recommends that the Code be amended to include protections for customers affected by family violence. Consistent with the Draft Review Report, the ECCC recommends that the Code prescribe what matters must be addressed in the policy but not how those matters must be addressed.

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361 There was one exception to this approach. Draft recommendation 96 placed a direct obligation on retailers; it restricted when retailers could request evidence of family violence.

362 Synergy, Horizon Power, Alinta Energy, Perth Energy and Simple Energy.

There are two exceptions to this approach: recommendations 106 (written evidence) and 114 (disconnection moratorium) place a direct obligation on retailers.

*Mock-up drafting*

The recommendations in this section are based on the ECCC's consideration of both the Victorian *Energy Retail Code* and the Water Code of Practice. However, this section of the report does not include mock-up drafting for each recommendation. This is because the ECCC's approach does not directly follow the approach taken by either Victoria or DWER.

## 18.4 Definitions

### *18.4.1 Definition of family violence*

**Draft Review Report (draft recommendation 94)**

The ECCC proposed to define family violence in the Code. The definition was to refer to the definition of family violence within the *Restraining Orders Act 1997* (WA), which was:

(a) violence, or a threat of violence, by a person towards a family member of the person; or

(b) any other behaviour by the person that coerces or controls the family member or causes the member to be fearful.

The ECCC considered that, for the proposed family violence provisions to operate, it was necessary to set out what was meant by family violence within those provisions.

**Submissions received**

No submissions were received.

**Final recommendation**

The ECCC retains the recommendation as is.

Other issues

**Recommendation 104**

Insert a definition of family violence in the Code, being the meaning given in section 5A of the *Restraining Orders Act 1997*.

### *18.4.2 Definition of affected customer*

**Draft Review Report (draft recommendation 95)**

The ECCC proposed to define affected customer in the Code. The definition was to capture both current and former residential customers.[363] The ECCC considered this would ensure the protections were extended to customers who were no longer supplied by the retailer but who still required the retailer's support.

[363] The definition would not capture non-residential customers.

**Submissions received**

No submissions were received.

**Final recommendation**

The definition of affected customer proposed in the Draft Review Report captured customers who "may be affected by family violence". The ECCC considers this definition is too broad as it captures any customers who may be affected by family violence, regardless of whether the retailer is aware of their circumstances or not.

The ECCC recommends that the definition only capture customers who have advised the retailer, or for whom the retailer has reason to believe, are affected by family violence.

Other issues

**Recommendation 105**

Insert a definition of affected customer in the Code, meaning any residential customer, including a former residential customer, who has advised the retailer, or whom the retailer has reason to believe, is affected by family violence.

## 18.5 Evidence of family violence

**Draft Review Report (draft recommendation 96)**

The ECCC proposed to prohibit retailers from requesting evidence of family violence other than when the retailer was considering debt collection or disconnection. When a retailer requested evidence of family violence, the evidence had to be reasonably necessary to enable the retailer to assess appropriate measures that it could take in relation to debt collection or disconnection.

The ECCC considered that restricting when retailers may require evidence of family violence would help ensure that affected customers were not prevented or deterred from accessing assistance.

**Submissions received**

Synergy did not support the proposal. Synergy considered retailers should have the right to request evidence of family violence in situations where a retailer reasonably considered there was the possibility of a fraudulent claim.

**ECCC response to submissions**

The ECCC considers that there is insufficient evidence that fraudulent claims of family violence are occurring at a level that requires the Code to specifically allow a retailer to request evidence whenever fraud is suspected.

The ECCC is concerned that allowing retailers to request evidence of family violence where the retailer believes a customer has made a false claim may lead customers to feel they will not be believed and deter customers from seeking assistance from their retailer.

The ECCC notes that the proposal does not prevent retailers from requesting evidence in situations where there is suspected fraud when considering debt collection or disconnection.

**Final recommendation**

The ECCC retains the recommendation but proposes that retailers may request only one piece of evidence from the list set out in section 71AB(2) of the *Residential Tenancies Act 1988* :

(a) a DVO;[364]

(b) a Family Court injunction or an application for a Family Court injunction;

(c) a copy of a prosecution notice or indictment containing a charge relating to violence against the tenant or a court record of a conviction of the charge;

(d) a report of family violence, in a form approved by the Commissioner, completed by a person who has worked with the tenant and is 1 of the following —

(i) a person registered under the *Health Practitioner Regulation National Law (Western Australia)* in the medical profession;

(ii) a person registered under the *Health Practitioner Regulation National Law (Western Australia)* in the psychology profession;

(iii) a social worker as defined in the *Mental Health Act 2014* section 4;

(iv) a police officer;

(v) a person in charge of a women's refuge;

(vi) a prescribed person or class of persons.[365]

The amendment aims to clarify how much, and what, evidence retailers may request.

The ECCC also recommends that the ERA request data from retailers on the number of times the retailer has requested evidence of family violence, as part of the ERA's annual performance reporting on energy retailers. As requests for evidence of family violence may prevent or deter some customers from accessing assistance, the ECCC considers it is important to know how often retailers are requesting evidence of family violence. The data will help the ERA, ECCC and other stakeholders understand if the Code's family violence framework is achieving its objective or may require further amendment.

Other issues

**Recommendation 106**

a) Insert a new clause in the Code that provides that:

- A retailer must not request written evidence of family violence from an affected customer unless the evidence is reasonably necessary to enable the retailer to assess appropriate measures that it may take in relation to debt collection or disconnection.

***(cont'd)***

364 DVO has the meaning given under section 4(1) of the *Domestic Violence Orders (National Recognition) Act 2017* .

365 Regulation 12CA of the *Residential Tenancies Regulations 1989* sets out what constitutes a prescribed person or class of persons for the purposes of section 71AB(2)(d)(vi) of the *Residential Tenancies Act 1987*.

Other issues

**Recommendation 106 *(cont'd)***

- If a retailer requests written evidence of family violence from an affected customer, the retailer may request only one piece of evidence from the list set out in section 71AB(2) of the *Residential Tenancies Act 1987*.

b) The ERA to require energy retailers to report on the number of times evidence of family violence has been requested, as part of the ERA's annual performance reporting on energy retailers.

## 18.6 Family violence policy

### *18.6.1 Requirement to have a family violence policy*

**Draft Review Report (draft recommendation 97)**

The ECCC proposed that retailers had to have a family violence policy that was developed in consultation with relevant consumer representatives.

The ECCC considered that having a family violence policy would provide affected customers with information about how their retailer could assist them if the customer was experiencing family violence. Developing the family violence policy in consultation with relevant consumer representatives would ensure the policy was suitably tailored to meet the needs of affected customers.

**Submissions received**

UnionsWA recommended that retailers should develop family violence policies for both employees and customers.

**ECCC response to submissions**

The ECCC does not propose to adopt UnionsWA's recommendation.

The ECCC notes that the Act provides that the Code "is to regulate and control the conduct of" retailers, distributors and electricity marketing agents "with the object of defining standards of conduct in the supply and marketing of electricity to customers" and "protecting customers from undesirable marketing conduct".[366] This means the Code can only set service standards for customers, not employees of a retailer.

**Final recommendation**

The ECCC retains the recommendation as is.

366 *Electricity Industry Act 2004* (WA) section 79.

Other issues

**Recommendation 107**

a) Insert a new clause in the Code that provides that a retailer must have a family violence policy.

b) Insert a new clause in the Code that provides that a retailer must develop its family violence policy in consultation with relevant consumer representatives.

## *18.6.2 Minimum content of family violence policy*

The ECCC recommends that the following matters, as a minimum, must be addressed in a family violence policy.

### *18.6.2.1 Training*

**Draft Review Report (draft recommendation 98)**

The ECCC proposed that a family violence policy had to provide for the training of staff about family violence. The training had to be developed in consultation with, or delivered by, relevant consumer representatives to ensure that the training adequately covered the issues surrounding family violence.

The ECCC considered that it was essential to provide staff with training about family violence so staff could identify affected customers and apply the retailer's family violence policy.

**Submissions received**

UnionsWA recommended that staff training on family violence be "paid time training as an explicit workplace condition". It also recommended that training be incorporated into staff meetings and be provided to new as well as existing staff.

**ECCC response to submissions**

The Code cannot require retailers to provide paid training as a workplace condition. As set out in section 18.6.1, the Code can only set service standards for customers, not employees of a licensee.

If the ERA accepts recommendation 107(b), retailers will be required to develop their family violence policy in consultation with relevant consumer representatives. Relevant consumer representatives can raise issues such as refresher training and the methods for delivery of that training, as part of that process.

**Final recommendation**

The ECCC retains the recommendation as is.

Other issues

**Recommendation 108**

Insert a new clause in the Code that provides that a family violence policy must require a retailer to provide for training of staff about family violence. The training must be developed in consultation with, or delivered by, relevant consumer representatives.

#### *18.6.2.2 Account security*

**Draft Review Report (draft recommendation 99)**

The ECCC proposed that a family violence policy had to require the retailer to:

- Protect an affected customer's information, including from a person that was or had been a joint account holder with the affected customer.
- Take reasonable steps to establish a safe method of communication with an affected customer and, if that method was not practicable, offer alternative methods of communication.
- Ensure that an affected customer's entitlement to receive information by their established safe method of communication would take precedence over any other Code requirement to provide information to the customer in a particular way.
- Keep a record of the established safe method of communication that has been agreed with an affected customer.

The ECCC noted that a perpetrator could use personal details they knew about an affected customer to obtain account information. Requiring a retailer's family violence policy to provide for additional security measures on the account of an affected customer aimed to reduce that risk.

**Submissions received**

Synergy did not support draft recommendation 99(a). Synergy considered that the recommendation overlapped with Synergy's privacy obligations under Australian Privacy Principle 11. Synergy also considered that the recommendation could put Synergy at risk of contractual breach if the customer had not asked Synergy to remove an authorised contact from the account.

**ECCC response to submissions**

Although Australian Privacy Principle 11 also deals with the protection of customer information, it is not a direct duplication. Draft recommendation 99(a) will provide additional protection of an affected customer's information where there is an instance of family violence; this is not covered by Australian Privacy Principle 11.

The ECCC acknowledges that the requirement to protect a customer's information from a joint account holder or authorised contact may create contractual difficulties for retailers.[367] The requirement may also not always be appropriate. For example, an authorised contact may not always be the perpetrator of violence against an affected customer. The authorised contact may be a trusted friend or family member, and it may be against the customers wishes for the retailer to protect the customer's information from that person.

The ECCC therefore proposes to replace draft recommendation 99(a) with a requirement that a retailer's family violence policy must require the retailer to advise an affected customer that the retailer can protect the customer's information. This could, for example, be by removing

[367] Some energy providers do not allow for accounts to be held in joint names. Instead, the account is held in one person's name and the customer has the option to add other people to the account to act as authorised contacts.

one or more authorised contacts from the account, or by opening a new account for the customer. If the customer requests their information be protected, the retailer's family violence policy must require the retailer to do so.

**Final recommendation**

The ECCC retains draft recommendations 99(b), (c) and (d) as is.

The ECCC replaces draft recommendation 99(a) with a new recommendation that a family violence policy must require a retailer to advise an affected customer that the retailer can protect the customer's information, and if the customer requests their information be protected, the policy must require the retailer to do so.

Other issues

**Recommendation 109**

Insert a new clause in the Code that provides that:

a) A family violence policy must require a retailer to advise an affected customer that the retailer can protect the customer's information, and if the customer requests their information be protected, the policy must require the retailer to do so.

b) A family violence policy must require the retailer to take reasonable steps to establish a safe method of communication with an affected customer and, if that method is not practicable, offer alternative methods of communication.

c) A family violence policy must require the retailer to comply with an established safe method of communication, including when other parts of the Code direct how information must be given.

d) A family violence policy must require the retailer to keep a record of the established safe method of communication that has been agreed with the affected customer.

### *18.6.2.3 Customer service*

**Draft Review Report (draft recommendation 100)**

The ECCC proposed that a family violence policy had to require a retailer to have a process to avoid an affected customer needing to repeatedly disclose or refer to their experience of family violence.

The ECCC considered that this could help reduce the distress experienced by an affected customer. For example, a retailer could place an account identifier on the account of an affected customer. The proposal could also help the retailer's staff to better engage with an affected customer and assess if a request or transaction may lead to an unsafe outcome for the customer.

**Submissions received**

No submissions were received.

**Final recommendation**

The ECCC retains the recommendation as is.

Other issues

**Recommendation 110**

Insert a new clause in the Code that provides that a family violence policy must require a retailer to have a process that avoids an affected customer needing to repeatedly disclose or refer to their experience of family violence.

### *18.6.2.4 Debt management*

**Draft Review Report (draft recommendation 101)**

The ECCC proposed that a family violence policy had to require a retailer to consider:

- The potential impact of debt collection at that time on the affected customer.
- Whether another person was responsible for the debt before taking action to recover arrears from an affected customer.
- Reducing and/or waiver of fees, charges, and debt. This was similar to the Code requirement for a retailer's hardship procedures.[368]

The ECCC noted that an affected customer's debt could have been accumulated due to the actions of a perpetrator. A perpetrator could also use debt as a means of control.

To reduce the risk of debt being used as a form of economic abuse against an affected customer, the ECCC considered it was important that a retailer considered the potential impact of debt collection on an affected customer, and whether another person was responsible for the affected customer's debt before taking action.

**Submissions received**

No submissions were received.

**Final recommendation**

The ECCC retains the recommendation as is.

Other issues

**Recommendation 111**

Insert a new clause in the Code that provides that:

a) A family violence policy must require the retailer to consider the potential impact of debt collection on the affected customer and whether another person is responsible for the electricity usage that resulted in the debt.

b) A family violence policy must require the retailer to consider reducing and/or waiving fees, charges and debt.

[368] *Code of Conduct for the Supply of Electricity to Small Use Customers 2018* (WA) clause 6.10(3)(d)(iv).

### 18.6.3 Publication of family violence policy

**Draft Review Report (draft recommendation 102)**

The ECCC proposed that retailers had to publish their family violence policy on their website. They also had to provide a hard copy of the policy on request and at no charge. This requirement would be included in the new, general information provision of the Code.[369]

The proposal aimed to ensure the policy would be widely accessible to customers.

**Submissions received**

No submissions were received.

**Final recommendation**

The ECCC retains the recommendation as is.

Other issues

**Recommendation 112**

Include a requirement for a retailer to publish its family violence policy under the new, general information provision in the Code.[370]

### 18.6.4 Review of family violence policy

**Draft Review Report (draft recommendation 103)**

The ECCC proposed that retailers had to:

- review their family violence policy if directed to so by the ERA
- conduct their review in consultation with relevant consumer representatives
- submit the results of their review to the ERA.

The proposal aimed to ensure that the ERA could direct retailers to review their family violence policy when required, for example, if the Code requirements for family violence policies were amended. This would ensure a retailer's family violence policy remained current and reflected the retailer's obligations under the Code.

The proposal was also consistent with the Code requirements for the review of a retailer's financial hardship policy.[371]

**Submissions received**

No submissions were received.

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369 See recommendation 82.

370 See recommendation 82.

371 Clause 6.10(6) of the Code requires retailers to review their financial hardship policy if directed to do so by the ERA.

**Final recommendation**

The ECCC retains the recommendation as is.

Other issues

**Recommendation 113**

Insert a new clause in the Code that provides that:

a) A retailer must review its family violence policy if directed to do so by the ERA.

b) The review must be conducted in consultation with relevant consumer representatives.

c) The retailer must submit the results of its review to the ERA.

# 18.7 Disconnection

## *18.7.1 Prohibition on disconnection*

**Draft Review Report (question 11)**

The ECCC sought submissions on whether the Code should prohibit disconnection of an affected customer's supply address, and if so, for what period disconnection action should be prohibited.

The ECCC considered that the advantages of a disconnection prohibition were two-fold: security and temporary relief from financial stress. For an affected customer, their electricity supply could be essential for the operation of important safety measures such as home security systems. A disconnection prohibition would also give an affected customer additional time to pay their bill and to seek support from external support services.

The ECCC considered there could also be disadvantages to prohibiting retailers from disconnecting an affected customer. A disconnection warning could serve as a prompt for a customer to contact their retailer, at which point a retailer could advise the customer of the assistance available. A prohibition on disconnection could mean customers delayed contact with their retailer, and subsequently, did not have this crucial conversation with their retailer.

The ECCC considered it was important to consider what time limit would be appropriate for a disconnection prohibition, as an extended prohibition, without a prompt to contact the customer's retailer, could lead to the customer's debt rising to a level that was unmanageable.

**Submissions received**

- The AEC did not agree that a disconnection prohibition should be introduced as not every affected customer would require this protection. Instead, retailers should be required to consider a customer's individual needs.
- Alinta Energy supported a disconnection prohibition but queried how a disconnection prohibition would affect retailers' "(highly automated) notification processes" (reminder notices and disconnection warnings). It proposed that these processes be permitted to continue. It noted that notifications played an important role as they often acted as prompt for customers to get in touch with their retailer. According to Alinta Energy,

retailers were often not aware of a family violence situation until the affected customer identified themselves after having received a disconnection warning.

- Horizon Power considered the Code should include a clear statement of when disconnection for customers in hardship could occur. Some customers only engaged with their retailer when disconnection action was pending or had occurred.
- Perth Energy did not agree that a disconnection prohibition should be introduced. Affected customers who were also in payment difficulties or financial hardship might not engage with the retailer if a disconnection prohibition was in place. Retailers should have to consider the individual circumstances of each customer.
- Synergy did not support the introduction of a disconnection prohibition. It considered retailers should have flexibility to address individual customer circumstances.
- WACOSS supported a disconnection prohibition. Customers affected by family violence often found it difficult to engage with services, including energy retailers. WACOSS proposed a preliminary period of six months, with the option for retailers to extend this further after considering the customer's needs.

**ECCC response to submissions**

Family violence may affect customers in many different ways; including physically, emotionally, psychologically, and financially.[372] A temporary prohibition on disconnection would give affected customers a temporary reprieve; they would have one less thing to worry about during a very stressful time in their lives. The ECCC considers a disconnection moratorium would be particularly helpful to affected customers who are about to separate, or have recently separated, from their partner. It would give these customers time to work with their retailer to address any outstanding debt, but also to access support services and deal with any other matters resulting from their separation – without the stress of facing disconnection. The period immediately following separation is also often a time when affected customers are at greater risk of family violence and home security measures can be essential to the customer's safety.

The ECCC agrees that every affected customer is different and that it is important that retailers have flexibility to address the individual needs of an affected customer. However, a disconnection moratorium would not preclude a retailer from tailoring their assistance to the affected customer's needs. It would simply provide an immediate, regulated protection for affected customers.

The ECCC recommends that the disconnection moratorium apply from the date the retailer becomes aware that the customer is an affected customer. Customers will not have to ask their retailer for a delay of any disconnection action.

The ECCC considers that a period of nine months for a disconnection moratorium would be appropriate.

The proposal would mean that retailers should not issue disconnection warnings to affected customers while a disconnection moratorium applies. They can, however, still issue reminder

[372] Department of Communities, 2020, *Path to Safety: Western Australia's strategy to reduce family and domestic violence 2020-2030*, p. 18.

notices as the customer will remain liable for the bill.[373] This should alleviate some of the concerns raised by retailers about the importance of reminder notices and disconnection warnings as prompts for customers to stay in touch with their retailer.

**Final recommendation**

The ECCC recommends the Code is amended to introduce a prohibition on disconnecting an affected customer's supply address. The ECCC recommends the prohibition be in place for a period of nine months from the date the retailer becomes aware that the customer is an affected customer.

Other issues

**Recommendation 114**

Insert a new clause in the Code that provides that a retailer must not disconnect an affected customer's supply address for a period of nine months from the date the retailer becomes aware that the customer is an affected customer.

### *18.7.2 Customer circumstances*

**Draft Review Report (draft recommendation 104)**

The ECCC proposed that a family violence policy had to include a statement that the retailer would take into account the circumstances of an affected customer before disconnecting the customer's supply address.

The proposal aimed to ensure that, before the retailer took action to disconnect an affected customer's supply address, the affected customer received the assistance the customer was entitled to under the Code and the retailer's family violence policy.

**Submissions received**

Perth Energy considered that this issue was already addressed in Part 6 (Payment difficulties and financial hardship) and Part 7 (Disconnection) of the Code.

**ECCC response to submissions**

Parts 6 and 7 of the Code do not require a retailer to take into account the circumstances of an affected customer before disconnecting the customer's supply address for failure to pay a bill. The ERA's *Financial Hardship Policy Guidelines – Electricity & Gas Licences* include a reference to family violence but only in the context of financial hardship, not disconnection.

Many customers affected by family violence face security issues, not just budgeting issues. The ECCC considers that this matter should be specified in the family violence policy so it is clear for affected customers that their circumstances will be considered.

[373] Recommendation 111(a) provides that a family violence policy must require the retailer to consider the potential impact of debt collection on the affected customer and whether another person is responsible for the electricity usage that resulted in the debt.

**Final recommendation**

The ECCC retains the recommendation as is.

The ECCC has considered this recommendation in conjunction with recommendation 114 (a nine-month disconnection moratorium for affected customers). The ECCC considers it is important that, after the disconnection moratorium has ended, disconnection remains a last resort for affected customers. The ECCC therefore retains its recommendation that a retailer's family violence policy must require the retailer to take into account an affected customer's circumstances before disconnecting the customer's supply address for failure to pay. In practice, this recommendation will apply at the conclusion of the disconnection moratorium.

Other issues

**Recommendation 115**

Insert a new clause in the Code that provides that a family violence policy must require the retailer to take into account the circumstances of an affected customer before disconnecting the customer's supply address for failure to pay a bill.

# Appendix 1 List of ECCC's final recommendations

| Recommendation number | Recommendation |
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| Recommendation 1 | Request the PCO to review the drafting of the Code to improve clarity. |
| Recommendation 2 | a) Provide that a retailer, distributor or electricity marketing agent that has to give information on request to a customer:<br>– may either give the information to the customer or, if the information is available on its website, refer the customer to its website.<br>– must give the information, if the customer requests the information is given.<br>b) Use rule 56(2) and (3) of the NERR as a guide for drafting. |
| Recommendation 3 | Delete the words "or by electronic means" in clauses 6.4(3)(a), 6.4(3)(b), 9.3(5) and 9.4(1)(a) of the Code. |
| Recommendation 4 | Replace the words "TTY services", in clauses 2.2(2)(g)(ii), 2.3(2)(h)(ii), 4.5(1)(cc), 6.10(2)(h)(iii), 9.3(2)(m), 10.11(1) and 10.11(2)(a) of the Code, with a reference to services that assist customers with a speech or hearing impairment. |
| Recommendation 5 | a) Delete the words "unless otherwise agreed" from clauses 3.1(2), 4.5(1), 5.1(1), 5.2, 5.4(3), 5.7(1), 6.4(3)(b), 9.7, 14.7(1)(c) and 14.7(2)(c) of the Code.<br>b) Amend clause 1.10 of the Code by:<br>– clarifying that agreement to vary the listed clauses may be in writing or verbally.<br>– adding the following clauses to the list of clauses that may be varied under a non-standard contract: 3.1(2), 4.5(1), 6.4(3)(b) 14.7(1)(c) and 14.7(2)(c).<br>c) Insert a new clause in the Code that provides that a retailer and customer may agree, in writing or verbally, that the following clauses do not apply, or are to be amended in their application, in a standard form contract: 3.1(2), 5.4, 5.7(1), 6.4(3)(b), 8.1, 14.7(1)(c) and 14.7(2)(c). |
| Recommendation 6 | Amend clause 2.2(2) of the Code to be consistent with clause 2.2(2) of the Gas Marketing Code. |
| Recommendation 7 | Amend clauses 2.2(2)(e) and 2.3(2)(f) of the Code to be consistent with clauses 2.2(2)(e) and 2.3(2A)(e) of the Gas Marketing Code, respectively. |
| Recommendation 8 | Amend clauses 2.2(2)(g) and 2.3(2)(h) of the Code to be consistent with clauses 2.2(2)(g) and 2.3(2A)(g) of the Gas Marketing Code, respectively. |
| Recommendation 9 | Amend clause 2.3(1)(a) of the Code to be consistent with clause 2.3(1)(a) of the Gas Marketing Code. |
| Recommendation 10 | Amend clauses 2.3(2)(b) to (e) and (g) to (j) of the Code to be consistent with clause 2.3(2A) of the Gas Marketing Code. |

| Recommendation number | Recommendation |
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| Recommendation 11 | a) Amend clause 2.3(5) of the Code to be consistent with clause 2.3(4) of the Gas Marketing Code.<br><u>Consequential amendment</u><br>b) Amend clause 1.5 of the Code to insert a definition of verifiable confirmation, consistent with the definition of verifiable confirmation in the Gas Marketing Code. |
| Recommendation 12 | Amend clause 2.5(2)(a) of the Code by replacing the word "wear" with "display". |
| Recommendation 13 | Delete clause 3.1(3) of the Code. |
| Recommendation 14 | a) Replace clauses 4.1(a) and (b)(i) of the Code with rules 24(1) and (2) of the NERR but:<br>– replace the words "retailer's usual recurrent period" with "customer's standard billing cycle" in rule 24(2).<br>– replace the words "explicit informed consent" with "verifiable consent" in rule 24(2).<br>– clarify that, when customers agree to a different billing cycle under rule 24(2), the billing cycle should not be longer than 100 days.<br>b) Retain clause 4.1(b)(ii) of the Code but replace the words "metering data" with "energy data".<br>c) Retain clause 4.1(b)(iii) of the Code. |
| Recommendation 15 | a) Replace clauses 4.2(1) and (2) of the Code with rule 34(2) of the NERR but:<br>– clarify that the clause only applies if the retailer has not obtained the customer's verifiable consent to the shortened billing cycle.<br>– amend subrule 2(a) of the NERR by replacing the words "payment difficulties" with "payment difficulties or financial hardship".<br>– amend subrule (2)(b) by replacing "2" with "3".<br>– replace subrules (2)(c)(i) to (v) with clauses 4.2(1)(a) to (d) of the Code and amend clause 4.2(1)(a) by inserting the words "or disconnection warning" after "reminder notice".<br>– clarify that the information in subrule (2)(c) must have been given before the retailer gives the customer a reminder notice or disconnection warning for the third consecutive bill.<br>b) Replace clause 4.2(3) of the Code with rule 34(3) of the NERR but delete the words "without a further reminder notice" from subrule (c).<br>c) Retain clauses 4.2(4), (5) and (6) of the Code. |
| Recommendation 16 | Delete clause 4.3 of the Code. |
| Recommendation 17 | a) Delete clause 4.4 of the Code.<br>b) Insert a new clause in the Code that requires retailers to provide customers on a standard form contract with a paper bill or email bill on request. The customer may choose which option they prefer. |

| Recommendation number | Recommendation |
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| Recommendation 18 | Amend clause 4.5(1)(r) of the Code to be consistent with clause 4.5(1)(p) of the *Compendium of Gas Customer Licence Obligations*. |
| Recommendation 19 | Amend clause 4.5(1)(bb) of the Code to be consistent with clause 4.5(1)(z) of the *Compendium of Gas Customer Licence Obligations*. |
| Recommendation 20 | Insert a new subclause, in clause 4.5 of the Code, consistent with clause 4.5(4)(a) of the *Compendium of Gas Customer Licence Obligations* |
| Recommendation 21 | Amend clause 4.5(1)(cc) of the Code so the telephone number for TTY services only has to be included on bills for residential customers. |
| Recommendation 22 | a) Replace clause 4.5(1)(a) of the Code with a reference to the start and end dates of the supply period.<br>b) Delete clause 4.5(1)(g) of the Code.<br>c) Amend clause 4.5(1)(x) of the Code by deleting the words "and any relevant mailing address". |
| Recommendation 23 | a) Replace clause 4.6(a) of the Code with rule 20(1)(a)(i) of the NERR but:<br>– replace the words "metering data" with "energy data".<br>– replace the words "metering coordinator" with "distributor or metering data agent".<br>– delete the words "and determined in accordance with the metering rules".<br>– clarify that bills issued under bill smoothing, or similar, arrangements are considered to be bills based on energy data.<br>b) Delete clause 4.6(b) of the Code.<br>c) Replace clause 4.6(c) of the Code with rule 20(3) of the NERR but replace the words "applicable energy laws" with "the metrology procedure, the Metering Code or any other applicable law".<br>d) Adopt rule 20(1)(a)(iii) of the NERR but provide that customers and retailers may only agree to base a customer's bill on any other method if the customer is supplied under a non-standard contract. |
| Recommendation 24 | Insert a new clause in the Code that requires retailers to inform customers who have agreed to be billed "on any other method", in writing of the method they have agreed to. |
| Recommendation 25 | Retain clause 4.7 but incorporate in clause 4.6 of the Code. |
| Recommendation 26 | Replace the words "metering data" with "actual value" in clause 4.7 of the Code; and define actual value by reference to the *Electricity Industry Metering Code 2012*. |
| Recommendation 27 | Clarify that clause 4.7 of the Code does not apply if the bill is based on a method agreed between the customer and the retailer. |
| Recommendation 28 | Delete clause 4.8(1) of the Code. |

| Recommendation number | Recommendation |
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| Recommendation 29 | Delete clause 4.9 of the Code. |
| Recommendation 30 | Replace the words "an actual reading of the customer's meter", in clause 4.10(a) of the Code, with "an actual value". |
| Recommendation 31 | a) Replace clause 4.11(1) of the Code with rule 29(5)(a) of the NERR but:<br>– replace the words "meter reading or metering data" with "energy data".<br>– retain clause 4.11(1)(b) and add the words "checking the energy data".<br>– replace the words "responsible person or metering coordinator (as applicable)" with "distributor or metering data agent" in subrule (5)(a)(ii).<br>b) Amend clause 4.11(2) of the Code to take account of the fact that customers may also request a check of the energy data.<br>c) Incorporate amended clause 4.11 into clause 4.15 of the Code (Review of bill). |
| Recommendation 32 | Replace clause 4.12 of the Code with rules 37(1) and (2) of the NERR but clarify that transfer in subrule (2) refers to a transfer under subrule (1). |
| Recommendation 33 | a) Delete clause 4.13(a) of the Code.<br>b) Delete the words "more beneficial" from clause 4.13(b) of the Code.<br>c) Delete reference to a customer's use of electricity at the supply address from clause 4.13 of the Code. |
| Recommendation 34 | Delete the requirement that notice must be written from clause 4.13 of the Code. |
| Recommendation 35 | Replace clause 4.14(1) of the Code with rule 35(1) of the NERR. |
| Recommendation 36 | Delete the requirement that notice must be written from clause 4.14(3) of the Code. |
| Recommendation 37 | a) Adopt rule 29(6)(b)(ii) of the NERR.<br>b) Amalgamate clauses 4.15 and 4.16 of the Code. |
| Recommendation 38 | Replace the words "any applicable external complaints handling processes", in clause 4.16(1)(a)(iii) of the Code, with "the electricity ombudsman". |
| Recommendation 39 | a) Delete clause 4.17(1) of the Code.<br>b) Amend clause 4.17(2) of the Code by deleting:<br>– the words "(including where a meter has been found to be defective)".<br>– the words "subject to subclause (b)" in paragraph (a).<br>– paragraph (b).<br>c) Delete clause 4.17(4) of the Code. |

| Recommendation number | Recommendation |
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| | d) Amend the definition of undercharging, in clause 1.5 of the Code, so it:<br>– includes any undercharges that are the result of an error, defect or default for which the retailer or distributor is responsible (including where a meter has been found to be defective).<br>– does not include undercharges that resulted from the customer denying access to the meter for more than 12 months. |
| Recommendation 40 | a) Delete clause 4.18(1) of the Code.<br>b) Amend clause 4.18(2) of the Code by deleting the words "(including where a meter has been found to be defective)".<br>c) Amend the definition of overcharging in clause 1.5 of the Code so it includes any overcharges that are the result of an error, defect or default for which the retailer or distributor is responsible (including where a meter has been found to be defective). |
| Recommendation 41 | Delete the requirement that notice must be written from clause 4.18(7) of the Code. |
| Recommendation 42 | a) Delete clause 4.19 of the Code.<br>b) Amend the definition of overcharging, in clause 1.5 of the Code, so it also applies to the difference between the amount due under an estimated bill and the amount that would have been due if the bill had been based on an actual value determined in accordance with clause 5.4(1A)(b) of the *Electricity Industry Metering Code 2012*.<br>c) Amend the definition of undercharging, in clause 1.5 of the Code, so it also applies to the difference between the amount due under an estimated bill and the amount that would have been due if the bill had been based on an actual value determined in accordance with clause 5.4(1A)(b) of the *Electricity Industry Metering Code 2012*.<br><u>Consequential amendments</u><br>d) Delete the definition of adjustment in clause 1.5 of the Code.<br>e) Amend clause 4.17(2) of the Code by deleting the words "as a result of an error, defect or default for which the retailer or distributor is responsible".<br>f) Amend clause 4.18(2) of the Code by:<br>– deleting the words "as a result of an error, defect or default for which a retailer or distributor is responsible".<br>– replacing the second reference to the words "error, defect or default" with "overcharging". |
| Recommendation 43 | a) Replace clause 5.1 of the Code with rule 26(1) of the NERR but replace the words "13 business days" with "12 business days".<br><u>Consequential amendment:</u><br>b) Amend clause 1.5 of the Code to insert a definition of bill issue date consistent with the definition of bill issue date in rule 3 of the NERR, but delete the words ", included in a bill under rule 25(1)(e),". |

| Recommendation number | Recommendation |
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| Recommendation 44 | Replace clause 5.2 of the Code with rule 32(1) of the NERR but:<br>– do not adopt rule 32(1)(d) of the NERR.<br>– retain the requirement that the customer must be able to pay in person at one or more payment outlets within the customer's Local Government District (clause 5.2(a) of the Code).<br>– retain Centrepay as a minimum payment method for all residential customers (clause 5.2(c) of the Code). |
| Recommendation 45 | Delete clause 5.3 of the Code. |
| Recommendation 46 | a) Amend clause 5.4 of the Code to be consistent with clause 5.4 of the *Compendium of Gas Customer Licence Obligations*.<br><u>Consequential amendment</u><br>b) Amend clause 1.5 of the Code to insert a definition of maximum credit amount consistent with the definition of maximum credit amount in clause 1.3 of the *Compendium of Gas Customer Licence Obligations*. |
| Recommendation 47 | Amend clause 5.5 of the Code by:<br>– deleting the words "if a residential customer is unable to pay by way of the methods described in clause 5.2, due to illness or absence".<br>– replacing the requirement to offer redirection of the bill with a requirement to redirect the bill.<br>– replacing the words "third person" with "different address". |
| Recommendation 48 | Delete clause 5.7(4)(c) of the Code. |
| Recommendation 49 | a) Amend the definition of financial hardship, in clause 1.5 of the Code, by replacing the words "more than immediate" with "long term".<br>b) Amend the definition of payment difficulties, in clause 1.5 of the Code, by replacing the words "immediate" with "short term". |
| Recommendation 50 | a) Amend the Code so retailers have to make payment extensions and instalment plans available to all residential customers, but specify that customers are entitled to only one payment extension or instalment plan per bill.<br>b) Amend clause 6.4(4) of the Code so it also applies where a retailer is required to make an instalment plan available to a customer.<br><u>Consequential amendments</u><br>c) Delete the definition of payment difficulties in clause 1.5 of the Code.<br>d) Replace the words "experiencing payment difficulties or financial hardship", in clauses 2.2(2)(d), 2.3(2)(e), 4.2(1)(b), 4.2(2)(a) and 7.1(1)(a)(ii) of the Code, with a reference to customers experiencing difficulties paying their bill.<br>e) Replace the words "experiencing payment difficulties or financial hardship", in clauses 9.3(2)(n), 9.11(1)(a) and 9.11(2)(a) of the Code, with a reference to customers experiencing difficulties paying for their consumption. |

| Recommendation number | Recommendation |
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| | f) Delete the words "payment difficulties or" from clauses 4.2(2)(b), 4.18(7), 4.19(7), 5.8(1)(a), 6.1(1)(a) and 6.9 of the Code.<br>g) Amend clause 6.10(2)(f)(i) of the Code so a hardship policy must include an overview of:<br>– the payment assistance available under Part 6 of the Code to all residential customers.<br>– any additional assistance available under Part 6 of the Code to customers experiencing financial hardship (other than the retailer's requirement to advise the customer of the ability to pay in advance and the matters referred to in clauses 6.8(a), (b) and (d)). |
| Recommendation 51 | a) Delete clause 6.1(1)(b) of the Code.<br>b) Delete clause 6.2 of the Code. |
| Recommendation 52 | Amend the Code so retailers do not have to make an assessment under clause 6.1(1) if the retailer has previously assessed the customer, unless the customer has indicated that their circumstances have changed since the assessment was made. |
| Recommendation 53 | a) Amend clause 6.3 and 6.4(1) of the Code to provide that retailers only have to offer customers who have been assessed by the retailer to be experiencing financial hardship:<br>– an instalment plan; and<br>– assistance in accordance with clauses 6.6 to 6.9 of the Code.<br><u>Consequential amendments</u><br>b) Amend clause 6.7 of the Code by:<br>– replacing the words "a payment arrangement" with "an instalment plan".<br>– deleting paragraph (a).<br>– deleting the words ", if the customer had previously elected an instalment plan" in paragraph (b). |
| Recommendation 54 | a) Replace clause 6.4(2)(a) of the Code with a requirement that retailers must ensure that an instalment plan is fair and reasonable and has regard to:<br>– the customer's capacity to pay; and<br>– any arrears owing by the customer.<br>b) Include a requirement for retailers to offer customers, who have requested or agreed to an instalment plan, assistance to manage their bills for ongoing consumption over the duration of the plan. |
| Recommendation 55 | Amend clauses 6.4(2) and (3)(b) of the Code to clarify that retailers may only amend an instalment plan with the customer's agreement. |
| Recommendation 56 | Amend clause 6.4(3)(a) of the Code to provide that the information must be provided in writing, unless the information has already been provided in the previous 12 months. |

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| Recommendation 57 | Delete the requirement that information must be provided in writing or by electronic means from clause 6.4(3)(b) of the Code. |
| Recommendation 58 | Amend clause 6.7 of the Code consistent with clause 30(4)(b) of the *Water Services Code of Conduct (Customer Service Standards) 2018*, but provide that retailers are only required to review a customer's instalment plan twice a year. |
| Recommendation 59 | Amend clause 6.8(d) of the Code by deleting reference to meters. |
| Recommendation 60 | Delete clause 6.9 of the Code. |
| Recommendation 61 | Amend clause 6.10(2)(j) of the Code so only hard-copies of the hardship policy have to be made available in large print. |
| Recommendation 62 | Amend clause 6.10(6) of the Code by deleting the words "within 5 business days after it is completed". |
| Recommendation 63 | Amend clause 6.10(8) of the Code by deleting the words "within 5 business days of the amendment". |
| Recommendation 64 | Replace clause 7.2(1)(b) of the Code with rule 116(1)(d) of the NERR but do not adopt the words "is a hardship customer or residential customer and". |
| Recommendation 65 | Replace clause 7.2(1)(d) of the Code with rule 116(1)(e) of the NERR but replace the words "a rebate, concession or relief available under any government funded energy rebate, concession or relief scheme" with "a concession". |
| Recommendation 66 | a) Amend clause 7.2(1)(c) of the Code by:<br>– specifying that the paragraph only applies to residential customers.<br>– replacing the words "an amount approved and published by the Authority in accordance with subclause (2)" with "$300".<br>b) Delete clause 7.2(2) of the Code. |
| Recommendation 67 | Adopt rule 113(2) of the NERR but:<br>– do not adopt the words "in accordance with any requirement under the energy laws or otherwise".<br>– extend the application of the clause to distributors. |
| Recommendation 68 | Clarify that the protections of clauses 7.4(1)(c) to (e) of the Code must be met before a disconnection warning may be issued. |
| Recommendation 69 | a) Replace clause 7.6(3) of the Code with rules 116(3), 120(2) and 120(3)(a) and (b) of the NERR.<br>b) Insert an additional subclause in revised clause 7.6(3) of the Code that provides that the restrictions in clauses 7.6(1) and (2) do not apply if electricity is being consumed illegally at the customer's supply address. |

| Recommendation number | Recommendation |
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| Recommendation 70 | a) Insert a new paragraph, in clause 7.6(1) of the Code, consistent with rule 116(1)(a) of the NERR.<br>b) Insert a new paragraph, in clause 7.6(2) of the Code, consistent with rule 120(1)(a) of the NERR.<br><u>Consequential amendment</u><br>c) Delete clauses 7.7(1)(d), (2)(g) and (4)(a) of the Code. |
| Recommendation 71 | Adopt rules 124(1)(b)(iv), (v) and (vi) of the NERR but:<br>– specify that the information has to be provided before or within 5 business days of the retailer registering the customer's supply address as a life support equipment address, rather than of "receipt of advice from the customer".<br>– amend rule 124(1)(b)(v) so retailers have to recommend customers to prepare a plan of action to deal with an unplanned interruption.<br>– specify that the telephone service does not have to be available to mobile phones at the cost of a local call. |
| Recommendation 72 | Amend clause 7.7(1) and (2) of the Code by providing that the timeframes for acting on information also apply to the registration requirements. |
| Recommendation 73 | a) Amend clause 7.7(3) of the Code by removing the words "or by a relevant government agency".<br>b) Delete clause 7.7(3)(b) of the Code. |
| Recommendation 74 | Delete the words "in writing" from clause 7.7(4)(b) of the Code. |
| Recommendation 75 | Amend clause 7.7(7)(b) of the Code by specifying that the following information must be included in the written correspondence to the customer:<br>– the date by which the customer must provide re-certification or confirm that a person residing at the supply address still requires life support equipment;<br>– that the retailer will deregister the customer's supply address if the customer does not provide the required information or informs the retailer that the person at the supply address no longer requires life support equipment; and<br>– that the customer will no longer receive the protections under the Code when the supply address is deregistered. |
| Recommendation 76 | Amend clauses 7.7(7)(a) and (c) of the Code to provide that:<br>– if:<br>o a customer informs a retailer that a person who requires life support equipment has vacated the supply address; or<br>o a retailer is notified that a person who required life support equipment, no longer requires the life support equipment; or |

| Recommendation number | Recommendation |
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| | ○ a customer has failed to provide the information requested by a retailer under clause 7.7(6)(a)(i) or re-certification under clause 7.7(6)(a)(ii), within the time period specified by the retailer,<br>the retailer must:<br>○ remove the customer's supply address from its life support equipment address register within the timeframes set out in clauses 7.7(7)(a)(iv) and (v); and<br>○ notify the customer's distributor within the timeframes set out in clause 7.7(7)(c).<br>– upon notification by the retailer, the distributor must remove the customer's supply address from its life support equipment address register within the timeframes set out in clauses 7.7(7)(a)(iv) and (v).<br>– the retailer's and distributor's obligations under clauses 7.7(1) to (6), and clause 7.6 (to the extent that it provides a retailer or distributor must not disconnect a life support equipment address), terminate from the time the retailer or distributor has removed the customer's supply address from their life support equipment address register. |
| Recommendation 77 | a) Replace clause 8.1(1) of the Code with rule 121(1) of the NERR but:<br>– do not adopt the requirement that a customer must rectify the issue and request reconnection within 10 business days.<br>– retain clause 8.1(1)(e)(ii) of the Code.<br>– do not adopt the words "in accordance with any requirements under the energy laws" and "or arrange to re-energise the customer's premises remotely if permitted under energy laws".<br>b) Retain clauses 8.1(2) and (3) of the Code. |
| Recommendation 78 | a) Replace clause 8.2(1) of the Code with rule 122(1) of the NERR except for the words "in accordance with the distributor service standards".<br>b) Adopt rule 122(2) of the NERR except for:<br>– the requirement that a customer must rectify the issue and request reconnection within 10 business days.<br>– the words "in accordance with the distributor service standards".<br>c) Retain clauses 8.2(2) and (3) of the Code. |
| Recommendation 79 | Delete clause 9.4(1)(a) from the Code. |
| Recommendation 80 | Amend clause 9.6(a) of the Code to provide that:<br>– A retailer must ensure that a pre-payment meter customer has access to emergency credit of $20 outside normal business hours.<br>– A retailer may only de-energise a pre-payment meter:<br>○ during normal business hours, if the customer has no more credit available (regardless of whether the customer still has emergency credit available); or |

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| | ○ at any time, if the customer has no more emergency credit available.<br>– If a retailer has de-energised a pre-payment meter during normal business hours, a retailer does not have to re-energise the meter after business hours if the customer has not made a payment to the account, even if the customer still has all or some emergency credit available. |
| Recommendation 81 | Amend clause 9.7(a) of the Code to clarify that retailers must ensure that at least 1 physical recharge facility is located as close as practicable to a pre-payment meter. |
| Recommendation 82 | Adopt rules 56 and 80 of the NERR to the extent that they explain how information must be provided to customers but do not adopt the words "but information requested more than once in any 12 month period may be provided subject to a reasonable charge" (in rules 56(4) and 80(4)). |
| Recommendation 83 | a) Adopt rules 46(3), (4)(a), (4A) (except for (4A)(e)), (4B)(a), (c), (d) and (e) of the NERR for customers whose tariffs are not regulated, but:<br>– amend rule 46(4A)(f) by deleting the words "and, if they are being sold electricity, energy consumption data".<br>– amend rule 46(4B)(a) by deleting the words "pursuant to rule 46A and section 39(1)(a) of the Law".<br>– amend rule 46(4B)(d) by replacing the words "government funded energy charge rebate, concession or relief scheme" with "concession".<br>b) Amend clause 10.1(1) of the Code so it only applies to customers whose tariffs are regulated. |
| Recommendation 84 | Delete clause 10.1(3) of the Code. |
| Recommendation 85 | Delete clause 10.2(3) of the Code. |
| Recommendation 86 | Delete clause 10.2(4) of the Code. |
| Recommendation 87 | Retain clause 10.3 of the Code but:<br>– incorporate into the new, general information provision.<br>– delete the words "to the residential customer". |
| Recommendation 88 | Retain clause 10.4 of the Code but:<br>– incorporate into the new, general information provision.<br>– insert the word "electrical" before "appliances" in paragraph (b). |
| Recommendation 89 | a) Replace clauses 10.6(a), (d), (e) and (f) of the Code with rule 80(1)(g) of the NERR but:<br>– incorporate into the new, general information provision.<br>– amend rule 80(1)(g) by replacing the term "customer connection services" with a description of those services. |

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| | b) Adopt rules 80(1)(c), (e) and (f) of the NERR and incorporate into the new, general information provision.<br>c) Retain clauses 10.6(g), (h) and (i) of the Code, but incorporate the clauses into the new, general information provision.<br>d) Retain clauses 10.6(b) and (c) of the Code. |
| Recommendation 90 | Delete clauses 10.7(1) and (2) of the Code. |
| Recommendation 91 | Delete clause 10.7(3) of the Code. |
| Recommendation 92 | Delete clause 10.7(4) of the Code. |
| Recommendation 93 | Retain clause 10.8 of the Code but incorporate into the new, general information provision. |
| Recommendation 94 | Retain clause 10.10 of the Code but incorporate into the new, general information provision. |
| Recommendation 95 | Delete clause 10.11(2)(b) of the Code. |
| Recommendation 96 | Delete the words "and the words "Interpreter Services" " from clause 10.11(2)(c) of the Code. |
| Recommendation 97 | a) Insert the words "including the obligations set out in [clause ⋯]" in clause 12.1(2)(b)(ii)(B) of the Code.<br>b) Delete clause 12.1(3) of the Code and include a new clause that requires retailers and distributors, when they respond to a complaint, to inform the customer of the information set out in:<br>– Section 82(4) of the NERL, but:<br>o do not adopt the words "as soon as reasonably possible but, in any event, within any time limits applicable under the retailer's or distributor's standard complaints and dispute resolution procedures".<br>o provide that a retailer or distributor does not have to inform the customer of the reasons for the decision regarding the outcome if the customer has advised the retailer or distributor that the complaint has been resolved in a manner acceptable to the customer.<br>– Section 82(5) of the NERL, other than the words "may make a complaint or" and "if the customer is not satisfied with the outcome" and provide instead that the information does not have to be provided if the customer has advised the retailer or distributor that the complaint has been resolved in a manner acceptable to the customer. |
| Recommendation 98 | Delete clause 12.1(2)(c) of the Code. |
| Recommendation 99 | Move clause 12.1(4) of the Code to a new clause and delete the words "for the purposes of subclause (2)(b)(iii)". |

| Recommendation number | Recommendation |
|---|---|
| Recommendation 100 | Add the following subclauses to the new, general information provisions:<br>– a summary of the customer's rights, entitlements and obligations under the retailer's or distributor's standard complaints and dispute resolution procedure.<br>– the contact details for the electricity ombudsman. |
| Recommendation 101 | Delete clause 12.2 of the Code. |
| Recommendation 102 | Delete clause 12.3 of the Code. |
| Recommendation 103 | Delete Part 13 of the Code. |
| Recommendation 104 | Insert a definition of family violence in the Code, being the meaning given in section 5A of the *Restraining Orders Act 1997*. |
| Recommendation 105 | Insert a definition of affected customer in the Code, meaning any residential customer, including a former residential customer, who has advised the retailer, or whom the retailer has reason to believe, is affected by family violence. |
| Recommendation 106 | a) Insert a new clause in the Code that provides that:<br>– A retailer must not request written evidence of family violence from an affected customer unless the evidence is reasonably necessary to enable the retailer to assess appropriate measures that it may take in relation to debt collection or disconnection.<br>– If a retailer requests written evidence of family violence from an affected customer, the retailer may request only one piece of evidence from the list set out in section 71AB(2) of the *Residential Tenancies Act 1987*.<br>b) The ERA to require energy retailers to report on the number of times evidence of family violence has been requested, as part of the ERA's annual performance reporting on energy retailers. |
| Recommendation 107 | a) Insert a new clause in the Code that provides that a retailer must have a family violence policy.<br>b) Insert a new clause in the Code that provides that a retailer must develop its family violence policy in consultation with relevant consumer representatives. |
| Recommendation 108 | Insert a new clause in the Code that provides that a family violence policy must require a retailer to provide for training of staff about family violence. The training must be developed in consultation with, or delivered by, relevant consumer representatives. |
| Recommendation 109 | Insert a new clause in the Code that provides that:<br>a) A family violence policy must require a retailer to advise an affected customer that the retailer can protect the customer's information, and if the customer requests their information be protected, the policy must require the retailer to do so. |

| Recommendation number | Recommendation |
|---|---|
| | b) A family violence policy must require the retailer to take reasonable steps to establish a safe method of communication with an affected customer and, if that method is not practicable, offer alternative methods of communication.<br>c) A family violence policy must require the retailer to comply with an established safe method of communication, including when other parts of the Code direct how information must be given.<br>d) A family violence policy must require the retailer to keep a record of the established safe method of communication that has been agreed with the affected customer. |
| Recommendation 110 | Insert a new clause in the Code that provides that a family violence policy must require a retailer to have a process that avoids an affected customer needing to repeatedly disclose or refer to their experience of family violence. |
| Recommendation 111 | Insert a new clause in the Code that provides that:<br>a) A family violence policy must require the retailer to consider the potential impact of debt collection on the affected customer and whether another person is responsible for the electricity usage that resulted in the debt.<br>b) A family violence policy must require the retailer to consider reducing and/or waiving fees, charges and debt. |
| Recommendation 112 | Include a requirement for a retailer to publish its family violence policy under the new, general information provision in the Code. |
| Recommendation 113 | Insert a new clause in the Code that provides that:<br>a) A retailer must review its family violence policy if directed to do so by the ERA.<br>b) The review must be conducted in consultation with relevant consumer representatives.<br>c) The retailer must submit the results of its review to the ERA. |
| Recommendation 114 | Insert a new clause in the Code that provides that a retailer must not disconnect an affected customer's supply address for a period of nine months from the date the retailer becomes aware that the customer is an affected customer. |
| Recommendation 115 | Insert a new clause in the Code that provides that a family violence policy must require the retailer to take into account the circumstances of an affected customer before disconnecting the customer's supply address for failure to pay a bill. |

# Appendix 2 Minor amendments

| Item | Clause | Proposed amendment | Reason |
|---|---|---|---|
| A | 1.5 | Amend the definition of "appropriately qualified medical practitioner", in clause 1.5 of the Code, to be consistent with the requirements of the Life Support Equipment Energy Subsidy scheme. | To ensure consistency with the requirements of the Life Support Equipment Electricity Subsidy Scheme.[374] |
| B | 1.5 | • Replace "metering agent" with "metering data agent"<br>• Replace the definition with a reference to the definition in the *Electricity Industry Metering Code 2012*. | To improve consistency with the Metering Code. |
| C | 2.2(2)(g)(i)<br>2.3(2)(h)(i)<br>6.10(2)(h)(ii)[375]<br>9.3(2)(l)<br>10.11(1) | Replace "multi-lingual services" with "interpreter services". | To improve consistency. Various other clauses use the term "interpreter services". |
| D | 2.3(4) | Replace "Before arranging" with "Before entering into". | To improve consistency with clause 2.3(2) of the Code, which uses the words "Before entering into". |
| E | 2.5(2)(b) | Amend as follows:<br>A retailer or electricity marketing agent who meets with a customer face to face for the purposes of marketing must—<br>(a) wear a clearly visible and legible identity card that shows—<br>(i)-(iv) [···]<br>(b) provide the customer, in writing—<br>(i)-(vi) [···] | To correct a formatting error.<br>The proposed amendment is consistent with the equivalent clause in the *Gas Marketing Code of Conduct 2017*. |

[374] The Life Support Equipment Energy Subsidy Scheme is administered by the Office of State Revenue and offers subsidies to eligible people for the electricity costs of operating life support equipment at home.

[375] Item EE proposes deleting clause 6.10(2)(h)(ii) of the Code.

| Item | Clause | Proposed amendment | Reason |
|---|---|---|---|
| | | ~~as soon as practicable following a request by the customer for the information.~~<br>as soon as practicable following a request by the customer for the information. | |
| F | 2.10 | • Delete clause 2.10(a) of the Code.<br>• Amend clause 2.10(b) of the Code to provide that electricity marketing agents must keep records for at least 2 years after the last time the person (to whom the information relates) received any contact from or on behalf of the electricity marketing agent. | To simplify the drafting of clause 2.10. |
| G | 4.5(1)(b) | Delete:<br>the calculation of the tariff in accordance with the procedures set out in clause 4.6(1)(c)<br>and provide that, if the customer has a Type 7 connection point, the bill should include the basis on which the amount due was calculated. | • To remove duplication: Clause 4.6(1)(c) already provides that tariffs for type 7 meters must be calculated in accordance with the procedures set out in that clause.<br>• To improve clarity: The proposed amendment clarifies what information must be included on bills for type 7 meters. |
| H | 4.5(1)(c) | Delete "(whether or not the customer has entered into an export purchase agreement with a retailer)". | Unnecessary. The clause applies "if the customer has an accumulation meter installed". |
| I | 4.5(1)(e)(i) | Amend to provide that the bill should include the customer's consumption or estimated consumption, and the customer's export or estimated export. | Subclause (d)(i) allows for estimations if the customer has not entered into an export purchase agreement.<br>If consumption can be estimated without an export agreement, it should also be allowed to be estimated if the customer has entered into an export agreement. |
| J | 4.5(1)(e)(ii) | Amend to provide that the bill should include the customer's consumption or estimated consumption, and the customer's export or estimated export, for the total of each | To improve consistency with subclause (d)(i) and proposed changes to subclauses (e)(i). |

| Item | Clause | Proposed amendment | Reason |
|---|---|---|---|
| | | time band in the time of use tariff. | |
| K | 4.5(1)(o) | Delete "(clearly placed on the part of the bill that is retained by the customer)". | To reduce unnecessary regulation. |
| L | 4.8(4) | Replace "metering agent" with "metering data agent". | See item A. |
| M | 4.16(1)(a)(ii) | Delete "in accordance with applicable law". | Unnecessary. Also, it is unclear whether the words relate to the customer's request or the meter test. |
| N | 4.18(2) | Amend to provide that the subclause only applies if the customer has been overcharged by an amount equal to or above $100. | To improve clarity. |
| O | 4.18(2)(a) | Replace "account" with "next bill". | To improve consistency with clause 4.18(6). |
| P | 4.18(4) | Replace "account" with "next bill". | To improve consistency with clause 4.18(6). |
| Q | 4.18(5) | Replace:<br>No interest shall accrue to a credit or refund referred to in subclause (2).<br>with:<br>No interest is payable on an amount overcharged. | To improve consistency with the NECF.<br>To improve clarity. |
| R | 4.18(6) | Amend to provide that if a customer (including a customer who has vacated the supply address) has been overcharged by an amount less than $100, the retailer must notify the customer and use its best endeavours to comply with paragraph (a) or (b). | To improve consistency with clause 4.18(2).<br>To improve clarity. |
| S | 6.3(1)(a) [376] | Replace:<br>if, due to financial hardship, the residential customer would be unable to meet its obligations | This clause requires retailers to advise customers experiencing payment difficulties that additional assistance may be available if, due to hardship, the |

[376] If the ERA accepts recommendation 50(a), this amendment will no longer be required.

| Item | Clause | Proposed amendment | Reason |
|---|---|---|---|
| | | under an agreed alternative payment arrangement<br>with a requirement to advise the customer that additional assistance is available if the customer's circumstances change and the retailer assesses that the customer is experiencing financial hardship. | customer would be unable to comply with a payment plan or extension.<br>As currently drafted, the clause implies that additional assistance may only be available if the customer is "unable to meet its obligations under" a payment plan or extension (due to hardship). However, the additional assistance available under clauses 6.6 to 6.9 must be offered from the time a customer is assessed as experiencing financial hardship (regardless of whether the customer is able to meet their obligations under the payment plan or extension).<br>The intent of clause 6.3(1) could be clarified by requiring retailers to advise customers that additional assistance is available if the customer's circumstances change and the retailer assesses that the customer is experiencing financial hardship. |
| T | 6.3(1)(b)(ii) | Delete reference to clause 6.9. | Under this clause, retailers must offer customers who are experiencing financial hardship assistance in accordance with clauses 6.6 to 6.9.<br>Clause 6.9 provides that retailers must determine any payment in advance amount for customers experiencing payments difficulties or financial hardship in consultation with relevant consumer organisations. As clause 6.9 does not require retailers to provide specific assistance to customers it should not be listed in clause 6.3(1)(b)(ii). |
| U | 6.4(1)(b) | Move:<br>an interest-free and fee-free instalment plan or other arrangement under which the residential customer is given additional time to pay a bill or to pay arrears (including any disconnection or reconnection charges) and is permitted to continue consumption.<br>In this clause, "fee" means any fee or charge in connection with the establishment or operation of the instalment | Clause 6.4(1)(b) contains much detail about instalment plans. More information about instalment plans is included in the definition of instalment plan.<br>To improve clarity, clause 6.4(1)(b) could be streamlined by replacing the current text with the term "instalment plan" and moving the requirements into the definition of instalment plan. |

| Item | Clause | Proposed amendment | Reason |
|---|---|---|---|
| | | plan or other arrangement which would not otherwise be payable if the residential customer had not entered into the instalment plan or other arrangement.<br>to the definition of instalment plan.<br>Replace the text in clause 6.4(1)(b) with "instalment plan". | |
| V | 6.4(2)(b) | Delete paragraph (b):<br>comply with subclause (3). | Unnecessary. Subclause (3) already requires the retailer to comply. |
| W | 6.6 | Amend the heading of clause 6.6 as follows:<br>Reduction of fees, charges ~~and~~ or debt | To improve consistency with the wording of clause 6.6. |
| X | 6.8(c) | Amend to clarify that retailers have to advise customers of concessions that "may be" available. | Currently, retailers have to advise customers experiencing financial hardship of "concessions available to the customer".<br>As not all concessions are administered by retailers, retailers may not always know what concessions are available to a customer.<br>The proposed amendment clarifies that retailers have to inform customers of concessions that may be available. |
| Y | 6.8(f) | Delete "and grants schemes". | To remove duplication.<br>Clause 6.8(c) already requires retailers to advise customers experiencing financial hardship of the concessions available to the customer and how to access them.<br>The term concession is defined as "means a concession, rebate, subsidy or *grant* related to the supply of electricity available to residential customers only". |
| Z | 6.8(f) | Clarify that the clause applies to financial assistance, other than concessions, that may be offered by the retailer. | To improve clarity.<br>Clause 6.8(f) was inserted following the 2008 Code review. At the time, WACOSS made the following submission:<br>*In addition to rebates and concessions being available to the customer to help cover the cost of their electricity, there are a number of grant schemes available such as the Hardship Utilities Scheme (HUGS), Power Assist and Power on Payment. These* |

| Item | Clause | Proposed amendment | Reason |
|---|---|---|---|
| | | | *schemes should be encouraged by the utilities as they help ensure that the customer's debt is paid off.*<br>As grant schemes like HUGS are already covered by clause 6.8(c), clause 6.8(f) mainly applies to financial assistance (other than concessions) that may be offered by retailers, such as incentive payments or payment matching. These are schemes where, for every regular instalment the customer makes towards paying the bill, the retailer will also contribute toward the bill. |
| AA | 6.10(1) | Amend so retailers must not only develop, but also maintain and implement, their hardship policy and hardship procedures. | To improve consistency with the *National Energy Retail Law*, section 43(2).<br>For hardship policies and procedures to be effective, retailers should not only be required to develop them but also to maintain and implement them. |
| BB | 6.10(2)(a), 3(a), (6) and (8) | All four subclauses require retailers to consult with relevant consumer representatives when developing, reviewing and amending their hardship policies. Delete this requirement from the four individual clauses and amalgamate these requirements in a single, new subclause. | To improve clarity. |
| CC | 6.10(2)(f)(ii) | Include the words "a statement" at the start of the subclause. | To improve clarity. |
| DD | 6.10(2)(h)(i) | Amend to provide that retailers must include in their hardship policy the telephone number for interpreter services together with the National Interpreter Symbol. | • To correct an error: Retailers currently only have to include the National Interpreter Symbol together with the words "Interpreter Services" in the hardship policy. Without the relevant telephone number to access this service, this information is of little use to customers.<br>• The ERA amended the equivalent of clause 6.10(2)(h)(i) in the *Compendium of Gas Customer Licence Obligations* in November 2019:<br>The hardship policy must— […]<br>(h) include— |

| Item | Clause | Proposed amendment | Reason |
|---|---|---|---|
| | | | (i) the National Interpreter Symbol ~~with the words "Interpreter Services"~~;<br>The amendment was made to provide retailers and distributors with more flexibility for the wording they use when informing customers about the availability of interpreter services. |
| EE | 6.10(2)(h)(ii) | Delete clause 6.10(2)(h)(ii) of the Code. | To remove duplication.<br>Under the proposed amendments to clause 6.10(2)(h)(i), retailers would have to include the telephone number for interpreter services together with the National Interpreter Symbol in their hardship policy. Clause 6.10(2)(h)(ii) further requires retailers to include "information on the availability of independent multi-lingual services" in their hardship policy. |
| FF | 6.10(2)(i)<br>6.10(4) | Delete clauses 6.10(2)(i) and 6.10(4) and include reference to financial hardship policies in the new, general information provision for retailers. | For simplicity. The amendment would ensure all information that must be published on a retailer's website is listed in a single clause.<br>The amendment would also clarify that, if a customer requests information about the hardship policy, the retailer may refer a customer to its website but must, if the customer requests a copy of the policy, provide a copy free of charge to the customer. |
| GG | 6.10(3)(d)(i) and (ii) | Replace "assist" with "assists". | To correct a grammatical error. |
| HH | 6.10(7) | Amend to provide that a retailer must ensure that its hardship policy and hardship procedures comply with the ERA's *Financial Hardship Policy Guidelines*. | To improve clarity. |
| II | 6.11[377] | Replace "payment difficulties" with a description of the circumstances under which a retailer must consider a request from a business customer for an | This clause uses the term "payment difficulties". However, the term payment difficulties applies to residential customers only:<br>means a state of immediate financial disadvantage that results in a residential |

[377] If the ERA accepts recommendation 50(c), this amendment will not be required.

| Item | Clause | Proposed amendment | Reason |
|---|---|---|---|
| | | alternative payment arrangement. | customer being unable to pay an outstanding amount as required by a retailer by reason of a change in personal circumstances.<br>As the term payment difficulties does not apply to business customers, the term should be removed from clause 6.11. It could be replaced with a description of the circumstances under which a retailer must consider a request from a business customer for an alternative payment arrangement. Those circumstances could be the same as those used in the definition of payment difficulties but without the reference to residential customer. |
| JJ | 7.2(1)(f) | Amend as follows:<br>(1) Notwithstanding clause 7.1, a retailer must not arrange for the disconnection of a customer's supply address for failure to pay a bill—<br>(f) if the ~~supply address~~ bill does not relate to the ~~bill~~ supply address, unless the ~~amount outstanding~~ bill relates to a supply address previously occupied by the customer; or | To improve clarity. |
| KK | 7.7 | Move clause 7.7 of the Code into a new Part that deals with life support only. | The life support clause (7.7) is currently included in Part 7 which deals with disconnection. As the scope of clause 7.7 is much wider than disconnection, it would be clearer to insert a new Part in the Code that deals exclusively with life support. In this new Part, clause 7.7 could be separated into multiple clauses, each dealing with a different aspect of life support. |
| LL | 7.7(6)(a)(ii) | Delete "from an appropriately qualified medical practitioner" | It is already clear from clause 7.7(6)(a) and the definition of "re-certification" that any confirmation or re-certification must be provided by an appropriately qualified medical practitioner. |
| MM | 7.7(7)(b)(ii) | Delete subclauses (A) to (E):<br>A customer will have failed to provide the information | The term contact is defined in clause 1.5 as: |

| Item | Clause | Proposed amendment | Reason |
|---|---|---|---|
| | | requested by a retailer for the purposes of subclause (6)(a)(i) or the re-certification referred to in subclause (6)(a)(ii) if the contact by the retailer consisted of at least the following, each a minimum of 10 business days from the date of the last contact—<br>(i) […]; and<br>(ii) a minimum of 2 other attempts to ***contact*** the customer ~~by any of the following means—~~<br>~~(A) electronic means;~~<br>~~(B) telephone;~~<br>~~(C) in person; or~~<br>~~(D) Not Used~~<br>~~(E) by post sent to the customer's supply address and any other address~~<br>~~nominated by the customer.~~ | means contact that is face to face, by telephone or by post, facsimile or electronic means.<br>As the term "contact" is already defined to include the forms of contact listed in subclauses (A) to (E), there is no need to list these forms of contact again. |
| NN | 10.1 | Replace references to "tariffs, fees and charges" with "tariffs, fees or charges". | The words "tariffs, fees and charges" imply a retailer only has to notify a customer if all three change. For clarity, it is proposed to amend the clause to read "tariffs, fees or charges". |
| OO | 12.1(1) | Replace "an internal process for handling complaints and resolving disputes" with "a standard complaints and dispute resolution procedure". | To improve consistency with the NECF. |
| PP | 12.1(2) | Replace "complaints handling process" with "procedures". | Consequential amendment of item OO. |
| QQ | 14.2(1)(a) | Amend as follows:<br>Subject to clause 14.6, if a retailer—<br>(a) fails to comply with any of the procedures prescribed under Part 6 (if applicable and other than clauses 6.8, 6.9 or 6.10) or Part 7 (other than clauses 7.4, 7.5, 7.6, 7.7(1)(a), 7.7(1)(b), or 7.7(2)(e)) of the Code prior to arranging for disconnection | To correct an error. |

| Item | Clause | Proposed amendment | Reason |
|---|---|---|---|
| | | or disconnecting a customer for failure to pay a bill; or | |

# Appendix 3 *Code of Conduct for the Supply of Electricity to Small Use Customers 2018*

WESTERN AUSTRALIAN GOVERNMENT Gazette
ISSN 1448-949X (print) ISSN 2204-4264 (online)
PRINT POST APPROVED PP665002/00041

1847

PERTH, MONDAY, 11 JUNE 2018 No. 85 SPECIAL

PUBLISHED BY AUTHORITY KEVIN J. McRAE, GOVERNMENT PRINTER AT 12.00 NOON


ELECTRICITY INDUSTRY ACT 2004

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# CODE OF CONDUCT FOR THE SUPPLY OF ELECTRICITY TO SMALL USE CUSTOMERS 2018

**ELECTRICITY INDUSTRY ACT 2004**

CODE OF CONDUCT FOR THE SUPPLY OF ELECTRICITY TO SMALL USE CUSTOMERS 2018

The Economic Regulation Authority—

(a) repeals the "Code of Conduct for the Supply of Electricity to Small Use Customers 2016" gazetted 17 June 2016 (No. 104), which repeal is to take effect on 1 July 2018;

(b) approves the "Code of Conduct for the Supply of Electricity to Small Use Customers 2018", gazetted 11 June 2018 (No. 85); and

(c) prescribes 1 July 2018 as the date on which the "Code of Conduct for the Supply of Electricity to Small Use Customers 2018", gazetted 11 June 2018 (No. 85) comes into operation,

pursuant to section 79 of the *Electricity Industry Act 2004*.

Ms NICOLA CUSWORTH, Chair,
Economic Regulation Authority.

**ELECTRICITY INDUSTRY ACT 2004**

# CODE OF CONDUCT FOR THE SUPPLY OF ELECTRICITY TO SMALL USE CUSTOMERS 2018

CONTENTS

**ELECTRICITY INDUSTRY ACT 2004**

# CODE OF CONDUCT FOR THE SUPPLY OF ELECTRICITY TO SMALL USE CUSTOMERS 2018

## PART 1—PRELIMINARY

### 1.1 Title

The ***Code*** may be cited as the *Code of Conduct for the Supply of Electricity to Small Use Customers 2018*.

### 1.2 Authority

The ***Code*** is made by the ***Authority*** under section 79 of the ***Act***.

### 1.3 Commencement

The ***Code*** comes into operation upon the day prescribed by the ***Authority***.

### 1.4 Interpretation

(1) Headings and notes are for convenience or information only and do not affect the interpretation of the ***Code*** or any term or condition set out in the ***Code***.

(2) An expression importing a natural person includes any company, partnership, trust, joint venture, association, corporation or other body corporate and any governmental agency and vice versa.

(3) A reference to a document or a provision of a document includes an amendment or supplement to, or replacement of or novation of, that document or that provision of that document.

(4) A reference to a person includes that person's executors, administrators, successors, substitutes (including, without limitation, persons taking by novation) and permitted assigns.

(5) Other parts of speech and grammatical forms of a word or phrase defined in the ***Code*** have a corresponding meaning.

(6) A reference to an ***electricity marketing agent*** arranging a ***contract*** is to be read as a reference to an ***electricity marketing agent*** entering into the ***contract*** on the ***retailer's*** or ***customer's*** behalf, or arranging the ***contract*** on behalf of another person (whichever is relevant).

### 1.5 Definitions

In the ***Code***, unless the contrary intention appears—

**"accumulation meter"** has the same meaning as in clause 1.3 of the ***Metering Code***.

**"Act"** means the *Electricity Industry Act 2004*.

**"adjustment"** means the difference in the amount charged—

(a) in a bill or series of bills based on an estimate carried out in accordance with clause 4.8; or

(b) under a bill smoothing arrangement based on an estimate carried out in accordance with clauses 4.3(2)(a)-(c),

and the amount to be charged as a result of the bill being determined in accordance with clause 4.6(1)(a) provided that the difference is not as a result of a defect, error or default for which the ***retailer*** or ***distributor*** is responsible or contributed to.

**"alternative tariff"** means a tariff other than the tariff under which the ***customer*** is currently supplied electricity.

**"amendment date"** means 1 July 2014.

**"appropriately qualified medical practitioner"** means—

(a) within the Perth Metropolitan Area, a specialist medical practitioner, a hospice doctor, or a practitioner working in a specialist department of a hospital; or

(b) outside of the Perth Metropolitan Area, a doctor or general practitioner if he/she also works on an occasional basis from a local hospital or rural health service, or a hospice doctor.

**"attach"** has the same meaning as in the *Obligation to Connect Regulations*.

**"Australian Consumer Law (WA)"** means schedule 2 to the *Competition and Consumer Act 2010* (Cth) as modified by section 36 of the *Fair Trading Act 2010* (WA).

**"Australian Standard"** means a standard published by Standards Australia.

**"Authority"** means the Economic Regulation Authority established under the *Economic Regulation Authority Act 2003*.

**"basic living needs"** includes—

(a) rent or mortgage;

(b) other utilities (e.g., gas, phone and water);

(c) food and groceries;

(d) transport (including petrol and car expenses);

(e) childcare and school fees;

(f) clothing; and

(g) medical and dental expenses.

**"billing cycle"** means the regular recurrent period in which a ***customer*** receives a bill from a ***retailer***.

**"business customer"** means a ***customer*** who is not a ***residential customer***.

**"business day"** means any day except a Saturday, Sunday or ***public holiday***.

**"call centre"** means a dedicated centre that has the purpose of receiving and transmitting ***telephone*** calls in relation to customer service operations of the ***retailer*** or ***distributor***, as relevant, and consists of call centre staff and 1 or more information technology and communications systems designed to handle customer service calls and record call centre performance information.

**"change in personal circumstances"** includes—

(a) sudden and unexpected disability, illness of or injury to the ***residential customer*** or a dependant of the ***residential customer***;

(b) loss of or damage to property of the ***residential customer***; or

(c) other similar unforeseeable circumstances arising as a result of events beyond the control of the ***residential customer***.

**"Code"** means the *Code of Conduct for the Supply of Electricity to Small Use Customers 2018* as amended by the ***Authority*** under section 79 of the ***Act***.

**"collective customer"** means a ***customer***—

(a) who receives a single bill from the ***retailer*** for electricity supplied at two or more ***supply addresses***; or

(b) who is supplied electricity from the same ***retailer*** at multiple sites at a single ***supply address***.

**"complaint"** means an expression of dissatisfaction made to or about an organisation, related to its products, services, staff or the handling of a complaint, where a response or resolution is explicitly or implicitly expected or legally required.

**"concession"** means a concession, rebate, subsidy or grant related to the supply of electricity available to ***residential customers*** only.

**"connect"** means to ***attach*** by way of a physical link to a network and to ***energise*** the link**.**

**"consumption"** means the amount of electricity supplied by the ***retailer*** to the ***customer's supply address*** as recorded by the ***meter***.

**"contact"** means contact that is face to face, by ***telephone*** or by post, facsimile or ***electronic means***.

**"contestable customer"** means a ***customer*** at an exit point where the amount of electricity transferred at the exit point is more than the amount prescribed under the *Electricity Corporations (Prescribed Customers) Order 2007* made under the *Electricity Corporations Act 2005* or under another enactment dealing with the progressive introduction of customer contestability.

**"contract"** means a ***standard form contract*** or a ***non-standard contract***.

**"cooling-off period"** means the period specified in the ***contract*** as the cooling-off period.

**"credit retrieval"** means the ability for a ***pre-payment meter customer*** to recover any payments made for the supply of electricity.

**"customer"** means a customer who consumes not more than 160 MWh of electricity per annum.

**"de-energise"** means the removal of the supply voltage from the ***meter*** at the ***supply address*** while leaving the ***supply address attached***.

**"direct debit facility"** means a facility offered by a ***retailer*** to automatically deduct a payment from a ***customer's*** nominated account and entered into with a ***customer*** in accordance with clause 5.3.

**"disconnect"** means to ***de-energise*** the ***customer's supply address***, other than in the event of an ***interruption***.

**"disconnection warning"** means a notice in writing issued in accordance with clause 7.1(1)(c) or clause 7.4(1).

**"distributor"** means a person who holds a distribution licence or integrated regional licence under Part 2 of the ***Act***.

**"dual fuel contract"** means a ***non-standard contract*** for the sale of electricity and for the sale of gas by a ***retailer*** to a ***contestable customer***.

**"Electricity Industry Code"** means the *Electricity Industry (Network Quality and Reliability of Supply) Code 2005*.

**"electricity marketing agent"** means—

(a) a person who acts on behalf of a ***retailer***—

(i) for the purpose of obtaining new ***customers*** for the licensee; or

(ii) in dealings with existing ***customers*** in relation to ***contracts*** for the supply of electricity by the licensee;

(b) a person who engages in any other activity relating to the ***marketing*** of electricity that is prescribed for the purposes of this definition; or

(c) a representative, agent or employee of a person referred to in subclause (a) or (b),

but does not include a person who is a ***customer*** representative or the ***Housing Authority***.

**"electricity ombudsman"** means the ombudsman appointed under the scheme initially approved by the Minister or by the ***Authority*** for any amendments under section 92 of the ***Act***.

**"Electricity Generation and Retail Corporation"** means the body corporate established as such by the *Electricity Corporations Act 2005*.

**"electronic means"** means the internet, email, facsimile, SMS or other similar means but does not include ***telephone***.

**"emergency"** means an emergency due to the actual or imminent occurrence of an event which in any way endangers or threatens to endanger the safety or health of any person, or the maintenance of power system security, in Western Australia or which destroys or damages, or threatens to destroy or damage, any property in Western Australia.

**"energise"** has the same meaning as in the ***Obligation to Connect Regulations***.

**"energy data"** has the same meaning as in the ***Metering Code***.

**"export"** means the amount of electricity exported into the ***distributor's*** network as recorded by the ***meter***.

**"financial hardship"** means a state of more than immediate financial disadvantage which results in a ***residential customer*** being unable to pay an outstanding amount as required by a ***retailer*** without affecting the ability to meet the ***basic living needs*** of the ***residential customer*** or a dependant of the ***residential customer***.

**"historical debt"** means an amount outstanding for the supply of electricity by a ***retailer*** to a ***customer's*** previous ***supply address*** or ***supply addresses***.

**"Housing Authority"** means the body corporate in existence pursuant to section 6 of the *Housing Act 1980*.

**"instalment plan***"* means an arrangement between a ***retailer*** and a ***customer*** to assist the ***customer*** to remain ***connected***, reduce its arrears and minimise the risk of the ***customer*** getting into further debt where the ***customer*** pays in arrears or in advance and continued usage on its account according to an agreed payment schedule (generally involving payment of at least 3 instalments) taking into account the ***customer's*** capacity to pay. It does not include ***customers*** using an instalment plan as a matter of convenience or for flexible budgeting purposes.

**"interruption"** means the temporary unavailability of supply from the distribution network to a ***customer***, but does not include ***disconnection*** under Part 7.

**"interval meter"** has the same meaning as in the ***Metering Code***.

**"life support equipment"** means the equipment designated under the Life Support Equipment Electricity Subsidy Scheme.

**"marketing"** includes engaging or attempting to engage in any of the following activities by any means, including door to door or by ***telephone*** or other ***electronic means***—

(a) negotiations for, or dealings in respect of, a ***contract*** for the supply of electricity to a ***customer***; or

(b) advertising, promotion, market research or public relations in relation to the supply of electricity to ***customers***.

**"marketing identification number"** means a unique number assigned by a ***retailer*** to each ***electricity marketing agent*** acting on its behalf.

**"meter"** has the same meaning as in the ***Metering Code***.

**"metering agent"** means a person responsible for reading the ***meter*** on behalf of the ***distributor***.

**"Metering Code"** means the *Electricity Industry (Metering) Code 2012*.

**"metrology procedure"** has the same meaning as in the ***Metering Code***.

**"metropolitan area"** means—

(a) the region described in Schedule 3 of the *Planning and Development Act 2005*;

(b) the local government district of Mandurah;

(c) the local government district of Murray; and

(d) the townsites, as constituted under section 26 of the *Land Administration Act 1997*, of—

(i) Albany;

(ii) Bunbury;

(iii) Geraldton;

(iv) Kalgoorlie;
(v) Karratha;
(vi) Port Hedland; and
(vii) South Hedland.

**"National Interpreter Symbol"** means the national public information symbol "Interpreter Symbol" (with text) developed by Victoria in partnership with the Commonwealth, State and Territory governments in accordance with ***Australian Standard*** 2342.

**"non-contestable customer"** means a ***customer*** other than a ***contestable customer***.

**"non-standard contract"** means a contract entered into between a ***retailer*** and a ***customer***, or a class of ***customers***, that is not a ***standard form contract***.

**"Obligation to Connect Regulations"** means the *Electricity Industry (Obligation to Connect) Regulations 2005* (WA).

**"overcharging"** means the amount by which the amount charged in a bill or under a bill smoothing arrangement is greater than the amount that would have been charged if the amount of the bill was determined in accordance with clause 4.6(1)(a) as a result of some defect, error or default for which the ***retailer*** or ***distributor*** is responsible or contributed to, but does not include an ***adjustment***.

**"payment difficulties"** means a state of immediate financial disadvantage that results in a ***residential customer*** being unable to pay an outstanding amount as required by a ***retailer*** by reason of a ***change in personal circumstances***.

**"payment problems"** includes, without limitation, payment problems relating to a ***historical debt***.

**"premises"** means premises owned or occupied by a new or existing ***customer***.

**"pre-payment meter"** means a ***meter*** that requires a ***customer*** to pay for the supply of electricity prior to ***consumption***.

**"pre-payment meter customer"** means a ***customer*** who has a ***pre-payment meter*** operating at the ***customer's supply address***.

**"pre-payment meter service"** means a service for the supply of electricity where the ***customer*** agrees to purchase electricity by means of a ***pre-payment meter***.

**"public holiday"** means a public holiday in Western Australia.

**"re-certification"** means confirmation from an ***appropriately qualified medical practitioner*** that a person residing at the ***customer's supply address*** continues to require ***life support equipment***.

**"recharge facility"** means a facility where a ***pre-payment meter customer*** can purchase credit for the ***pre-payment meter***.

**"reconnect"** means to ***re-energise*** the ***customer's supply address*** following ***disconnection***.

**"re-energise"** means to restore the supply voltage to the ***meter*** at the ***supply address.***

**"regional area"** means all areas in Western Australia other than the ***metropolitan area***.

**"Regional Power Corporation"** means the body corporate established as such by the *Electricity Corporations Act 2005.*

**"relevant consumer representative"** means a person who may reasonably be expected to represent the interests of ***residential customers*** who are experiencing ***payment difficulties*** or ***financial hardship***, and includes financial counsellors.

**"reminder notice"** means a notice in writing issued in accordance with clause 7.1(1)(a).

**"reporting year"** means a year commencing on 1 July and ending on 30 June.

**"residential customer"** means a ***customer*** who consumes electricity solely for domestic use.

**"residential pre-payment meter customer"** means a ***customer*** who has a ***pre-payment meter*** operating at the ***customer's supply address*** and who consumes electricity solely for domestic use.

**"resolved"** means the decision or determination made by the ***retailer*** or ***distributor*** (as relevant) with respect to the ***complaint***, where the ***retailer*** or ***distributor***, having regard to the nature and particular circumstances of the ***complaint***, has used all reasonable steps to ensure the best possible approach to addressing the ***complaint***.

**"retailer"** means a person who holds a retail licence or integrated regional licence under Part 2 of the ***Act***.

**"standard form contract"** means a contract that is approved by the ***Authority*** under section 51 of the ***Act*** or prescribed by the Minister under section 55 of the ***Act*** prior to its repeal.

**"supply address"** means the ***premises*** to which electricity was, is or may be supplied under a ***contract***.

**"telephone"** means a device which is used to transmit and receive voice frequency signals.

**"temporary suspension of actions"** means a situation where a ***retailer*** temporarily suspends all ***disconnection*** and debt recovery procedures without entering into an alternative payment arrangement under clause 6.4(1).

**"time band"** refers to a period of time within a ***time of use tariff*** to which a given tariff rate applies.

**"time of use tariff"** means a tariff structure in which some or all of the tariff varies according to the time at which electricity is supplied.

**"TTY"** means a teletypewriter.

**"Type 7"** has the same meaning as in the ***Metering Code***.

**"undercharging"** includes, without limitation—

(a) the failure to issue a bill in accordance with clause 4.1 or clause 4.2 or to issue a bill under a bill smoothing arrangement; or

(b) the amount by which the amount charged in a bill or under a bill smoothing arrangement is less than the amount that would have been charged if the amount of the bill was determined in accordance with clause 4.6(1)(a) as a result of some defect, error or default for which the ***retailer*** or ***distributor*** is responsible or contributed to, but does not include an ***adjustment***.

**"unsolicited consumer agreement"** is defined in section 69 of the ***Australian Consumer Law (WA)***.

**"verifiable consent"** means consent that is given—

(a) expressly;

(b) in writing or orally;

(c) after the ***retailer*** or ***electricity marketing agent*** (whichever is relevant) has in plain language appropriate to that ***customer*** disclosed all matters materially relevant to the giving of the consent, including each specific purpose for which the consent will be used; and

(d) by the ***customer*** or a nominated person competent to give consent on the ***customer's*** behalf.

**1.6 Application**

Subject to clause 1.10, the ***Code*** applies to—

(a) ***retailers***;

(b) ***distributors***; and

(c) ***electricity marketing agents***,

in accordance with Part 6 of the ***Act***.

**1.7 Purpose**

The ***Code*** regulates and controls the conduct of ***electricity marketing agents***, ***retailers*** and ***distributors***.

**1.8 Objectives**

The objectives of the ***Code*** are to—

(a) define standards of conduct in the supply and ***marketing*** of electricity to ***customers***; and

(b) protect ***customers*** from undesirable ***marketing*** conduct.

**1.9 Amendment and Review**

The process for amendment and review of the ***Code*** is set out in Part 6 of the ***Act***.

**1.10 Variation from the Code**

A ***retailer*** and a ***customer*** may agree that the following clauses (marked with an asterisk throughout) do not apply, or are to be amended in their application, in a ***non-standard contract***—

(a) 4.1;

(b) 4.2;

(c) 5.1;

(d) 5.2;

(e) 5.4;

(f) 5.7; and

(g) 8.1.

## PART 2—MARKETING

**NOTE:** This ***Code*** is not the only compliance obligation in relation to marketing. Other State and Federal laws apply to marketing activities, including but not limited to the *Fair Trading Act 2010* (WA), the *Spam Act 2003* (Cth), the *Spam Regulations 2004* (Cth), the *Do Not Call Register Act 2006* (Cth), the *Telecommunications (Do Not Call Register) (Telemarketing and Research Calls) Industry Standard 2007* (Cth) and the *Privacy Act 1988* (Cth).

*Division 1—Obligations particular to retailers*

**2.1 Retailers to ensure electricity marketing agents comply with this Part**

A ***retailer*** must ensure that its ***electricity marketing agents*** comply with this Part.

*Division 2—Contracts and information to be provided to customers*

**2.2 Entering into a standard form contract**

(1) When entering into a ***standard form contract*** that is not an ***unsolicited consumer agreement***, a ***retailer*** or ***electricity marketing agent*** must—

(a) record the date the ***standard form contract*** was entered into;

(b) give, or make available to the ***customer*** at no charge, a copy of the ***standard form contract***—

(i) at the time the ***standard form contract*** is entered into, if the ***standard form contract*** was not entered into over the ***telephone***; or

(ii) as soon as possible, but not more than 5 ***business days*** after the ***standard form contract*** was entered into, if the ***standard form contract*** was entered into over the ***telephone***.

(2) Subject to subclause (3), a ***retailer*** or ***electricity marketing agent*** must give the following information to a ***customer*** no later than on or with the ***customer's*** first bill—

(a) how the ***customer*** may obtain—

(i) a copy of the ***Code***; and

(ii) details on all relevant tariffs, fees, charges, ***alternative tariffs*** and service levels that may apply to the ***customer***,

(b) the scope of the ***Code***;

(c) that a ***retailer*** and ***electricity marketing agent*** must comply with the ***Code***;

(d) how the ***retailer*** may assist if the ***customer*** is experiencing ***payment difficulties*** or ***financial hardship***;

(e) with respect to a ***residential customer***, the ***concessions*** that may apply to the ***residential customer***;

(f) the ***distributor's*** 24 hour ***telephone*** number for faults and emergencies;

(g) with respect to a ***residential customer***, how the ***residential customer*** may access the ***retailer's***—

(i) multi-lingual services (in languages reflective of the ***retailer's customer*** base); and

(ii) ***TTY*** services;

(h) how to make an enquiry of, or ***complaint*** to, the ***retailer***; and

(i) general information on the safe use of electricity.

(3) For the purposes of subclause (2), a ***retailer*** or ***electricity marketing agent*** is taken to have given the ***customer*** the required information if—

(a) the ***retailer*** or ***electricity marketing agent*** has provided the information to that ***customer*** within the preceding 12 months; or

(b) the ***retailer*** or ***electricity marketing agent*** has informed the ***customer*** how the ***customer*** may obtain the information, unless the ***customer*** requests to receive the information.

**2.3 Entering into a non-standard contract**

(1) When entering into a ***non-standard contract*** that is not an ***unsolicited consumer agreement***, a ***retailer*** or ***electricity marketing agent*** must—

(a) obtain and make a record of the ***customer's verifiable consent*** that the ***non-standard contract*** has been entered into, and

(b) give, or make available to the ***customer*** at no charge, a copy of the ***non-standard contract***—

(i) at the time the ***non-standard contract*** is entered into, if the ***non-standard contract*** was not entered into over the ***telephone***; or

(ii) as soon as possible, but not more than 5 ***business days*** after the ***non-standard contract*** was entered into, if the ***non-standard contract*** was entered into over the ***telephone***.

(2) Before entering into a ***non-standard contract***, a ***retailer*** or ***electricity marketing agent*** must give the ***customer*** the following information—

(a) details of any right the ***customer*** may have to rescind the ***non-standard contract*** during a ***cooling-off period*** and the charges that may apply if the ***customer*** rescinds the ***non-standard contract***;

(b) how the ***customer*** may obtain—

(i) a copy of the ***Code***; and

(ii) details on all relevant tariffs, fees, charges, ***alternative tariffs*** and service levels that may apply to the ***customer***,

(c) the scope of the ***Code***;

(d) that a ***retailer*** and ***electricity marketing agent*** must comply with the ***Code***;

(e) how the ***retailer*** may assist if the ***customer*** is experiencing ***payment difficulties*** or ***financial hardship***;

(f) with respect to a ***residential customer***, the ***concessions*** that may apply to the ***residential customer***;

(g) the ***distributor's*** 24 hour ***telephone*** number for faults and emergencies;

(h) with respect to a ***residential customer***, how the ***residential customer*** may access the ***retailer's***—

(i) multi-lingual services (in languages reflective of the ***retailer's customer*** base); and

(ii) ***TTY*** services;

(i) how to make an enquiry of, or ***complaint*** to, the ***retailer***; and

(j) general information on the safe use of electricity.

(3) For the purposes of subclauses (2)(b)-(j), a ***retailer*** or ***electricity marketing agent*** is taken to have given the ***customer*** the required information if—

(a) the ***retailer*** or ***electricity marketing agent*** has provided the information to that ***customer*** within the preceding 12 months; or

(b) the ***retailer*** or ***electricity marketing agent*** has informed the ***customer*** how the ***customer*** may obtain the information, unless the ***customer*** requests to receive the information.

(4) Before arranging a ***non-standard contract***, the ***Electricity Generation and Retail Corporation*** or ***Regional Power Corporation***, or an ***electricity marketing agent*** acting on behalf of it, must give a ***customer*** the following information—

(a) that the ***customer*** is able to choose the ***standard form contract*** offered by the relevant ***retailer***; and

(b) the difference between the ***non-standard contract*** and the ***standard form contract***.

(5) Subject to subclause (3), a ***retailer*** or ***electricity marketing agent*** must obtain the ***customer's verifiable consent*** that the information in clause 2.3(2) and clause 2.3(4) (if applicable) has been given.

*Division 3—Marketing Conduct*

**2.4 Standards of Conduct**

(1) A ***retailer*** or ***electricity marketing agent*** must ensure that the inclusion of ***concessions*** is made clear to ***residential customers*** and any prices that exclude ***concessions*** are disclosed.

(2) A ***retailer*** or ***electricity marketing agent*** must ensure that a ***customer*** is able to ***contact*** the ***retailer*** or ***electricity marketing agent*** on the ***retailer's*** or ***electricity marketing agent's*** contact details, including ***telephone*** number, during the normal business hours of the ***retailer*** or ***electricity marketing agent*** for the purposes of enquiries, verifications and ***complaints***.

**2.5 Contact for the purposes of marketing**

(1) A ***retailer*** or ***electricity marketing agent*** who makes ***contact*** with a ***customer*** for the purposes of ***marketing*** must, on request by the ***customer***—

(a) provide the ***customer*** with the ***complaints telephone*** number of the ***retailer*** on whose behalf the ***contact*** is being made;

(b) provide the ***customer*** with the ***telephone*** number of the ***electricity ombudsman***; and

(c) for ***contact*** by an ***electricity marketing agent***, provide the ***customer*** with the ***electricity marketing agent's marketing identification number***.

(2) A ***retailer*** or ***electricity marketing agent*** who meets with a ***customer*** face to face for the purposes of ***marketing*** must—

(a) wear a clearly visible and legible identity card that shows—

(i) his or her first name;

(ii) his or her photograph;

(iii) his or her ***marketing identification number*** (for contact by an ***electricity marketing agent***); and

(iv) the name of the ***retailer*** on whose behalf the ***contact*** is being made; and

(b) provide the ***customer***, in writing—

(i) his or her first name;

(ii) his or her ***marketing identification number*** (for contact by an ***electricity marketing agent***);

(iii) the name of the ***retailer*** on whose behalf the ***contact*** is being made;

(iv) the ***complaints telephone*** number of the ***retailer*** on whose behalf the ***contact*** is being made;

(v) the business address and Australian Business or Company Number of the ***retailer*** on whose behalf the ***contact*** is being made; and

(vi) the ***telephone*** number of the ***electricity ombudsman***,

as soon as practicable following a request by the ***customer*** for the information.

**2.6 No canvassing or advertising signs**

A ***retailer*** or ***electricity marketing agent*** who visits a person's ***premises*** for the purposes of ***marketing*** must comply with any clearly visible signs at the person's ***premises*** indicating—

(a) canvassing is not permitted at the ***premises***; or

(b) no advertising or similar material is to be left at the ***premises*** or in a letterbox or other receptacle at, or associated with, the ***premises***.

*Division 4—Miscellaneous*

**2.7 Compliance**

(1) An ***electricity marketing agent*** who contravenes a provision of this Part commits an offence.

Penalty—

(a) for an individual, $5 000;

(b) for a body corporate, $20 000.

(2) If an ***electricity marketing agent*** of a ***retailer*** contravenes a provision of this Part, the ***retailer*** commits an offence.

Penalty—

(a) for an individual, $5 000;

(b) for a body corporate, $20 000.

(3) It is a defence to a prosecution for a contravention of subclause (2) if the ***retailer*** proves that the ***retailer*** used reasonable endeavours to ensure that the ***electricity marketing agent*** complied with the ***Code***.

**2.8 Presumption of authority**

A person who carries out any ***marketing*** activity in the name of or for the benefit of—

(a) a ***retailer***; or

(b) an ***electricity marketing agent***,

is to be taken, unless the contrary is proved, to have been employed or authorised by the ***retailer*** or ***electricity marketing agent*** to carry out that activity.

**2.9 Electricity marketing agent complaints**

An ***electricity marketing agent*** must—

(a) keep a record of each ***complaint*** made by a ***customer***, or person ***contacted*** for the purposes of ***marketing***, about the ***marketing*** carried out by or on behalf of the ***electricity marketing agent***; and

(b) on request by the ***electricity ombudsman*** in relation to a particular ***complaint***, give to the ***electricity ombudsman,*** within 28 days of receiving the request, all information that the ***electricity marketing agent*** has relating to the ***complaint***.

**2.10 Records to be kept**

A record or other information that an ***electricity marketing agent*** is required by this ***Code*** to keep must be kept for at least 2 years—

(a) after the last time the person to whom the information relates was ***contacted*** by or on behalf of the ***electricity marketing agent***; or

(b) after receipt of the last ***contact*** from or on behalf of the ***electricity marketing agent***, whichever is later.

## PART 3—CONNECTION

**3.1 Obligation to forward connection application**

(1) If a ***retailer*** agrees to sell electricity to a ***customer*** or arrange for the ***connection*** of the ***customer's supply address***, the ***retailer*** must forward the ***customer's*** request for ***connection*** to the relevant ***distributor*** for the purpose of arranging for the ***connection*** of the ***customer's supply address*** (if the ***customer's supply address*** is not already ***connected***).

(2) Unless the ***customer*** agrees otherwise, a ***retailer*** must forward the ***customer's*** request for ***connection*** to the relevant ***distributor***—

(a) that same day, if the request is received before 3pm on a ***business day***; or

(b) the next ***business day***, if the request is received after 3pm or on a Saturday, Sunday or ***public holiday***.

(3) In this clause—

**"customer"** includes a ***customer's*** nominated representative.

[Note: The ***Obligation to Connect Regulations*** provide regulations in relation to the obligation upon a ***distributor*** to ***energise*** and ***connect*** a ***premises***.]

## PART 4—BILLING

*Division 1—Billing cycles*

**4.1 Billing cycle***

A ***retailer*** must issue a bill—

(a) no more than once a month, unless the ***retailer*** has—

(i) obtained a ***customer's verifiable consent*** to issue bills more frequently;

(ii) given the ***customer***—

(A) a ***reminder notice*** in respect of 3 consecutive bills; and

(B) notice as contemplated under clause 4.2;

(iii) received a request from the ***customer*** to change their ***supply address*** or issue a final bill, in which case the ***retailer*** may issue a bill more than once a month for the purposes of facilitating the request; or

(iv) less than a month after the last bill was issued, received metering data from the ***distributor*** for the purposes of preparing the ***customer's*** next bill;

(b) no less than once every 3 months, unless the ***retailer***—

(i) has obtained the ***customer's verifiable consent*** to issue bills less frequently;

(ii) has not received the required metering data from the ***distributor*** for the purposes of preparing the bill, despite using best endeavours to obtain the metering data from the ***distributor***; or

(iii) is unable to comply with this timeframe due to the actions of the ***customer*** where the ***customer*** is supplied under a deemed ***contract*** pursuant to regulation 37 of the *Electricity Industry (Customer Contracts) Regulations 2005* and the bill is the first bill issued to that ***customer*** at that ***supply address***.

**4.2 Shortened billing cycle***

(1) For the purposes of clause 4.1(a)(ii), a ***retailer*** has given a ***customer*** notice if the ***retailer*** has advised the ***customer***, prior to placing the ***customer*** on a shortened ***billing cycle***, that—

(a) receipt of a third ***reminder notice*** may result in the ***customer*** being placed on a shortened ***billing cycle***;

(b) if the ***customer*** is a ***residential customer***, assistance is available for ***residential customers*** experiencing ***payment difficulties*** or ***financial hardship***;

(c) the ***customer*** may obtain further information from the ***retailer*** on a specified ***telephone*** number; and

(d) once on a shortened ***billing cycle***, the ***customer*** must pay 3 consecutive bills by the due date to return to the ***customer's*** previous ***billing cycle***.

(2) Notwithstanding clause 4.1(a)(ii), a ***retailer*** must not place a ***residential customer*** on a shortened ***billing cycle*** without the ***customer's verifiable consent*** if—

(a) the ***residential customer*** informs the ***retailer*** that the ***residential customer*** is experiencing ***payment difficulties*** or ***financial hardship***; and

(b) the assessment carried out under clause 6.1 indicates to the ***retailer*** that the ***customer*** is experiencing ***payment difficulties*** or ***financial hardship***.

(3) If, after giving notice as required under clause 4.1(a)(ii), a ***retailer*** decides to shorten the ***billing cycle*** in respect of a ***customer***, the ***retailer*** must give the ***customer*** written notice of that decision within 10 ***business days*** of making that decision.

(4) A shortened ***billing cycle*** must be at least 10 ***business days***.

(5) A ***retailer*** must return a ***customer***, who is subject to a shortened ***billing cycle*** and has paid 3 consecutive bills by the due date, on request, to the ***billing cycle*** that applied to the ***customer*** before the shortened ***billing cycle*** commenced.

(6) A ***retailer*** must inform a ***customer***, who is subject to a shortened ***billing cycle***, at least once every 3 months that, if the ***customer*** pays 3 consecutive bills by the due date of each bill, the ***customer*** will be returned, on request, to the ***billing cycle*** that applied to the ***customer*** before the shortened ***billing cycle*** commenced.

**4.3 Bill smoothing**

(1) Notwithstanding clause 4.1, in respect of any 12 month period, on receipt of a request by a ***customer***, a ***retailer*** may provide the ***customer*** with a bill which reflects a bill smoothing arrangement.

(2) If a ***retailer*** provides a ***customer*** with a bill under a bill smoothing arrangement pursuant to subclause (1), the ***retailer*** must ensure that—

(a) the amount payable under each bill is initially the same and is set out on the basis of—

(i) the ***retailer's*** initial estimate of the amount of electricity the ***customer*** will consume over the 12 month period;

(ii) the relevant supply charge for the ***consumption*** and any other charges related to the supply of electricity agreed with the ***customer***;

(iii) any ***adjustment*** from a previous bill smoothing arrangement (after being adjusted in accordance with clause 4.19); and

(iv) any other relevant information provided by the ***customer***.

(b) the initial estimate is based on the ***customer***'s historical billing data or, if the ***retailer*** does not have that data, the likely average ***consumption*** at the relevant tariff calculated over the 12 month period as estimated by the ***retailer***;

(c) in or before the seventh month—

(i) the ***retailer*** re-estimates the amount under subclause (2)(a)(i), taking into account any ***meter*** readings and relevant seasonal and other factors agreed with the ***customer***; and

(ii) unless otherwise agreed, if there is a difference between the initial estimate and the re-estimate of greater than 10%, the amount payable under each of the remaining bills in the 12 month period is to be reset to reflect that difference; and

(d) at the end of the 12 month period, or any other time agreed between the ***retailer*** and the ***customer*** and at the end of the bill smoothing arrangement, the ***meter*** is read and any ***adjustment*** is included on the next bill in accordance with clause 4.19; and

(e) the ***retailer*** has obtained the ***customer's verifiable consent*** to the ***retailer*** billing on that basis; and

(f) if the bill smoothing arrangement between the ***retailer*** and the ***customer*** is for a defined period or has a specified end date, the ***retailer*** must no less than one month before the end date of the bill smoothing arrangement notify the ***customer*** in writing—

(i) that the bill smoothing arrangement is due to end; and

(ii) the options available to the ***customer*** after the bill smoothing arrangement has ended.

**4.4 How bills are issued**

A ***retailer*** must issue a bill to a ***customer*** at the address nominated by the ***customer***, which may be an email address.

*Division 2—Contents of a Bill*

**4.5 Particulars on each bill**

(1) Unless a ***customer*** agrees otherwise, a ***retailer*** must include at least the following information on the ***customer's*** bill—

(a) either the range of dates of the metering supply period or the date of the current ***meter*** reading or estimate;

(b) if the ***customer*** has a ***Type 7*** connection point, the calculation of the tariff in accordance with the procedures set out in clause 4.6(1)(c);

(c) if the ***customer*** has an ***accumulation meter*** installed (whether or not the ***customer*** has entered into an ***export*** purchase agreement with a ***retailer***)—

(i) the current ***meter*** reading or estimate; or

(ii) if the ***customer*** is on a ***time of use tariff***, the current ***meter*** reading or estimate for the total of each ***time band*** in the ***time of use tariff***;

(d) if the ***customer*** has not entered into an ***export*** purchase agreement with a ***retailer***—

(i) the ***customer's consumption***, or estimated ***consumption***; and

(ii) if the ***customer*** is on a ***time of use tariff***, the ***customer's consumption*** or estimated ***consumption*** for the total of each ***time band*** in the ***time of use tariff***;

(e) if the ***customer*** has entered into an ***export*** purchase agreement with a ***retailer***—

(i) the ***customer's consumption*** and ***export***;

(ii) if the ***customer*** is on a ***time of use tariff***, the ***customer's consumption*** and ***export*** for the total of each ***time band*** in the ***time of use tariff***; and

(iii) if the ***customer*** has an ***accumulation meter*** installed and the ***export meter*** reading has been obtained by the ***retailer***, the ***export meter*** reading;

(f) the number of days covered by the bill;

(g) the dates on which the account period begins and ends, if different from the range of dates of the metering supply period or the range of dates of the metering supply period have not been included on the bill already;

(h) the applicable tariffs;

(i) the amount of any other fees or charges and details of the service provided;

(j) with respect to a ***residential customer***, a statement that the ***residential customer*** may be eligible to receive ***concessions*** and how the ***residential customer*** may find out its eligibility for those ***concessions***;

(k) if applicable, the value and type of any ***concessions*** provided to the ***residential customer*** that are administered by the ***retailer***;

(l) if applicable, a statement on the bill that an additional fee may be imposed to cover the costs of late payment from the ***customer***;

(m) the average daily cost of ***consumption,*** including charges ancillary to the ***consumption*** of electricity, unless the ***customer*** is a ***collective customer***;

(n) the average daily ***consumption*** unless the ***customer*** is a ***collective customer***;

(o) a ***meter*** identification number (clearly placed on the part of the bill that is retained by the ***customer***);

(p) the amount due;

(q) the due date;

(r) a summary of the payment methods;

(s) a statement advising the ***customer*** that assistance is available if the ***customer*** is experiencing problems paying the bill;

(t) a ***telephone*** number for billing and payment enquiries;

(u) a ***telephone*** number for ***complaints***;

(v) the ***contact*** details for the ***electricity ombudsman***;

(w) the ***distributor's*** 24 hour ***telephone*** number for faults and ***emergencies***;

(x) the ***supply address*** and any relevant mailing address;

(y) the ***customer's*** name and account number;

(z) the amount of arrears or credit;

(aa) if applicable and not included on a separate statement—

(i) payments made under an ***instalment plan***; and

(ii) the total amount outstanding under the ***instalment plan***;

(bb) with respect to ***residential customers,*** the ***telephone*** number for interpreter services together with the ***National Interpreter Symbol*** and the words "Interpreter Services";

(cc) the ***telephone*** number for ***TTY*** services; and

(dd) to the extent that the data is available, a graph or bar chart illustrating the ***customer's*** amount due or ***consumption*** for the period covered by the bill, the previous bill and the bill for the same period last year.

(2) Notwithstanding subclause (1)(dd), a ***retailer*** is not obliged to include a graph or bar chart on the bill if the bill is—

(a) not indicative of a ***customer's*** actual ***consumption***;

(b) not based upon a ***meter*** reading; or

(c) for a ***collective customer***.

(3) If a ***retailer*** identifies a ***historical debt*** and wishes to bill a ***customer*** for that ***historical debt***, the ***retailer*** must advise the ***customer*** of—

(a) the amount of the ***historical debt***; and

(b) the basis of the ***historical debt***,

before, with, or on the ***customer's*** next bill.

*Division 3—Basis of Bill*

**4.6 Basis of bill**

Subject to clauses 4.3 and 4.8, a ***retailer*** must base a ***customer's*** bill on—

(a) the ***distributor's*** or ***metering agent's*** reading of the ***meter*** at the ***customer's supply address***;

(b) the ***customer's*** reading of the ***meter*** at the ***customer's supply address***, provided the ***distributor*** has expressly or impliedly consented to the ***customer*** reading the ***meter*** for the purpose of determining the amount due; or

(c) if the connection point is a ***Type 7*** connection point, the procedure as set out in the ***metrology procedure*** or ***Metering Code***, or otherwise as set out in any applicable law.

**4.7 Frequency of meter readings**

Other than in respect of a ***Type 7*** connection point, a ***retailer*** must use its best endeavours to ensure that metering data is obtained as frequently as required to prepare its bills.

**4.8 Estimations**

(1) If a ***retailer*** is unable to reasonably base a bill on a reading of the ***meter*** at a ***customer's supply address***, the ***retailer*** must give the ***customer*** an estimated bill.

(2) If a ***retailer*** bases a bill upon an estimation, the ***retailer*** must clearly specify on the ***customer's*** bill that—

(a) the ***retailer*** has based the bill upon an estimation;

(b) the ***retailer*** will tell the ***customer*** on request—

(i) the basis of the estimation; and

(ii) the reason for the estimation; and

(c) the ***customer*** may request—

(i) a verification of ***energy data***; and

(ii) a ***meter*** reading.

(3) A ***retailer*** must tell a ***customer*** on request the—

(a) basis for the estimation; and

(b) reason for the estimation.

(4) For the purpose of this clause, where the ***distributor's*** or ***metering agent's*** reading of the ***meter*** at the ***customer's supply address*** is partly based on estimated data, then subject to any applicable law—

(a) where more than ten per cent of the ***interval meter*** readings are estimated ***interval meter*** readings; and

(b) the actual ***energy data*** cannot otherwise be derived,

for that billing period, the bill is deemed to be an estimated bill.

**4.9 Adjustments to subsequent bills**

If a ***retailer*** gives a ***customer*** an estimated bill and the ***meter*** is subsequently read, the ***retailer*** must include an ***adjustment*** on the next bill to take account of the actual ***meter*** reading in accordance with clause 4.19.

**4.10 Customer may request meter reading**

If a ***retailer*** has based a bill upon an estimation because a ***customer*** failed to provide access to the ***meter*** and the ***customer***—

(a) subsequently requests the ***retailer*** to replace the estimated bill with a bill based on an actual reading of the ***customer's meter***;

(b) pays the ***retailer's*** reasonable charge for reading the ***meter*** (if any); and

(c) provides due access to the ***meter***,

the ***retailer*** must use its best endeavours to do so.

*Division 4—Meter testing*

**4.11 Customer requests testing of meters or metering data**

(1) If a ***customer***—

(a) requests the ***meter*** to be tested; and

(b) pays the ***retailer's*** reasonable charge for testing the ***meter*** (if any),

the ***retailer*** must request the ***distributor*** or ***metering agent*** to test the ***meter***.

(2) If the ***meter*** is tested and found to be defective, the ***retailer's*** reasonable charge for testing the ***meter*** (if any) is to be refunded to the ***customer***.

*Division 5—Alternative Tariffs*

**4.12 Customer applications**

(1) If a ***retailer*** offers ***alternative tariffs*** and a ***customer***—

(a) applies to receive an ***alternative tariff***; and

(b) demonstrates to the ***retailer*** that the ***customer*** satisfies all of the conditions relating to eligibility for the ***alternative tariff***,

the ***retailer*** must change the ***customer*** to the ***alternative tariff*** within 10 ***business days*** of the ***customer*** satisfying those conditions.

(2) For the purposes of subclause (1), the effective date of change will be—

(a) the date on which the last ***meter*** reading at the previous tariff is obtained; or

(b) the date the ***meter*** adjustment is completed, if the change requires an adjustment to the ***meter*** at the ***customer's supply address***.

**4.13 Written notification of a change to an alternative tariff**

If—

(a) a ***customer's*** electricity use at the ***customer's supply address*** changes or has changed; and

(b) the ***customer*** is no longer eligible to continue to receive an existing, more beneficial tariff,

a ***retailer*** must, prior to changing the ***customer*** to the tariff applicable to the ***customer's*** use of electricity at that ***supply address***, give the ***customer*** written notice of the proposed change.

*Division 6—Final bill*

**4.14 Request for final bill**

(1) If a ***customer*** requests a ***retailer*** to issue a final bill at the ***customer's supply address***, the ***retailer*** must use reasonable endeavours to arrange for that bill in accordance with the ***customer's*** request.

(2) If a ***customer's*** account is in credit at the time of account closure, subject to subclause (3), a ***retailer*** must, at the time of the final bill, ask the ***customer*** for instructions whether the ***customer*** requires the ***retailer*** to transfer the amount of credit to—

(a) another account the ***customer*** has, or will have, with the ***retailer***; or

(b) a bank account nominated by the ***customer***, and

the ***retailer*** must credit the account, or pay the amount of credit in accordance with the ***customer's*** instructions, within 12 ***business days*** of receiving the instructions or other such time as agreed with the ***customer***.

(3) If a ***customer's*** account is in credit at the time of account closure, and the ***customer*** owes a debt to a ***retailer***, the ***retailer*** may, with written notice to the ***customer***, use that credit to set off the debt owed to the ***retailer***. If, after the set off, there remains an amount of credit, the ***retailer*** must ask the ***customer*** for instructions to transfer the remaining amount of credit in accordance with subclause (2).

*Division 7—Review of bill*

**4.15 Review of bill**

Subject to a ***customer***—

(a) paying—

(i) that portion of the bill under review that the ***customer*** and a ***retailer*** agree is not in dispute; or

(ii) an amount equal to the average amount of the ***customer's*** bills over the previous 12 months (excluding the bill in dispute),

whichever is less; and

(b) paying any future bills that are properly due,

a ***retailer*** must review the ***customer's*** bill on request by the ***customer***.

**4.16 Procedures following a review of a bill**

(1) If, after conducting a review of a bill, a ***retailer*** is satisfied that the bill is—

(a) correct, the ***retailer***—

(i) may require a ***customer*** to pay the unpaid amount;

(ii) must advise the ***customer*** that the ***customer*** may request the ***retailer*** to arrange a ***meter*** test in accordance with applicable law; and

(iii) must advise the ***customer*** of the existence and operation of the ***retailer's*** internal ***complaints*** handling processes and details of any applicable external ***complaints*** handling processes,

or

(b) incorrect, the ***retailer*** must adjust the bill in accordance with clauses 4.17 and 4.18.

(2) A ***retailer*** must inform a ***customer*** of the outcome of the review as soon as practicable.

(3) If a ***retailer*** has not informed a ***customer*** of the outcome of the review within 20 ***business days*** from the date of receipt of the request for review under clause 4.15, the ***retailer*** must provide the ***customer*** with notification of the status of the review as soon as practicable.

*Division 8—Undercharging, overcharging and adjustment*

**4.17 Undercharging**

(1) This clause 4.17 applies whether the ***undercharging*** became apparent through a review under clause 4.15 or otherwise.

(2) If a ***retailer*** proposes to recover an amount ***undercharged*** as a result of an error, defect or default for which the ***retailer*** or ***distributor*** is responsible (including where a ***meter*** has been found to be defective), the ***retailer*** must—

(a) subject to subclause (b), limit the amount to be recovered to no more than the amount ***undercharged*** in the 12 months prior to the date on which the ***retailer*** notified the ***customer*** that ***undercharging*** had occurred;

(b) other than in the event that the information provided by a ***customer*** is incorrect, if a ***retailer*** has changed the ***customer*** to an ***alternative tariff*** in the circumstances set out in clause 4.13 and, as a result of the ***customer*** being ineligible to receive the tariff charged prior to the change, the ***retailer*** has ***undercharged*** the ***customer***, limit the amount to be recovered to no more than the amount ***undercharged*** in the 12 months prior to the date on which the ***retailer*** notified the ***customer*** under clause 4.13.

(c) notify the ***customer*** of the amount to be recovered no later than the next bill, together with an explanation of that amount;

(d) subject to subclause (3), not charge the ***customer*** interest on that amount or require the ***customer*** to pay a late payment fee; and

(e) in relation to a ***residential customer***, offer the ***customer*** time to pay that amount by means of an ***instalment plan*** in accordance with clause 6.4(2) and covering a period at least equal to the period over which the recoverable ***undercharging*** occurred.

(3) If, after notifying a ***customer*** of the amount to be recovered in accordance with subclause (2)(c), the ***customer*** has failed to pay the amount to be recovered by the due date and has not entered into an ***instalment plan*** under subclause (2)(e), a ***retailer*** may charge the ***customer*** interest on that amount from the due date or require the ***customer*** to pay a late payment fee.

(4) For the purpose of subclause (2), an ***undercharge*** that has occurred as a result of a ***customer*** denying access to the ***meter*** is not an ***undercharge*** as a result of an error, defect or default for which a ***retailer*** or ***distributor*** is responsible.

**4.18 Overcharging**

(1) This clause 4.18 applies whether the ***overcharging*** became apparent through a review under clause 4.15 or otherwise.

(2) If a ***customer*** (including a ***customer*** who has vacated the ***supply address***) has been ***overcharged*** as a result of an error, defect or default for which a ***retailer*** or ***distributor*** is responsible (including where a ***meter*** has been found to be defective), the ***retailer*** must use its best endeavours to inform the ***customer*** accordingly within 10 ***business days*** of the ***retailer*** becoming aware of the error, defect or default and, subject to subclauses (6) and (7), ask the ***customer*** for instructions as to whether the amount should be—

(a) credited to the ***customer's*** account; or

(b) repaid to the ***customer***.

(3) If a ***retailer*** receives instructions under subclause (2), the ***retailer*** must pay the amount in accordance with the ***customer's*** instructions within 12 ***business days*** of receiving the instructions.

(4) If a ***retailer*** does not receive instructions under subclause (2) within 5 ***business days*** of making the request, the ***retailer*** must use reasonable endeavours to credit the amount ***overcharged*** to the ***customer's*** account.

(5) No interest shall accrue to a credit or refund referred to in subclause (2).

(6) If the amount referred to in subclause (2) is less than $100, a ***retailer*** may notify a ***customer*** of the ***overcharge*** by no later than the next bill after the ***retailer*** became aware of the error, and—

(a) ask the ***customer*** for instructions under subclause (2) (in which case subclauses (3) and (4) apply as if the ***retailer*** sought instructions under subclause (2)); or

(b) credit the amount to the ***customer's*** next bill.

(7) If a ***customer*** has been ***overcharged*** by a ***retailer***, and the ***customer*** owes a debt to the ***retailer***, then provided that the ***customer*** is not a ***residential customer*** experiencing ***payment difficulties*** or ***financial hardship***, the ***retailer*** may, with written notice to the ***customer***, use the amount of the ***overcharge*** to set off the debt owed to the ***retailer***. If, after the set off, there remains an amount of credit, the ***retailer*** must deal with that amount of credit in accordance with subclause (2) or, if the amount is less than $100, subclause (6).

(a) Not Used

(b) Not Used

**4.19 Adjustments**

(1) If a ***retailer*** proposes to recover an amount of an ***adjustment*** which does not arise due to any act or omission of a ***customer***, the ***retailer*** must—

(a) limit the amount to be recovered to no more than the amount of the ***adjustment*** for the 12 months prior to the date on which the ***meter*** was read on the basis of the ***retailer's*** estimate of the amount of the ***adjustment*** for the 12 month period taking into account any ***meter*** readings and relevant seasonal and other factors agreed with the ***customer***;

(b) notify the ***customer*** of the amount of the ***adjustment*** no later than the next bill, together with an explanation of that amount;

(c) not require the ***customer*** to pay a late payment fee; and

(d) in relation to a ***residential customer***, offer the ***customer*** time to pay that amount by means of an ***instalment plan*** in accordance with clause 6.4(2) and covering a period at least equal to the period to which the ***adjustment*** related.

(2) If the ***meter*** is read under either clause 4.6 or clause 4.3(2)(d) and the amount of the ***adjustment*** is an amount owing to the ***customer***, the ***retailer*** must use its best endeavours to inform the ***customer*** accordingly within 10 ***business days*** of the ***retailer*** becoming aware of the ***adjustment*** and, subject to subclauses (5) and (7), ask the ***customer*** for instructions as to whether the amount should be—

(a) credited to the ***customer's*** account;

(b) repaid to the ***customer***; or

(c) included as a part of the new bill smoothing arrangement if the ***adjustment*** arises under clause 4.3(2)(a)-(b),

(3) If a ***retailer*** received instructions under subclause (2), the ***retailer*** must pay the amount in accordance with the ***customer's*** instructions within 12 ***business days*** of receiving the instructions.

(4) If a ***retailer*** does not receive instructions under subclause (2) within 5 ***business days*** of making the request, the ***retailer*** must use reasonable endeavours to credit the amount of the ***adjustment*** to the ***customer's*** account.

(5) If the amount referred to in subclause (2) is less than $100, the ***retailer*** may notify the ***customer*** of the ***adjustment*** by no later than the next bill after the ***meter*** is read; and

(a) ask the ***customer*** for instructions under subclause (2), (in which case subclauses (3) and (4) apply as if the ***retailer*** sought instructions under subclause (2)); or

(b) credit the amount to the ***customer's*** next bill.

(6) No interest shall accrue to an ***adjustment*** amount under subclause (1) or (2).

(7) If the amount of the ***adjustment*** is an amount owing to the ***customer***, and the ***customer*** owes a debt to the ***retailer***, then provided that the ***customer*** is not a ***residential customer*** experiencing ***payment difficulties*** or ***financial hardship***, the ***retailer*** may, with written notice to the ***customer***, use the amount of the ***adjustment*** to set off the debt owed to the ***retailer***. If, after the set off, there remains an amount of credit, the ***retailer*** must deal with that amount of credit in accordance with subclause (2) or, if the amount is less than $100, subclause (5).

(a) Not Used

(b) Not Used

## PART 5—PAYMENT

**5.1 Due dates for payment***

(1) The due date on a bill must be at least 12 ***business days*** from the date of that bill unless otherwise agreed with a ***customer***.

(2) Unless a ***retailer*** specifies a later date, the date of dispatch is the date of the bill.

**5.2 Minimum payment methods***

Unless otherwise agreed with a ***customer***, a ***retailer*** must offer the ***customer*** at least the following payment methods—

(a) in person at 1 or more payment outlets located within the Local Government District of the ***customer's supply address***;

(b) by mail;

(c) for ***residential customers***, by Centrepay;

(d) electronically by means of BPay or credit card; and

(e) by ***telephone*** by means of credit card or debit card.

**5.3 Direct debit**

If a ***retailer*** offers the option of payment by a ***direct debit facility*** to a ***customer***, the ***retailer*** must, prior to the ***direct debit facility*** commencing, obtain the ***customer's verifiable consent***, and agree with the ***customer*** the date of commencement of the ***direct debit facility*** and the frequency of the direct debits.

**5.4 Payment in advance***

(1) A ***retailer*** must accept payment in advance from a ***customer*** on request.

(2) Acceptance of an advance payment by a ***retailer*** will not require the ***retailer*** to credit any interest to the amounts paid in advance.

(3) Subject to clause 6.9, for the purposes of subclause (1), $20 is the minimum amount for which a ***retailer*** will accept advance payments unless otherwise agreed with a ***customer***.

**5.5 Absence or illness**

If a ***residential customer*** is unable to pay by way of the methods described in clause 5.2, due to illness or absence, a ***retailer*** must offer the ***residential customer*** on request redirection of the ***residential customer's*** bill to a third person at no charge.

**5.6 Late payments**

(1) A ***retailer*** must not charge a ***residential customer*** a late payment fee if—

(a) the ***residential customer*** receives a ***concession***, provided the ***residential customer*** did not receive 2 or more ***reminder notices*** within the previous 12 months; or

(b) the ***residential customer*** and the ***retailer*** have agreed to—

(i) a payment extension under Part 6, and the ***residential customer*** pays the bill by the agreed (new) due date; or

(ii) an ***instalment plan*** under Part 6, and the ***residential customer*** is making payments in accordance with the ***instalment plan***; or

(c) subject to subclause (2), the ***residential customer*** has made a ***complaint*** directly related to the non-payment of the bill to the ***retailer*** or to the ***electricity ombudsman,*** and—

(i) the ***complaint*** has not been ***resolved*** by the ***retailer***;

(ii) the ***complaint*** is ***resolved*** by the ***retailer*** in favour of the ***residential customer.*** If the complaint is not ***resolved*** in favour of the ***residential customer***, any late payment fee shall only be calculated from the date of the ***retailer's*** decision; or

(iii) the ***complaint*** has not been determined or has been upheld by the electricity ***ombudsman*** (if a ***complaint*** has been made to the ***electricity ombudsman***). If the ***complaint*** is determined by the ***electricity ombudsman*** in favour of the ***retailer***, any late payment fee shall only be calculated from the date of the ***electricity ombudsman's*** decision; or

(d) the ***residential customer*** is assessed by the ***retailer*** under clause 6.1(1) as being in ***financial hardship***.

(2) If a ***retailer*** has charged a late payment fee in the circumstances set out in subclause (1)(c) because the ***retailer*** was not aware of the ***complaint***, the ***retailer*** will not contravene subclause (1)(c) but must refund the late payment fee on the ***customer's*** next bill.

(3) If a ***retailer*** has charged a ***residential customer*** a late payment fee, the ***retailer*** must not charge an additional late payment fee in relation to the same bill within 5 ***business days*** from the date of receipt of the previous late payment fee notice.

(4) A ***retailer*** must not charge a ***residential customer*** more than 2 late payment fees in relation to the same bill or more than 12 late payment fees in a year.

(5) If a ***residential customer*** has been assessed as being in ***financial hardship*** under clause 6.1(1), a ***retailer*** must retrospectively waive any late payment fee charged under the ***residential customer's*** last bill prior to the assessment being made.

**5.7 Vacating a supply address***

(1) Subject to—

(a) subclauses (2) and (4);

(b) a ***customer*** giving a ***retailer*** notice; and

(c) the ***customer*** vacating the ***supply address*** at the time specified in the notice,

the ***retailer*** must not require the ***customer*** to pay for electricity consumed at the ***customer's supply address*** from—

(d) the date the ***customer*** vacated the ***supply address***, if the ***customer*** gave at least 5 days' notice; or

(e) 5 days after the ***customer*** gave notice, in any other case,

unless the ***retailer*** and the ***customer*** have agreed to an alternative date.

(2) If a ***customer*** reasonably demonstrates to a ***retailer*** that the ***customer*** was evicted or otherwise required to vacate the ***supply address***, the ***retailer*** must not require the ***customer*** to pay for electricity consumed at the ***customer's supply address*** from the date the ***customer*** gave the ***retailer*** notice.

(3) For the purposes of subclauses (1) and (2), notice is given if a ***customer***—

(a) informs a ***retailer*** of the date on which the ***customer*** intends to vacate, or has vacated the ***supply address***; and

(b) gives the ***retailer*** a forwarding address to which a final bill may be sent.

(4) Notwithstanding subclauses (1) and (2), if—

(a) a ***retailer*** and a ***customer*** enter into a new ***contract*** for the ***supply address***, the ***retailer*** must not require the previous ***customer*** to pay for electricity consumed at the ***customer's supply address*** from the date that the new ***contract*** becomes effective;

(b) another ***retailer*** becomes responsible for the supply of electricity to the ***supply address***, the previous ***retailer*** must not require the ***customer*** to pay for electricity consumed at the ***customer's supply address*** from the date that the other ***retailer*** becomes responsible; and

(c) the ***supply address*** is ***disconnected***, the ***retailer*** must not require the ***customer*** to pay for electricity consumed at the ***customer's supply address*** from the date that ***disconnection*** occurred.

(5) Notwithstanding subclauses (1), (2) and (4), a ***retailer's*** right to payment does not terminate with regard to any amount that was due up until the termination of the ***contract***.

**5.8 Debt collection**

(1) A ***retailer*** must not commence proceedings for recovery of a debt—

(a) from a ***residential customer*** who has informed the ***retailer*** in accordance with clause 6.1(1) that the ***residential customer*** is experiencing ***payment difficulties*** or ***financial hardship***, unless and until the ***retailer*** has complied with all the requirements of clause 6.1 and (if applicable) clause 6.3; and

(b) while a ***residential customer*** continues to make payments under an alternative payment arrangement under Part 6.

(2) A ***retailer*** must not recover or attempt to recover a debt relating to a ***supply address*** from a person other than a ***customer*** with whom the ***retailer*** has or had entered into a ***contract*** for the supply of electricity to that ***customer's supply address***.

(3) If a ***customer*** with a debt owing to a ***retailer*** requests the ***retailer*** to transfer the debt to another ***customer,*** the ***retailer*** may transfer the debt to the other ***customer*** provided that the ***retailer*** obtains the other ***customer's verifiable consent*** to the transfer.

## PART 6—PAYMENT DIFFICULTIES AND FINANCIAL HARDSHIP

*Division 1—Assessment of financial situation*

**6.1 Assessment**

(1) If a ***residential customer*** informs a ***retailer*** that the ***residential customer*** is experiencing ***payment problems***, the ***retailer*** must, (subject to clause 6.2)—

(a) within 5 ***business days***, assess whether the ***residential customer*** is experiencing ***payment difficulties*** or ***financial hardship***; and

(b) if the ***retailer*** cannot make the assessment within 5 ***business days***, refer the ***residential customer*** to a ***relevant consumer representative*** to make the assessment.

(2) If a ***residential customer*** provides a ***retailer*** with an assessment from a ***relevant consumer representative*** the ***retailer*** may adopt that assessment as its own assessment for the purposes of subclause (1)(a).

(3) When undertaking the assessment required by subclause (1)(a), unless a ***retailer*** adopts an assessment from a ***relevant consumer representative***, the ***retailer*** must give reasonable consideration to—

(a) information—

(i) given by the ***residential customer***; and

(ii) requested or held by the ***retailer***; or

(b) advice given by a ***relevant consumer representative*** (if any).

(4) A ***retailer*** must advise a ***residential customer*** on request of the details and outcome of an assessment carried out under subclause (1).

**6.2 Temporary suspension of actions**

(1) If a ***retailer*** refers a ***residential customer*** to a ***relevant consumer representative*** under clause 6.1(1)(b) then the ***retailer*** must grant the ***residential customer*** a ***temporary suspension of actions***.

(2) If a ***residential customer*** informs a ***retailer*** that the ***residential customer*** is experiencing ***payment problems*** under clause 6.1, and the ***residential customer***—

(a) requests a ***temporary suspension of actions***; and

(b) demonstrates to the ***retailer*** that the ***residential customer*** has made an appointment with a ***relevant consumer representative*** to assess the ***residential customer's*** capacity to pay,

the ***retailer*** must not unreasonably deny the ***residential customer's*** request.

(3) A ***temporary suspension of actions*** must be for at least 15 ***business days***.

(4) If a ***relevant consumer representative*** is unable to assess a ***residential customer's*** capacity to pay within the period referred to in subclause (3) and the ***residential customer*** or ***relevant consumer representative*** requests additional time, a ***retailer*** must give reasonable consideration to the ***residential customer's*** or ***relevant consumer representative's*** request.

**6.3 Assistance to be offered**

(1) If the assessment carried out under clause 6.1 indicates to a ***retailer*** that a ***residential customer*** is experiencing—

(a) ***payment difficulties***, the ***retailer*** must—

(i) offer the ***residential customer*** the alternative payment arrangements referred to in clause 6.4(1); and

(ii) advise the ***residential customer*** that additional assistance may be available if, due to ***financial hardship***, the ***residential customer*** would be unable to meet its obligations under an agreed alternative payment arrangement, or

(b) ***financial hardship***, the ***retailer*** must offer the ***residential customer***—

(i) the alternative payment arrangements referred to in clause 6.4(1); and

(ii) assistance in accordance with clauses 6.6 to 6.9.

(2) Subclause (1) does not apply if a ***retailer*** is unable to make an assessment under clause 6.1 as a result of an act or omission by a ***residential customer***.

*Division 2—Residential customers experiencing payment difficulties or financial hardship*

**6.4 Alternative payment arrangements**

(1) A ***retailer*** must offer a ***residential customer*** who is experiencing ***payment difficulties*** or ***financial hardship*** at least the following payment arrangements—

(a) additional time to pay a bill; and

(b) an interest-free and fee-free ***instalment plan*** or other arrangement under which the ***residential customer*** is given additional time to pay a bill or to pay arrears (including any ***disconnection*** and ***reconnection*** charges) and is permitted to continue ***consumption***.

In this clause "fee" means any fee or charge in connection with the establishment or operation of the ***instalment plan*** or other arrangement which would not otherwise be payable if the ***residential customer*** had not entered into the ***instalment plan*** or other arrangement.

(2) When offering or amending an ***instalment plan***, a ***retailer*** must—

(a) ensure that the ***instalment plan*** is fair and reasonable taking into account information about a ***residential customer's*** capacity to pay and ***consumption*** history; and

(b) comply with subclause (3).

(3) If a ***residential customer*** accepts an ***instalment plan*** offered by a ***retailer***, the ***retailer*** must—

(a) within 5 ***business days*** of the ***residential customer*** accepting the ***instalment plan*** provide the ***residential customer*** with information in writing or by ***electronic means*** that specifies—

(i) the terms of the ***instalment plan*** (including the number and amount of payments, the duration of payments and how the payments are calculated);

(ii) the consequences of not adhering to the ***instalment plan***; and

(iii) the importance of contacting the ***retailer*** for further assistance if the ***residential customer*** cannot meet or continue to meet the ***instalment plan*** terms, and

(b) notify the ***residential customer*** in writing or by ***electronic means*** of any amendments to the ***instalment plan*** at least 5 ***business days*** before they come into effect (unless otherwise agreed with the ***residential customer***) and provide the ***residential customer*** with information in writing or by ***electronic means*** that clearly explains and assists the ***residential customer*** to understand those changes.

(4) If a ***residential customer*** has, in the previous 12 months, had 2 ***instalment plans*** cancelled due to non-payment, a ***retailer*** does not have to offer that ***residential customer*** another ***instalment plan*** under subclause (1), unless the ***retailer*** is satisfied that the ***residential customer*** will comply with the ***instalment plan***.

(5) For the purposes of subclause (4), cancellation does not include the revision of an ***instalment plan*** under clause 6.7.

*Division 3—Assistance available to residential customers experiencing financial hardship*

**6.5 Definitions**

In this division—

**"*customer experiencing financial hardship*"** means a ***residential customer*** who has been assessed by a ***retailer*** under clause 6.1(1) as experiencing ***financial hardship***.

Subdivision 1—Specific assistance available

**6.6 Reduction of fees, charges and debt**

(1) A ***retailer*** must give reasonable consideration to a request by a ***customer experiencing financial hardship***, or a ***relevant consumer representative***, for a reduction of the ***customer's*** fees, charges or debt.

(2) In giving reasonable consideration under subclause (1), a ***retailer*** should refer to the hardship procedures referred to in clause 6.10(3).

**6.7 Revision of alternative payment arrangements**

If a ***customer experiencing financial hardship***, or a ***relevant consumer representative***, reasonably demonstrates to a ***retailer*** that the ***customer*** is unable to meet the ***customer's*** obligations under a payment arrangement under clause 6.4(1), the ***retailer*** must give reasonable consideration to—

(a) offering the ***customer*** an ***instalment plan***, if the ***customer*** had previously elected a payment extension; or

(b) offering to revise the ***instalment plan***, if the ***customer*** had previously elected an ***instalment plan***.

**6.8 Provision of information**

A ***retailer*** must advise a ***customer experiencing financial hardship*** of the—

(a) ***customer's*** right to have the bill redirected at no charge to a third person;

(b) payment methods available to the ***customer***;

(c) ***concessions*** available to the ***customer*** and how to access them;

(d) different types of ***meters*** available to the ***customer*** and / or tariffs (as applicable);

(e) independent financial counselling services and ***relevant consumer representatives*** available to assist the ***customer***; and

(f) availability of any other financial assistance and grants schemes that the ***retailer*** should reasonably be aware of and how to access them.

**6.9 Payment in advance**

(1) A ***retailer*** must determine the minimum payment in advance amount, as referred to in clause 5.4(3), for ***residential customers*** experiencing ***payment difficulties*** or ***financial hardship*** in consultation with ***relevant consumer representatives***.

(2) A ***retailer*** may apply different minimum payment in advance amounts for ***residential customers*** experiencing ***payment difficulties*** or ***financial hardship*** and other ***customers***.

Subdivision 2—Hardship policy and hardship procedures

**6.10 Obligation to develop hardship policy and hardship procedures**

(1) A ***retailer*** must develop a hardship policy and hardship procedures to assist ***customers experiencing financial hardship*** in meeting their financial obligations and responsibilities to the ***retailer***.

(2) The hardship policy must—

(a) be developed in consultation with ***relevant consumer representatives***;

(b) include a statement encouraging ***customers*** to contact their ***retailer*** if a ***customer*** is having trouble paying the ***retailer's*** bill;

(c) include a statement advising that the ***retailer*** will treat all ***customers*** sensitively and respectfully;

(d) include a statement that the ***retailer*** may reduce and/or waive fees, charges and debt;

(e) include an objective set of hardship indicators;

(f) include—

(i) an overview of the assistance available to ***customers*** in ***financial hardship*** or ***payment difficulties*** in accordance with Part 6 of the ***Code*** (other than the ***retailer's*** requirement to advise the ***customer*** of the ability to pay in advance and the matters referred to in clauses 6.8(a), (b) and (d));

(ii) that the ***retailer*** offers ***residential customers*** the right to pay their bill by Centrepay; and

(iii) a statement that the ***retailer*** is able to provide further detail on request.

(g) include an overview of any ***concessions*** that may be available to the ***retailer's customers***;

(h) include—

(i) the ***National Interpreter Symbol*** with the words "Interpreter Services";

(ii) information on the availability of independent multi-lingual services; and

(iii) information on the availability of ***TTY*** services;

(i) be available on the ***retailer's*** website;

(j) be available in large print copies; and

(k) include a statement specifying how the ***retailer*** will treat information disclosed by the ***customer*** to the ***retailer*** and information held by the ***retailer*** in relation to the ***customer***.

(3) The hardship procedures must—

(a) be developed in consultation with ***relevant consumer representatives***;

(b) provide for the training of staff—

(i) including ***call centre*** staff, all subcontractors employed to engage with ***customers experiencing financial hardship*** and field officers;

(ii) on issues related to ***financial hardship*** and its impacts, and how to deal sensitively and respectfully with ***customers experiencing financial hardship***;

(c) Not Used

(d) include guidance—

(i) that assist the ***retailer*** in identifying ***residential customers*** who are experiencing ***financial hardship***;

(ii) that assist the ***retailer*** in determining a ***residential customer's*** usage needs and capacity to pay when determining the conditions of an ***instalment plan***;

(iii) for suspension of ***disconnection*** and debt recovery procedures;

(iv) on the reduction and/or waiver of fees, charges and debt; and

(v) on the recovery of debt.

(e) require that the ***retailer's*** credit management staff have a direct ***telephone*** number and that number be provided to ***relevant consumer representatives***;

(4) If requested, a ***retailer*** must give ***residential customers*** and ***relevant consumer representatives*** a copy of the hardship policy, including by post at no charge.

(5) Not Used

(6) If directed by the ***Authority***, a ***retailer*** must review its hardship policy and hardship procedures in consultation with ***relevant consumer representatives*** and submit to the ***Authority*** the results of that review within *5* ***business days*** after it is completed.

(7) A ***retailer*** must comply with the ***Authority's*** Financial Hardship Policy Guidelines.

(8) If a ***retailer*** makes a material amendment to the ***retailer's*** hardship policy, the ***retailer*** must consult with ***relevant consumer representatives***, and submit to the ***Authority*** a copy of the ***retailer's*** amended hardship policy within 5 ***business days*** of the amendment.

*Division 4—Business customers experiencing payment difficulties*

**6.11 Alternative payment arrangements**

A ***retailer*** must consider any reasonable request for alternative payment arrangements from a ***business customer*** who is experiencing ***payment difficulties***.

## PART 7—DISCONNECTION AND INTERRUPTION

*Division 1—Conduct in relation to disconnection or interruption*

Subdivision 1—Disconnection for failure to pay bill

**7.1 General requirements**

(1) Prior to arranging for ***disconnection*** of a ***customer's supply address*** for failure to pay a bill, a ***retailer*** must—

(a) give the ***customer*** a ***reminder notice***, not less than 15 ***business days*** from the date of dispatch of the bill, including—

(i) the ***retailer's telephone*** number for billing and payment enquiries; and

(ii) advice on how the ***retailer*** may assist in the event the ***customer*** is experiencing ***payment difficulties*** or ***financial hardship***;

(b) use its best endeavours to ***contact*** the ***customer*** to advise of the proposed ***disconnection***; and

(c) give the ***customer*** a ***disconnection warning***, not less than 20 ***business days*** from the date of dispatch of the bill, advising the ***customer***—

(i) that the ***retailer*** may ***disconnect*** the ***customer*** with at least 5 ***business days*** notice to the ***customer***; and

(ii) of the existence and operation of ***complaint*** handling processes including the existence and operation of the ***electricity ombudsman*** and the Freecall ***telephone*** number of the ***electricity ombudsman***.

(2) For the purposes of subclause (1), a ***customer*** has failed to pay a ***retailer's*** bill if the ***customer*** has not—

(a) paid the ***retailer's*** bill by the due date;

(b) agreed with the ***retailer*** to an offer of an ***instalment plan*** or other payment arrangement to pay the ***retailer's*** bill; or

(c) adhered to the ***customer's*** obligations to make payments in accordance with an agreed ***instalment plan*** or other payment arrangement relating to the payment of the ***retailer's*** bill.

**7.2 Limitations on disconnection for failure to pay bill**

(1) Notwithstanding clause 7.1, a ***retailer*** must not arrange for the ***disconnection*** of a ***customer's supply address*** for failure to pay a bill—

(a) within 1 ***business day*** after the expiry of the period referred to in the ***disconnection warning***;

(b) if the ***retailer*** has made the ***residential customer*** an offer in accordance with clause 6.4(1) and the ***residential customer***—

(i) has accepted the offer before the expiry of the period specified by the ***retailer*** in the ***disconnection warning***; and

(ii) has used reasonable endeavours to settle the debt before the expiry of the time frame specified by the ***retailer*** in the ***disconnection warning***;

(c) if the amount outstanding is less than an amount approved and published by the ***Authority*** in accordance with subclause (2) and the ***customer*** has agreed with the ***retailer*** to repay the amount outstanding;

(d) if the ***customer*** has made an application for a ***concession*** and a decision on the application has not yet been made;

(e) if the ***customer*** has failed to pay an amount which does not relate to the supply of electricity; or

(f) if the ***supply address*** does not relate to the bill, unless the amount outstanding relates to a ***supply address*** previously occupied by the ***customer***.

(2) For the purposes of subclause (1)(c), the ***Authority*** may approve and publish, in relation to failure to pay a bill, an amount outstanding below which a ***retailer*** must not arrange for the ***disconnection*** of a ***customer's supply address***.

**7.3 Dual fuel contracts**

If a ***retailer*** and a ***residential customer*** have entered into—

(a) a ***dual fuel contract***; or

(b) separate ***contracts*** for the supply of electricity and the supply of gas, under which—

(i) a single bill for energy is; or

(ii) separate, simultaneous bills for electricity and gas are,

issued to the ***residential customer***,

the ***retailer*** must not arrange for ***disconnection*** of the ***residential customer's supply address*** for failure to pay a bill within 15 ***business days*** from the date of ***disconnection*** of the ***residential customer's*** gas supply.

Subdivision 2—Disconnection for denying access to meter

**7.4 General requirements**

(1) A ***retailer*** must not arrange for the ***disconnection*** of a ***customer's supply address*** for denying access to the ***meter***, unless—

(a) the ***customer*** has denied access for at least 9 consecutive months;

(b) the ***retailer*** has, prior to giving the ***customer*** a ***disconnection warning*** under subclause (f), at least once given the ***customer*** in writing 5 ***business days*** notice—

(i) advising the ***customer*** of the next date or timeframe of a scheduled ***meter*** reading at the ***supply address***;

(ii) requesting access to the ***meter*** at the ***supply address*** for the purpose of the scheduled ***meter*** reading; and

(iii) advising the ***customer*** of the ***retailer's*** ability to arrange for ***disconnection*** if the ***customer*** fails to provide access to the ***meter***;

(c) the ***retailer*** has given the ***customer*** an opportunity to provide reasonable alternative access arrangements;

(d) where appropriate, the ***retailer*** has informed the ***customer*** of the availability of alternative ***meters*** which are suitable to the ***customer's supply address***;

(e) the ***retailer*** has used its best endeavours to ***contact*** the ***customer*** to advise of the proposed ***disconnection***; and

(f) the ***retailer*** has given the ***customer*** a ***disconnection warning*** with at least 5 ***business days*** notice of its intention to arrange for ***disconnection***.

(2) A ***retailer*** may arrange for a ***distributor*** to carry out 1 or more of the requirements referred in subclause (1) on behalf of the ***retailer***.

Subdivision 3—Disconnection or interruption for emergencies

**7.5 General requirements**

If a ***distributor disconnects*** or ***interrupts*** a ***customer's supply address*** for ***emergency*** reasons, the ***distributor*** must—

(a) provide, by way of a 24 hour ***emergency*** line at the cost of a local call (excluding mobile ***telephones***), information on the nature of the ***emergency*** and an estimate of the time when supply will be restored; and

(b) use its best endeavours to restore supply to the ***customer's supply address*** as soon as possible.

*Division 2—Limitations on disconnection*

**7.6 General limitations on disconnection**

(1) Subject to subclause (3), a ***retailer*** must not arrange for ***disconnection*** of a ***customer's supply address*** if—

(a) a ***complaint*** has been made to the ***retailer*** directly related to the reason for the proposed ***disconnection***; or

(b) the ***retailer*** is notified by the ***distributor, electricity ombudsman*** or an external dispute resolution body that there is a ***complaint***, directly related to the reason for the proposed ***disconnection***, that has been made to the ***distributor, electricity ombudsman*** or external dispute resolution body,

and the ***complaint*** is not ***resolved*** by the ***retailer*** or ***distributor*** or determined by the ***electricity ombudsman*** or external dispute resolution body.

(2) Subject to subclause (3), a ***distributor*** must not ***disconnect*** a ***customer's supply address***—

(a) if—

(i) a ***complaint*** has been made to the ***distributor*** directly related to the reason for the proposed ***disconnection***; or

(ii) the ***distributor*** is notified by a ***retailer,*** the ***electricity ombudsman*** or an external dispute resolution body that there is a ***complaint***, directly related to the reason for the proposed ***disconnection***, that has been made to the ***retailer***, ***electricity ombudsman*** or external dispute resolution body,

and the ***complaint*** is not ***resolved*** by the ***retailer*** or ***distributor*** or determined by the ***electricity ombudsman*** or external dispute resolution body; or

(b) during any time—

(i) after 3.00 pm Monday to Thursday;

(ii) after 12.00 noon on a Friday; or

(iii) on a Saturday, Sunday, ***public holiday*** or on the ***business day*** before a ***public holiday***,

unless—

(iv) the ***customer*** is a ***business customer***; and

(v) the ***business customer's*** normal trading hours—

(A) fall within the time frames set out in subclause (b)(i) (ii) or (iii); and

(B) do not fall within any other time period; and

(vi) it is not practicable for the ***distributor*** to ***disconnect*** at any other time.

(3) A ***retailer*** or a ***distributor*** may arrange for ***disconnection*** *or* ***interruption*** of a ***customer's supply address*** if—

(a) the ***disconnection*** was requested by the ***customer***; or

(b) the ***disconnection*** or ***interruption*** was carried out for ***emergency*** reasons.

**7.7 Life Support**

(1) If a ***customer*** provides a ***retailer*** with confirmation from an ***appropriately qualified medical practitioner*** that a person residing at the ***customer's supply address*** requires ***life support equipment***, the ***retailer*** must—

(a) register the ***customer's supply address*** as a ***life support equipment*** address;

(b) register the ***customer's*** contact details;

(c) notify the ***customer's distributor*** that the ***customer's supply address*** is a ***life support equipment*** address, and of the contact details of the ***customer—***

(i) that same day, if the confirmation is received before 3pm on a ***business day***; or

(ii) no later than the next ***business day***, if the confirmation is received after 3pm or on a Saturday, Sunday or ***public holiday***; and

(d) not arrange for ***disconnection*** of that ***customer's supply address*** for failure to pay a bill while the person continues to reside at that address and requires the use of ***life support equipment***.

(2) If a ***customer*** registered with a ***retailer*** under subclause (1) notifies the ***retailer***—

(a) that the person residing at the ***customer's supply address*** who requires ***life support equipment*** is changing ***supply address;***

(b) that the ***customer*** is changing ***supply address*** but the person who requires ***life support equipment*** is not changing ***supply address***;

(c) of a change in contact details; or

(d) that the ***customer's supply address*** no longer requires registration as ***a life support equipment*** address,

the ***retailer*** must—

(e) register the change;

(f) notify the ***customer's distributor*** of the change—

(i) that same day, if the notification is received before 3pm on a ***business day***; or

(ii) no later than the next ***business day***, if the notification is received after 3pm or on a Saturday, Sunday or ***public holiday***; and

(g) continue to comply with subclause (1)(d) with respect to that ***customer's supply address***.

(3) If a ***distributor*** has been informed by a ***retailer*** under subclause (1)(c) or by a relevant government agency that a person residing at a ***customer's supply address*** requires ***life support equipment***, or of a change of details notified to the ***retailer*** under subclause (2), the ***distributor*** must—

(a) register the ***customer's supply address*** as a ***life support equipment*** address or update the details notified by the ***retailer*** under subclause (2)—

(i) the next ***business day***, if the notification is received before 3pm on a ***business day***; or

(ii) within 2 ***business days***, if the notification is received after 3pm or on a Saturday, Sunday or ***public holiday***; and

(b) if informed by a relevant government agency, notify the ***retailer*** in accordance with the timeframes specified in subclause (3)(a).

(4) If ***life support equipment*** is registered at a ***customer's supply address*** under subclause (3)(a), a ***distributor*** must—

(a) not ***disconnect*** that ***customer's supply address*** for failure to pay a bill while the person continues to reside at that address and requires the use of ***life support equipment***; and

(b) prior to any planned ***interruption***, provide at least 3 ***business days*** written notice to the ***customer's supply address*** and any other address nominated by the ***customer***, or notice by ***electronic means*** to the ***customer,*** and unless expressly requested in writing by the ***customer*** not to, use best endeavours to obtain verbal acknowledgement, written acknowledgement or acknowledgement by ***electronic means*** from the ***customer*** or someone residing at the ***supply address*** that the notice has been received.

(4A) Notwithstanding clause 7.7(4)(b)—

(a) an ***interruption***, planned or otherwise, to restore supply to a ***supply address*** that is registered as a ***life support equipment*** address is not subject to the notice requirements in clause 7.7(4)(b); however

(b) a ***distributor*** must use best endeavours to ***contact*** the ***customer***, or someone residing at the ***supply address***, prior to an ***interruption*** to restore supply to a ***supply address*** that is registered as a ***life support equipment*** address.

(5) If a ***distributor*** has already provided notice of a planned ***interruption*** under the ***Electricity Industry Code*** that will affect a ***supply address,*** prior to the ***distributor*** registering a ***customer's supply address*** as a ***life support equipment*** address under clause 7.7(3)(a), the ***distributor*** must use best endeavours to ***contact*** that ***customer*** or someone residing at the ***supply address*** prior to the planned ***interruption***.

(6) (a) No earlier than 3 months prior to the 12 month anniversary of the confirmation from the ***appropriately qualified medical practitioner*** referred to in subclause (1), and in any event no later than 3 months after the 12 month anniversary of the confirmation, a ***retailer*** must ***contact*** a ***customer*** to—

(i) ascertain whether a person residing at the ***customer's supply address*** continues to require ***life support equipment***; and

(ii) if the ***customer*** has not provided the initial certification or ***re-certification*** from an ***appropriately qualified medical practitioner*** within the last 3 years, request that the ***customer*** provide that ***re-certification***.

(b) A ***retailer*** must provide a minimum period of 3 months for a ***customer*** to provide the information requested by the ***retailer*** in subclause (6)(a).

(7) (a) When—

(i) a person who requires ***life support equipment***, vacates the ***supply address***; or

(ii) a person who required ***life support equipment***, no longer requires the ***life support equipment***; or

(iii) subject to subclause (7)(b), a ***customer*** fails to provide the information requested by a ***retailer*** for the purposes of subclause (6)(a)(i) or the ***re-certification*** referred to in

subclause (6)(a)(ii), within the time period referred to in subclause (6)(b), or greater period if allowed by the ***retailer***,

the ***retailer's*** and ***distributor's*** obligations under subclauses (1) to (6) terminate and the ***retailer*** or ***distributor*** (as applicable) must remove the ***customer's*** details from the ***life support equipment*** address register upon being made aware of any of the matters in subclauses (7)(a)(i), (ii) or (iii)—

(iv) the next ***business day***, if the ***retailer*** or ***distributor*** (as applicable) becomes aware of the relevant matter in subclause (7)(a)(i), (ii) or (iii) before 3pm on a ***business day***; or

(v) within 2 ***business days***, if the ***retailer*** or ***distributor*** (as applicable) becomes aware of the relevant matter in subclause (7)(a)(i), (ii) or (iii) after 3pm or on a Saturday, Sunday or ***public holiday***.

(b) A ***customer*** will have failed to provide the information requested by a ***retailer*** for the purposes of subclause (6)(a)(i) or the ***re-certification*** referred to in subclause (6)(a)(ii) if the ***contact*** by the ***retailer*** consisted of at least the following, each a minimum of 10 ***business days*** from the date of the last ***contact***—

(i) written correspondence sent by registered post to the ***customer's supply address*** and any other address nominated by the ***customer***; and

(ii) a minimum of 2 other attempts to ***contact*** the ***customer*** by any of the following means—

(A) ***electronic means***;

(B) ***telephone***;

(C) in person; or

(D) Not Used

(E) by post sent to the ***customer's supply address*** and any other address nominated by the ***customer***.

(c) If a ***distributor's*** obligations under subclauses (3), (4), (4A) and (5) terminate as a result of the operation of subclause (7)(a)(iii), a ***retailer*** must notify the ***distributor*** of this fact as soon as reasonably practicable, but in any event, within 3 ***business days***.

(d) For the avoidance of doubt, the ***retailer's*** and ***distributor's*** obligations under subclauses (1) to (6) do not terminate by operation of this subclause (7) if the ***retailer*** or ***distributor*** has been informed in accordance with subclause (1) that another person who resides at the ***supply address*** continues to require ***life support equipment.***

## PART 8—RECONNECTION

### 8.1 Reconnection by retailer*

(1) If a ***retailer*** has arranged for ***disconnection*** of a ***customer's supply address*** due to—

(a) failure to pay a bill, and the ***customer*** has paid or agreed to accept an offer of an ***instalment plan***, or other payment arrangement;

(b) the ***customer*** denying access to the ***meter***, and the ***customer*** has subsequently provided access to the ***meter***; or

(c) illegal use of electricity, and the ***customer*** has remedied that breach, and has paid, or made an arrangement to pay, for the electricity so obtained,

the ***retailer*** must arrange for ***reconnection*** of the ***customer's supply address***, subject to—

(d) the ***customer*** making a request for ***reconnection***; and

(e) the ***customer***—

(i) paying the ***retailer's*** reasonable charge for ***reconnection***, if any; or

(ii) accepting an offer of an ***instalment plan*** for the ***retailer's*** reasonable charges for ***reconnection***, if any.

(2) For the purposes of subclause (1), a ***retailer*** must forward the request for ***reconnection*** to the relevant ***distributor***—

(a) that same ***business day***, if the request is received before 3pm on a ***business day***; or

(b) no later than 3pm on the next ***business day***, if the request is received—

(i) after 3pm on a ***business day***, or

(ii) on a Saturday, Sunday or ***public holiday***.

(3) If a ***retailer*** does not forward the request for ***reconnection*** to the relevant ***distributor*** within the timeframes in subclause (2), the ***retailer*** will not be in breach of this clause 8.1 if the ***retailer*** causes the ***customer's supply address*** to be ***reconnected*** by the ***distributor*** within the timeframes in clause 8.2(2) as if the ***distributor*** had received the request for ***reconnection*** from the ***retailer*** in accordance with subclause (2).

### 8.2 Reconnection by distributor

(1) If a ***distributor*** has ***disconnected*** a ***customer's supply address*** on request by the ***customer's retailer***, and a ***retailer*** has subsequently requested the ***distributor*** to ***reconnect*** the ***customer's supply address***, the ***distributor*** must ***reconnect*** the ***customer's supply address***.

(2) For the purposes of subclause (1), a ***distributor*** must ***reconnect*** a ***customer's supply address***—

(a) for ***supply addresses*** located within the ***metropolitan area***—

(i) within 1 ***business day*** of receipt of the request, if the request is received prior to 3pm on a ***business day***; and

(ii) within 2 ***business days*** of receipt of the request, if the request is received after 3pm on a ***business day*** or on a Saturday, Sunday or ***public holiday***;

(b) for ***supply addresses*** located within the ***regional area***—

(i) within 5 ***business days*** of receipt of the request, if the request is received prior to 3pm on a ***business day***; and

(ii) within 6 ***business days*** of receipt of the request, if the request is received after 3pm on a ***business day***, or on a Saturday, Sunday or ***public holiday***.

(3) Subclause (2) does not apply in the event of an ***emergency***.

## PART 9—PRE-PAYMENT METERS

### 9.1 Application

(1) Parts 4, 5, 6 (with the exception of clause 6.10), 7 and 8 and clauses 2.4 (other than as specified below), 10.2 and 10.7 of the ***Code*** do not apply to a ***pre-payment meter customer***.

(2) A ***distributor*** may only operate a ***pre-payment meter***, and a ***retailer*** may only offer a ***pre-payment meter service***, in an area that has been declared by the Minister by notice published in the *Government Gazette*.

### 9.2 Operation of pre-payment meter

(1) A ***retailer*** must not provide a ***pre-payment meter service*** at a ***residential customer's supply address*** without the ***verifiable consent*** of the ***residential customer*** or the ***residential customer's*** nominated representative.

(2) A ***retailer*** must establish an account for each ***pre-payment meter*** operating at a ***residential customer's supply address***.

(3) Not Used

(4) Subject to any applicable law, a ***retailer*** is not obliged to offer a ***pre-payment meter service*** to a ***customer***.

### 9.3 Provision of mandatory information

(1) A ***retailer*** must advise a ***residential customer*** who requests information on the use of a ***pre-payment meter***, at no charge and in clear, simple and concise language—

(a) of all applicable tariffs, fees and charges payable by the ***residential customer*** and the basis for the calculation of those charges;

(b) of the tariffs, fees and charges applicable to a ***pre-payment meter service*** relative to relevant tariffs, fees and charges which would apply to that ***residential customer*** if no ***pre-payment meter*** was operating at the ***residential customer's supply address***;

(c) of the ***retailer's*** charges, or its best estimate of those charges, to replace or switch a ***pre-payment meter*** to a standard ***meter***;

(d) how a ***pre-payment meter*** is operated;

(e) how the ***residential customer*** may recharge the ***pre-payment meter*** (including details of cost, location and business hours of ***recharge facilities***);

(f) of the emergency credit facilities applicable to a ***pre-payment meter***; and

(g) of ***credit retrieval***.

(2) No later than 10 ***business days*** after the time a ***residential customer*** enters into a ***pre-payment meter contract*** at the ***residential customer's supply address***, a ***retailer*** must give, or make available to the ***residential customer*** at no charge—

(a) the information specified within subclause (1);

(b) a copy of the ***contract***;

(c) information on the availability and scope of the ***Code*** and the requirement that ***distributors***, ***retailers*** and ***electricity marketing agents*** comply with the ***Code***;

(d) Not Used

(e) a ***meter*** identification number;

(f) a ***telephone*** number for enquiries;

(g) a ***telephone*** number for ***complaints***;

(h) the ***distributor's*** 24 hour ***telephone*** number for faults and ***emergencies***;

(i) confirmation of the ***supply address*** and any relevant mailing address;

(j) details of any ***concessions*** the ***residential customer*** may be eligible to receive;

(k) the amount of any ***concessions*** to be given to the ***residential customer***;

(l) information on the availability of multi-lingual services (in languages reflective of the ***retailer's customer*** base);

(m) information on the availability of ***TTY*** services;

(n) advice on how the ***retailer*** may assist in the event the ***residential customer*** is experiencing ***payment difficulties*** or ***financial hardship***;

(o) advice on how to make a ***complaint*** to, or enquiry of, the ***retailer***;

(p) details on external ***complaints*** handling processes including the contact details for the ***electricity ombudsman***;

(q) general information on the safe use of electricity;

(r) details of the initial ***recharge facilities*** available to the ***residential customer***; and

(s) the date of the expiry of the ***residential pre-payment meter customer's*** right to revert to a standard ***meter*** at no charge and the options available to the ***residential pre-payment meter customer*** if the ***residential pre-payment meter customer*** replaces or switches the ***pre-payment meter*** to a standard ***meter***.

(3) A ***retailer*** must ensure that the following information is shown on or directly adjacent to a ***residential customer's pre-payment meter***—

(a) the positive or negative financial balance of the ***pre-payment meter*** within 1 dollar of the actual balance;

(b) whether the ***pre-payment meter*** is operating on normal credit or emergency credit;

(c) a ***telephone*** number for enquiries; and

(d) the ***distributor's*** 24 hour ***telephone*** number for faults and ***emergencies***.

(4) A ***retailer*** must give a ***pre-payment meter customer*** on request, at no charge, the following information—

(a) total energy ***consumption***;

(b) average daily ***consumption***; and

(c) average daily cost of ***consumption***,

for the previous 2 years or since the commencement of the ***pre-payment meter contract*** (whichever is the shorter), divided in quarterly segments.

(5) A ***retailer*** must, within 10 ***business days*** of the change, use reasonable endeavours to notify a ***pre-payment meter customer*** in writing or by ***electronic means*** if the ***recharge facilities*** available to the ***residential customer*** change from the initial ***recharge facilities*** referred to in subclause (2)(r).

(6) The information to be provided in this clause, with the exception of the information in subclause (3), may be provided in writing to a ***pre-payment meter customer*** at the ***pre-payment meter customer's supply address***, another address nominated by the ***pre-payment meter customer*** or an email address nominated by the ***pre-payment meter customer.***

**9.4 Reversion**

(1) If a ***pre-payment meter customer*** notifies a ***retailer*** that it wants to replace or switch the ***pre-payment meter*** to a standard ***meter***, the ***retailer*** must within 1 ***business day*** of the request—

(a) send the information referred to in clauses 2.3 and 2.4 to the ***pre-payment meter customer*** in writing or by ***electronic means***; and

(b) arrange with the relevant ***distributor*** to—

(i) remove or render non-operational the ***pre-payment meter***; and

(ii) replace or switch the ***pre-payment meter*** to a standard ***meter***.

(2) A ***retailer*** must not require payment of a charge for reversion to a standard ***meter*** if a ***pre-payment meter customer*** is a ***residential customer*** and that ***customer***, or its nominated representative, requests reversion of a ***pre-payment meter*** under subclause (1) within 3 months of the later of the installation of the ***pre-payment meter*** or the date that the ***customer*** agrees to enter into a ***pre-payment meter contract***.

(3) If a ***pre-payment meter customer*** requests reversion of a ***pre-payment meter*** under subclause (1) after the date calculated in accordance with subclause (2), a ***retailer*** may charge the ***pre-payment meter customer*** a reasonable charge for reversion to a standard ***meter***. However, the ***retailer's*** obligations under subclause (1)—

(a) if the ***pre-payment meter customer*** is a ***residential pre-payment meter customer,*** are not conditional on the ***pre-payment meter customer*** paying the ***retailer's*** reasonable charge for reversion to a standard ***meter*** (if any); and

(b) if the ***pre-payment meter customer*** is not a ***residential pre-payment meter customer,*** may be made conditional on the ***pre-payment meter customer*** paying the ***retailer's*** reasonable charge for reversion to a standard ***meter*** (if any).

(4) If a ***retailer*** requests a ***distributor*** to revert a ***pre-payment meter*** under subclause (1), the ***distributor*** must revert the ***pre-payment meter*** at that ***supply address***—

(a) for ***supply addresses*** located within the ***metropolitan area***, within 5 ***business days*** of receipt of the request; or

(b) for ***supply addresses*** located within the ***regional area***, within 10 ***business days*** of receipt of the request.

**9.5 Life support equipment**

(1) If a ***pre-payment meter customer*** provides a ***retailer*** with confirmation from an ***appropriately qualified medical practitioner*** that a person residing at the ***pre-payment meter customer's***

***supply address*** requires ***life support equipment***, the ***retailer*** must not provide a ***pre-payment meter service*** at that ***supply address*** and the ***retailer*** must, or must immediately arrange to—

(a) remove or render non-operational the ***pre-payment meter*** at no charge;

(b) replace or switch the ***pre-payment meter*** to a standard ***meter*** at no charge; and

(c) provide information to the ***pre-payment meter customer*** about the ***contract*** options available to the ***pre-payment meter customer***.

(2) If a ***retailer*** requests a ***distributor*** to revert a ***pre-payment meter*** under subclause (1), the ***distributor*** must revert the ***pre-payment meter*** at that ***supply address*** as soon as possible and in any event no later than—

(a) for ***supply addresses*** located within the ***metropolitan area***—

(i) within 1 ***business day*** of receipt of the request, if the request is received prior to 3pm on a ***business day***; and

(ii) within 2 ***business days*** of receipt of the request, if the request is received after 3pm on a ***business day*** or on a Saturday, Sunday or ***public holiday***;

(b) for ***supply addresses*** located within the ***regional area***—

(i) within 9 ***business days*** of receipt of the request, if the request is received prior to 3pm on a ***business day***; and

(ii) within 10 ***business days*** of receipt of the request, if the request is received after 3pm on a ***business day***, or on a Saturday, Sunday or ***public holiday***.

**9.6 Requirements for pre-payment meters**

(a) A ***retailer*** must ensure that a ***pre-payment meter customer*** has access to emergency credit of $20 outside normal business hours. Once the emergency credit is used, and no additional credit has been applied, the ***pre-payment meter service*** will be ***de-energised***.

(b) A ***retailer*** must ensure that a ***pre-payment meter service***—

(i) is capable of informing the ***retailer*** of—

(A) the number of instances where a ***pre-payment meter customer*** has been ***disconnected***; and

(B) the duration of each of those ***disconnections*** referred to in subclause (b)(i)(A),

at least every month, and

(ii) is capable of recommencing supply and supply is recommenced as soon as information is communicated to the ***pre-payment meter*** that a payment to the account has been made.

**9.7 Recharge Facilities**

Unless otherwise agreed with the ***customer***, a ***retailer*** must ensure that—

(a) at least 1 ***recharge facility*** is located as close as practicable to a ***pre-payment meter***, and in any case no further than 40 kilometres away;

(b) a ***pre-payment meter customer*** can access a ***recharge facility*** at least 3 hours per day, 5 days per week;

(c) it uses best endeavours to ensure that the ***pre-payment meter customer*** can access a ***recharge facility*** for periods greater than required under subclause (b); and

(d) the minimum amount to be credited by a ***recharge facility*** does not exceed $20 per increment.

**9.8 Concessions**

If a ***pre-payment meter customer*** demonstrates to a ***retailer*** that the ***pre-payment meter customer*** is entitled to receive a ***concession***, the ***retailer*** must ensure that the ***pre-payment meter customer*** receives the benefit of the ***concession***.

**9.9 Meter check or test**

(1) If a ***pre-payment meter customer*** requests that the whole or part of a ***pre-payment meter*** be checked or tested, a ***retailer*** must, at the request of the ***pre-payment meter customer***, make immediate arrangements to—

(a) check the ***pre-payment meter customer's*** metering data;

(b) check or conduct a test of the ***pre-payment meter***; and/or

(c) arrange for a check or test by the responsible person for the ***meter*** installation at the ***pre-payment meter customer's connection*** point.

(2) If a ***retailer*** requests a ***distributor*** to check or test a ***pre-payment meter*** under subclause (1), the ***distributor*** must check or test the ***pre-payment meter***.

(3) A ***pre-payment meter customer*** who requests a check or test of a ***pre-payment meter*** under subclause (1) must pay a ***retailer's*** reasonable charge for checking or testing the ***pre-payment meter*** (if any).

(4) If a ***pre-payment meter*** is found to be inaccurate or not operating correctly following a check or test undertaken in accordance with subclause (1), a ***retailer*** must—

(a) immediately arrange for the repair or replacement of the faulty ***pre-payment meter***;

(b) correct any ***overcharging*** or ***undercharging*** in accordance with clause 9.11; and

(c) refund any charges paid by the ***pre-payment meter customer*** under this clause for the testing of the ***pre-payment meter***.

**9.10 Credit retrieval, overcharging and undercharging**

(1) Subject to a ***pre-payment meter customer*** notifying a ***retailer*** of the proposed vacation date, the ***retailer*** must ensure that the ***pre-payment meter customer*** can retrieve all remaining credit at the time the ***pre-payment meter customer*** vacates the ***supply address***.

(2) If a ***pre-payment meter customer*** (including a ***pre-payment meter customer*** who has vacated the ***supply address***) has been ***overcharged*** as a result of an act or omission of a ***retailer*** or ***distributor*** (including if a ***pre-payment meter*** has been found to be defective), the ***retailer*** must use its best endeavours to inform the ***pre-payment meter customer*** accordingly within 10 ***business days*** of the ***retailer*** becoming aware of the error, and ask the ***pre-payment meter customer*** for instructions as to whether the amount should be—

(a) credited to the ***pre-payment meter customer's*** account; or

(b) repaid to the ***pre-payment meter customer***.

(3) If a ***retailer*** receives instructions under subclause (2), the ***retailer*** must pay the amount in accordance with the ***pre-payment meter customer's*** instructions within 12 ***business days*** of receiving the instructions.

(4) If a ***retailer*** does not receive instructions under subclause (2) within 20 ***business days*** of making the request, the ***retailer*** must use reasonable endeavours to credit the amount ***overcharged*** to the ***pre-payment meter customer's*** account.

(5) No interest shall accrue to a credit or refund referred to in subclause (2).

(6) If a ***retailer*** proposes to recover an amount ***undercharged*** as a result of an act or omission by the ***retailer*** or ***distributor*** (including if a ***pre-payment meter*** has been found to be defective), the ***retailer*** must—

(a) limit the amount to be recovered to no more than the amount ***undercharged*** in the 12 months prior to the date on which the ***retailer*** notified the ***pre-payment meter customer*** that ***undercharging*** had occurred;

(b) list the amount to be recovered as a separate item in a special bill or in the next bill (if applicable), together with an explanation of that amount;

(c) not charge the ***pre-payment meter customer*** interest on that amount or require the ***pre-payment meter customer*** to pay a late payment fee; and

(d) offer the ***pre-payment meter customer*** time to pay that amount by means of an ***instalment plan*** in accordance with clause 6.4(2) (as if clause 6.4(2) applied to the ***retailer***) and covering a period at least equal to the period over which the recoverable ***undercharging*** occurred.

(7) If the amount referred to in subclause (2) is less than $100, the ***retailer*** may—

(a) ask the ***pre-payment meter customer*** for instructions under subclause (2) (in which case subclauses (3) and (4) apply as if the ***retailer*** sought instructions under subclause (2)); or

(b) credit the amount to the ***pre-payment meter customer's*** account (in which case subclause (3) applies as if the ***pre-payment meter customer*** instructed the ***retailer*** to credit the ***pre-payment meter customer's*** account).

**9.11 Payment difficulties or financial hardship**

(1) A ***retailer*** must give reasonable consideration to a request by—

(a) a ***residential pre-payment meter customer*** who informs the ***retailer*** that the ***pre-payment meter customer*** is experiencing ***payment difficulties*** or ***financial hardship***; or

(b) a ***relevant consumer representative***,

for a waiver of any fee payable by the ***pre-payment meter customer*** to replace or switch a ***pre-payment meter*** to a standard ***meter***.

(2) Notwithstanding its obligations under clause 6.10, a ***retailer*** must ensure that—

(a) if a ***residential pre-payment meter customer*** informs the ***retailer*** that the ***pre-payment meter customer*** is experiencing ***payment difficulties*** or ***financial hardship***; or

(b) the ***retailer*** identifies that a ***residential pre-payment meter customer*** has been ***disconnected*** 2 or more times in any 1-month period for longer than 120 minutes on each occasion,

subject to subclause (3), the ***retailer*** must use best endeavours to ***contact*** the ***pre-payment meter customer*** as soon as is reasonably practicable to provide—

(c) Not Used

(d) information about the different types of ***meters*** available to the ***pre-payment meter customer***;

(e) information about and referral to relevant financial assistance programmes, and/or

(f) referral to ***relevant consumer representatives***; and/or

(g) information on independent financial and other relevant counselling services.

(3) Where the ***retailer*** has identified the ***residential pre-payment meter customer*** pursuant to subclause (2)(b), the ***retailer*** is not required to ***contact*** the ***residential customer*** and provide the information set out in subclauses (2)(c)-(g) if the ***retailer*** has provided the ***residential pre-payment meter customer*** with that information in the preceding 12 months.

(4) The information to be provided in subclause (2) may be provided in writing to a ***pre-payment meter customer*** at the ***pre-payment meter customer's supply address***, another address nominated by the ***pre-payment meter customer*** or an email address nominated by the ***pre-payment meter customer.***

**9.12 Existing pre-payment meters**

A ***pre-payment meter*** installed prior to the ***amendment date*** will be deemed to comply with the requirements of this Part 9.

## PART 10—INFORMATION AND COMMUNICATION

*Division 1—Obligations particular to retailers*

**10.1 Tariff information**

(1) A ***retailer*** must give notice to each of its ***customers*** affected by a variation in its tariffs, fees and charges, no later than the next bill in a ***customer's billing cycle***.

(2) A ***retailer*** must give or make available to a ***customer*** on request, at no charge, reasonable information on the ***retailer's*** tariffs, fees and charges, including any ***alternative tariffs*** that may be available to that ***customer***.

(3) A ***retailer*** must give or make available to a ***customer*** the information referred to under subclause (2) within 8 ***business days*** of the date of receipt. If requested by the ***customer***, the ***retailer*** must give the information in writing.

**10.2 Historical billing data**

(1) A ***retailer*** must give a ***non-contestable customer*** on request the ***non-contestable customer's*** billing data.

(2) If a ***non-contestable customer*** requests billing data under subclause (1)—

(a) for a period less than the previous 2 years and no more than once a year; or

(b) in relation to a dispute with a ***retailer***,

the ***retailer*** must give the billing data at no charge.

(3) A ***retailer*** must give a ***non-contestable customer*** the billing data requested under subclause (1) within 10 ***business days*** of the date of receipt of—

(a) the request; or

(b) payment for the ***retailer's*** reasonable charge for providing the billing data (if requested by the ***retailer***).

(4) A ***retailer*** must keep a ***non-contestable customer's*** billing data for 7 years.

**10.3 Concessions**

A ***retailer*** must give a ***residential customer*** on request at no charge—

(a) information on the types of ***concessions*** available to the ***residential customer***; and

(b) the name and contact details of the organisation responsible for administering those ***concessions*** (if the ***retailer*** is not responsible).

**10.3A Service Standard Payments**

A ***retailer*** must give a ***customer*** at least once a year written details of the ***retailer's*** and ***distributor's*** obligations to make payments to the ***customer*** under Part 14 of this ***Code*** and under any other legislation (including subsidiary legislation) in Western Australia including the amount of the payment and the eligibility criteria for the payment.

**10.4 Energy Efficiency Advice**

A ***retailer*** must give, or make available to a ***customer*** on request, at no charge, general information on—

(a) cost effective and efficient ways to utilise electricity (including referring the ***customer*** to a relevant information source); and

(b) the typical running costs of major domestic appliances.

**10.5 Distribution matters**

If a ***customer*** asks a ***retailer*** for information relating to the distribution of electricity, the ***retailer*** must—

(a) give the information to the ***customer***; or

(b) refer the ***customer*** to the relevant ***distributor*** for a response.

*Division 2—Obligations particular to distributors*

**10.6 General information**

A ***distributor*** must give a ***customer*** on request, at no charge, the following information—

(a) information on the ***distributor's*** requirements in relation to the ***customer's*** proposed new electrical installation, or changes to the ***customer's*** existing electrical installation, including advice about supply extensions;

(b) an explanation for any unplanned or approved change in the quality of supply of electricity outside of the limits prescribed by law;

(c) an explanation for any unplanned ***interruption*** of supply to the ***customer's supply address***;

(d) advice on facilities required to protect the ***distributor's*** equipment;

(e) advice on how to obtain information on protecting the ***customer's*** equipment;

(f) advice on the ***customer's*** electricity usage so that it does not interfere with the operation of a distribution system or with supply to any other electrical installation;

(g) general information on safe use of electricity;

(h) general information on quality of supply; and

(i) general information on reliability of supply.

**10.7 Historical consumption data**

(1) A ***distributor*** must give a ***customer*** on request the ***customer's consumption*** data.

(2) If a ***customer*** requests ***consumption*** data under subclause (1)—

(a) for a period less than the previous 2 years, provided the ***customer*** has not been given ***consumption*** data pursuant to a request under subclause (1) more than twice within the 12 months immediately preceding the request; or

(b) in relation to a dispute with a ***distributor***,

the ***distributor*** must give the ***consumption*** data at no charge.

(3) A ***distributor*** must give a ***customer*** the ***consumption*** data requested under subclause (1) within 10 ***business days*** of the date of receipt of—

(a) the request; or

(b) if payment is required (and is requested by the ***distributor*** within 2 ***business days*** of the request) payment for the ***distributor's*** reasonable charge for providing the data.

(4) A ***distributor*** must keep a ***customer's consumption*** data for 7 years.

**10.8 Distribution standards**

(1) A ***distributor*** must tell a ***customer*** on request how the ***customer*** can obtain information on distribution standards and metering arrangements—

(a) prescribed under the ***Act*** or the *Electricity Act 1945*; or

(b) adopted by the ***distributor***,

that are relevant to the ***customer***.

(2) A ***distributor*** must publish on its website the information specified in subclause (1).

*Division 3—Obligations particular to retailers and distributors*

**10.9 Written information must be easy to understand**

To the extent practicable, a ***retailer*** and ***distributor*** must ensure that any written information that must be given to a ***customer*** by the ***retailer*** or ***distributor*** or its ***electricity marketing agent*** under the ***Code*** is expressed in clear, simple and concise language and is in a format that makes it easy to understand.

**10.10 Code of Conduct**

(1) A ***retailer*** and a ***distributor*** must tell a ***customer*** on request how the ***customer*** can obtain a copy of the ***Code***.

(2) A ***retailer*** and a ***distributor*** must make electronic copies of the ***Code*** available, at no charge, on the ***retailer's*** or ***distributor's*** website.

(3) Not Used

**10.11 Special Information Needs**

(1) A ***retailer*** and a ***distributor*** must make available to a ***residential customer*** on request, at no charge, services that assist the ***residential customer*** in interpreting information provided by the ***retailer*** or ***distributor*** to the ***residential customer*** (including independent multi-lingual and ***TTY*** services, and large print copies).

(2) A ***retailer*** and, if appropriate, a ***distributor*** must include in relation to ***residential customers***—

(a) the ***telephone*** number for its ***TTY*** services;

(b) the ***telephone*** number for independent multi-lingual services; and

(c) the ***telephone*** number for interpreter services together with the ***National Interpreter Symbol*** and the words "Interpreter Services",

on the—

(d) bill and bill related information (including, for example, the notice referred to in clause 4.2(3) and statements relating to an ***instalment plan***);

(e) ***reminder notice***; and

(f) ***disconnection warning***.

**10.12 Metering**

(1) A ***distributor*** must advise a ***customer*** on request, at no charge, of the availability of different types of ***meters*** and their—

(a) suitability to the ***customer's supply address***;

(b) purpose;

(c) costs; and

(d) installation, operation and maintenance procedures.

(2) If a ***customer*** asks a ***retailer*** for information relating to the availability of different types of ***meters***, the ***retailer*** must—

(a) give the information to the ***customer***; or

(b) refer the ***customer*** to the relevant ***distributor*** for a response.

## PART 11—NOT USED

## PART 12—COMPLAINTS AND DISPUTE RESOLUTION

**12.1 Obligation to establish complaints handling process**

(1) A ***retailer*** and ***distributor*** must develop, maintain and implement an internal process for handling ***complaints*** and resolving disputes.

(2) The ***complaints*** handling process under subclause (1) must—

(a) comply with ***Australian Standard*** AS/NZS 10002:2014;

(b) address at least—

(i) how ***complaints*** must be lodged by ***customers***;

(ii) how ***complaints*** will be handled by a ***retailer*** or ***distributor***, including—

(A) a right of a ***customer*** to have its ***complaint*** considered by a senior employee within each organisation of the ***retailer*** or ***distributor*** if the ***customer*** is not satisfied with the manner in which the ***complaint*** is being handled;

(B) the information that will be provided to a ***customer***;

(iii) response times for ***complaints***; and

(iv) method of response;

(c) detail how a ***retailer*** will handle ***complaints*** about the ***retailer***, ***electricity marketing agents*** or ***marketing***; and

(d) be available at no cost to ***customers***.

(3) For the purposes of subclause (2)(b)(ii)(B), a ***retailer*** or ***distributor*** must at least—

(a) when responding to a ***complaint***, advise the ***customer*** that the ***customer*** has the right to have the ***complaint*** considered by a senior employee within the ***retailer*** or ***distributor*** (in accordance with its ***complaints*** handling process); and

(b) when a ***complaint*** has not been ***resolved*** internally in a manner acceptable to a ***customer***, advise the ***customer***—

(i) of the reasons for the outcome (on request, the ***retailer*** or ***distributor*** must supply such reasons in writing); and

(ii) that the ***customer*** has the right to raise the ***complaint*** with the ***electricity ombudsman*** or another relevant external dispute resolution body and provide the Freecall ***telephone*** number of the ***electricity ombudsman***.

(4) For the purpose of subclause (2)(b)(iii), a ***retailer*** or ***distributor*** must, on receipt of a written ***complaint*** by a ***customer***—

(a) acknowledge the ***complaint*** within 10 ***business days***; and

(b) respond to the ***complaint*** by addressing the matters in the ***complaint*** within 20 ***business days***.

**12.2 Obligation to comply with a guideline that distinguishes customer queries from complaints**

A ***retailer*** must comply with any guideline developed by the ***Authority*** relating to distinguishing ***customer*** queries from ***complaints***.

**12.3 Information provision**

A ***retailer***, ***distributor*** and ***electricity marketing agent*** must give a ***customer*** on request, at no charge, information that will assist the ***customer*** in utilising the respective ***complaints*** handling processes.

**12.4 Obligation to refer complaint**

When a ***retailer***, ***distributor*** or ***electricity marketing agent*** receives a ***complaint*** that does not relate to its functions, it must advise the ***customer*** of the entity that the ***retailer***, ***distributor*** or ***electricity marketing agent*** reasonably considers to be the appropriate entity to deal with the ***complaint*** (if known).

## PART 13—REPORTING

### 13.1 Preparation of an annual report

A ***retailer*** and a ***distributor*** must prepare a report in respect of each ***reporting year*** setting out the information specified by the ***Authority***.

### 13.2 Provision of annual report to the Authority

A report referred to in clause 13.1 must be provided to the ***Authority*** by the date, and in the matter and form, specified by the ***Authority***.

### 13.3 Publication of reports

(1) A report referred to in clause 13.1 must be published by the date specified by the ***Authority***.

(2) A report is published for the purposes of subclause (1) if—

(a) copies of it are available to the public, without cost, at places where the ***retailer*** or ***distributor*** transacts business with the public; and

(b) a copy of it is posted on an internet website maintained by the ***retailer*** or ***distributor***.

## PART 14—SERVICE STANDARD PAYMENTS

*Division 1—Obligations particular to retailers*

### 14.1 Facilitating customer reconnections

(1) Subject to clause 14.6, if a ***retailer*** is required to arrange a ***reconnection*** of a ***customer's supply address*** under Part 8—

(a) but the ***retailer*** has not complied with the time frames prescribed in clause 8.1(2) and has not otherwise caused the ***customer's supply address*** to be reconnected as contemplated by clause 8.1(3); or

(b) the ***retailer*** has complied with the time frames prescribed in clause 8.1(2), but a ***distributor*** has not complied with the time frames prescribed in clause 8.2(2),

the ***retailer*** must pay to the ***customer*** $60 for each day that it is late, up to a maximum of $300.

(2) Subject to clause 14.6, if a ***retailer*** is liable to and makes a payment under subclause (1) due to an act or omission of a ***distributor***, the ***distributor*** must compensate the ***retailer*** for the payment.

### 14.2 Wrongful disconnections

(1) Subject to clause 14.6, if a ***retailer***—

(a) fails to comply with any of the procedures prescribed under Part 6 (if applicable and other than clauses 6.8, 6.9 or 6.10) or Part 7 (other than clauses 7.4, 7.5, 7.6, 7.7(1)(a), 7.7(1)(b), or 7.7(2)(e) of the ***Code*** prior to arranging for ***disconnection*** or ***disconnecting*** a ***customer*** for failure to pay a bill; or

(b) arranges for ***disconnection*** or ***disconnects*** a ***customer*** in contravention of clauses 7.2, 7.3, 7.6 or 7.7 for failure to pay a bill,

the ***retailer*** must pay to the ***customer*** $100 for each day that the ***customer*** was wrongfully ***disconnected***.

(2) Subject to clause 14.6, if a ***retailer*** is liable to and makes a payment under subclause (1) due to an act or omission of a ***distributor***, the ***distributor*** must compensate the ***retailer*** for the payment.

### 14.3 Customer service

(1) Subject to clause 14.6, if a ***retailer*** fails to acknowledge or respond to a ***complaint*** within the time frames prescribed in clause 12.1(4), the ***retailer*** must pay to the ***customer*** $20.

(2) A ***retailer*** will only be liable to make 1 payment of $20, under subclause (1), for each written ***complaint***.

*Division 2—Obligations particular to distributors*

### 14.4 Customer service

(1) Subject to clause 14.6, if a ***distributor*** fails to acknowledge or respond to a ***complaint*** within the time frames prescribed in clause 12.1(4), the ***distributor*** must pay to the ***customer*** $20.

(2) A ***distributor*** will only be liable to make 1 payment of $20, under subclause (1), for each written ***complaint***.

### 14.5 Wrongful disconnections

Subject to clause 14.6, if a ***distributor disconnects*** a ***customer's supply address*** other than as authorised by—

(a) this ***Code*** or otherwise by law; or

(b) a ***retailer***,

then the ***distributor*** must pay to the ***customer*** $100 for each day that the ***customer*** was wrongfully ***disconnected***.

*Division 3—Payment*

**14.6 Exceptions**

(1) A ***retailer*** or ***distributor*** is not required to make a payment under clauses 14.1 to 14.5 if events or conditions outside the control of the ***retailer*** or ***distributor*** caused the ***retailer*** or ***distributor*** to be liable to make the payment.

(2) Except in the case of a payment under clauses 14.2 and 14.5, which are required to be made without application by a ***customer*** as soon as reasonably practical**,** a ***retailer*** or ***distributor*** is not required to make a payment under clauses 14.1 to 14.5 if the ***customer*** fails to apply to the ***retailer*** or ***distributor*** for the payment within 3 months of the non-compliance by the ***retailer*** or ***distributor***.

(3) Under clauses 14.3 and 14.4, a ***retailer*** or ***distributor*** is not required to make more than 1 payment to each affected ***supply address*** per event of non-compliance with the performance standards.

(4) For the purposes of subclause (3), each ***supply address*** where a ***customer*** receives a bill from a ***retailer*** is a separate ***supply address***.

**14.7 Method of payment**

(1) A ***retailer*** who is required to make a payment under clauses 14.1, 14.2 or 14.3 must do so–

(a) by deducting the amount of the payment from the amount due under the ***customer's*** next bill;

(b) by paying the amount directly to the ***customer***; or

(c) as otherwise agreed between the ***retailer*** and the ***customer***.

(2) A ***distributor*** who is required to make a payment under clauses 14.4 or 14.5 must do so—

(a) by paying the amount to the ***customer's retailer*** who will pass the amount on to the ***customer*** in accordance with subclause (1);

(b) by paying the amount directly to the ***customer***; or

(c) as otherwise agreed between the ***distributor*** and the ***customer***.

(3) For the avoidance of doubt, a payment made under this part does not affect any rights of a ***customer*** to claim damages or any other remedy.

**14.8 Recovery of payment**

(1) If a ***retailer*** or ***distributor*** who is required to make a payment to a ***customer*** under this Part fails to comply with clause 14.7 within 30 days of the date of demand for payment by the ***customer***, or in the case of a payment required to be made under clause 14.2(1) or 14.5, within 30 days of the date of the wrongful ***disconnection***, then the ***customer*** may recover the payment in a court of competent jurisdiction as a debt due from the ***retailer*** or ***distributor*** (as the case may be) to the ***customer***.

(2) If a ***retailer*** is entitled under clause 14.1(2) or 14.2(2) to compensation from a ***distributor***, and the ***distributor*** fails to pay the compensation to the ***retailer*** within 30 days of the date of demand for compensation payment by the ***retailer***, then the ***retailer*** may recover the compensation payment in a court of competent jurisdiction as a debt due from the ***distributor*** to the ***retailer***.

# Appendix 4 Comparative review of the Code and the NECF

# Obligation to forward connection application

[Clause 3.1 of the Code]

## Comparative review of Code and NECF

### Summary of legislation

Both the Code and the NECF require retailers to forward customer connection applications to the relevant distributor.

The Code prescribes minimum timeframes for forwarding an application, while the NECF requires retailers to 'promptly' make an application on behalf of a customer.

### Advantages / disadvantages of adopting NECF

| Advantages | Disadvantages |
|---|---|
| | • Less certainty about the timeframe for forwarding a connection request. |

## Recommendation

No amendments recommended.[1]

Reasons

The NECF provides less protections for customers than the Code.

[1] Recommendation 13 in the main body of the report proposes an amendment to clause 3.1 for reasons not related to the NECF.

# Obligation to forward connection application

[Clause 3.1 of the Code]

**BACKGROUND – Full extract of legislative provisions**

| Code | NECF |
|---|---|
| **3.1 Obligation to forward connection application**<br>(1) If a retailer agrees to sell electricity to a customer or arrange for the connection of the customer's supply address, the retailer must forward the customer's request for connection to the relevant distributor for the purpose of arranging for the connection of the customer's supply address (if the customer's supply address is not already connected).<br>(2) Unless the customer agrees otherwise, a retailer must forward the customer's request for connection to the relevant distributor—<br>(a) that same day, if the request is received before 3pm on a business day; or<br>(b) the next business day, if the request is received after 3pm or on a Saturday, Sunday or public holiday.<br>(3) In this clause—<br>**"customer"** includes a customer's nominated representative. | ***NERR***<br>**79 Application for customer connection services**<br>(1) **Application of this rule**<br>This rule applies where a customer is seeking the provision of customer connection services in respect of an existing connection at the customer's premises.<br>(2) **Who may apply**<br>An application for the provision of customer connection services is to be made to a distributor by a retailer on behalf of the customer (but only if the retailer has a relevant contract with the customer in relation to the premises).<br>(3) **Responsibilities of retailer**<br>The retailer must make the application promptly on behalf of the customer.<br>(4) **Responsibilities of distributor**[2]<br>The distributor must, as soon as practicable after the retailer notifies the distributor of the formation of the relevant contract under subrule (2), provide customer connection services in respect of the customer's premises.<br>(5) **Services to be provided in accordance with energy laws**[3]<br>The customer connection services are to be provided subject to and in accordance with any relevant requirements of the energy laws.<br>(6) **Definition**<br>In this rule:<br>**relevant contract** means:<br>(a) in the case of a small customer—a customer retail contract; or<br>(b) in the case of a large customer—a contract for the sale of energy to the customer. |

2 Under the WA legislative framework, matters related to the provision of connection services must be addressed in the *Electricity Industry (Obligation to Connect) Regulations 2005*.

3 Id.

# Billing cycle

*Recommendation 14*

[Clause 4.1 of the Code]

## Comparative review of Code and NECF

### Summary of legislation

Both the Code and the NECF prescribe the billing frequency for retailers.

Notable differences:

| | Code | NECF |
|---|---|---|
| **Minimum billing cycle** | 1 month | N/A |
| **Maximum billing cycle** | 3 months | 100 days |
| **Exceptions** | Various | Customer gives explicit informed consent for a different billing cycle |

### Advantages / disadvantages of adopting NECF

**Advantages**

- Removing the minimum billing cycle reduces regulatory burden and compliance costs for retailers.
- Less complex drafting.
- Improve consistency with the NECF.

**Disadvantages**

- No prescribed minimum length for a billing cycle.
- Maximum billing cycle is longer (100 days instead of 3 months). A longer billing cycle may result in higher bills, which may cause problems for customers experiencing payment difficulties.

## Recommendation

a) Replace clauses 4.1(a) and (b)(i) of the Code with rules 24(1) and (2) of the NERR but:
   - replace the words "retailer's usual recurrent period" with "customer's standard billing cycle" in rule 24(2).
   - replace the words "explicit informed consent" with "verifiable consent" in rule 24(2).
   - clarify that, when customers agree to a different billing cycle under rule 24(2), the billing cycle should not be longer than 100 days.

b) Retain clause 4.1(b)(ii) of the Code but replace the words "metering data" with "energy data".

c) Retain clause 4.1(b)(iii) of the Code.

Reasons

**a) Replace clause 4.1(a) and (b)(i) of the Code with rules 24(1) and (2) of the NERR**

See NECF advantages listed above.

Adopting the NECF would result in the Code no longer prescribing a minimum billing cycle. The maximum billing cycle would further be extended to 100 days. Both amendments are unlikely to affect customers:

- *Removing the minimum billing cycle:* The regular recurrent billing cycle for most retailers is 1 to 3 months. It is unlikely retailers would adopt a billing cycle of less than one month as their 'regular recurrent billing cycle' due to the costs involved in issuing bills more often.
- *Increasing the maximum billing cycle to 100 days:* Most licensees prefer shorter billing cycles. The only two electricity retailers that supply residential customers, Synergy and Horizon Power, have a two-monthly billing cycle.

**but:**

- **replace the words "retailer's usual recurrent period" with "customer's standard billing cycle" in rule 24(2)**
    - Most retailers do not apply the same recurrent period to all customers. For example, a retailer may apply a one-month billing cycle to its business customers and a two-month billing cycle to its residential customers. To ensure that retailers only need to obtain a customer's verifiable consent to change the billing cycle that currently applies to the customer, "retailer's" should be replaced with "customer's" in rule 24(2).
    - The term billing cycle is used throughout the Code.
- **replace the words "explicit informed consent" with "verifiable consent" in rule 24(2)**

  The term verifiable consent is used throughout the Code.
- **clarify that, when customers agree to a different billing cycle under rule 24(2), the billing cycle should not be longer than 100 days**
    - A billing cycle of more than 100 days would result in less frequent, larger bills which may make it more difficult for customers to budget for their bills. To reduce the risk of customers getting into financial difficulty, customers on a standard form contract should not have a billing cycle of more than 100 days (which is already an increase from the current three months).
    - A billing cycle of 100 days should provide retailers with sufficient time to issue their bills to customers. Clause 4.1(b)(ii) and (iii) also include two exceptions to the obligation to issue a bill every 100 days.

**b) Retain clause 4.1(b)(ii) of the Code**

A retailer may currently bill less often if it did not receive (actual or estimated) metering data from the distributor on time. This exception is not provided for under the NECF because NECF retailers who have not received metering data from a distributor may issue a bill based on their own estimation.

Retailer estimations are not allowed under the Code.

Rule 21 of the NERR, which sets out the process for retailer estimations, is relatively long and complex. Instead of adopting rule 21, it is recommended to retain the exception in clause 4.1(b)(ii) of the Code.

**but replace the words "metering data" with "energy data"**

"Metering data" is not a defined term in the Code or the *Electricity Industry Metering Code 2012*. The equivalent term in the Metering Code is energy data.[4]

**c) Retain clause 4.1(b)(iii) of the Code**

A retailer may currently bill less frequently if a customer has started to use electricity but has not contacted a retailer to enter into a contract.[5] This exception is not covered by rule 24(1) or (2) of the NERR but should be retained.

[4] The term energy data is defined in the Code. The definition refers to the definition of energy data in the Metering Code.

[5] As the retailer is not aware that the customer has started to use electricity, the retailer cannot issue a bill to the customer.

**BACKGROUND – Full extract of legislative provisions**

| Code | NECF |
|---|---|
| **4.1 Billing cycle**<br>A retailer must issue a bill—<br>(a) no more than once a month, unless the retailer has—<br>(i) obtained a customer's verifiable consent to issue bills more frequently;<br>(ii) given the customer—<br>(A) a reminder notice in respect of 3 consecutive bills; and<br>(B) notice as contemplated under clause 4.2;<br>(iii) received a request from the customer to change their supply address or issue a final bill, in which case the retailer may issue a bill more than once a month for the purposes of facilitating the request; or<br>(iv) less than a month after the last bill was issued, received metering data from the distributor for the purposes of preparing the customer's next bill;<br>(b) no less than once every 3 months, unless the retailer—<br>(i) has obtained the customer's verifiable consent to issue bills less frequently;<br>(ii) has not received the required metering data from the distributor for the purposes of preparing the bill, despite using best endeavours to obtain the metering data from the distributor; or<br>(iii) is unable to comply with this timeframe due to the actions of the customer where the customer is supplied under a deemed contract pursuant to regulation 37 of the *Electricity Industry (Customer Contracts) Regulations 2005* and the bill is the first bill issued to that customer at that supply address.<br>*[A retailer and customer may agree that this clause does not apply, or is amended, in a non-standard contract]* | ***NERR***<br>**24 Frequency of bills**<br>(1) A retailer must issue bills to a small customer at least once every 100 days.<br>(2) A retailer and a small customer may agree to a billing cycle with a regular recurrent period that differs from the retailer's usual recurrent period where the retailer obtains the explicit informed consent of the small customer.<br>(3) **Application of this rule to standard retail contracts**<br>This rule applies in relation to standard retail contracts.<br>(4) **Application of this rule to market retail contracts**<br>This rule applies in relation to market retail contracts. |

# Shortened billing cycle

*Recommendation 15*

[Clause 4.2 of the Code]

## Comparative review of Code and NECF

### Summary of legislation

Both the Code and the NECF allow retailers to place customers on a shortened billing cycle if certain conditions have been met.

Notable differences:

| | Code | NECF |
|---|---|---|
| **With consent:** | | |
| – Level of consent required | Verifiable consent | Agreement |
| **Without consent:** | | |
| – When customer may be placed on shortened billing cycle | When the customer has received a reminder notice for 3 consecutive bills | When the customer has received a reminder notice or disconnection warning for 2 consecutive bills |
| – Prior warning | Yes | Yes, before the second reminder or warning notice |
| – Minimum length of shortened billing cycle | 10 days | No minimum |
| – Notification to customer when they are placed on shortened billing cycle | Yes, notification only | Yes, and:<br>• what the customer needs to do to be removed from the shortened billing cycle; and<br>• what may happen if the customer doesn't pay their bill on time. |
| – Reminder notices during shortened billing cycle | Yes | No |
| **Return to previous billing cycle** | Upon request, once customer has paid 3 consecutive bills by the due date | Automatically, once customer has paid 3 consecutive bills by the due date |
| **Customer able to contract out** | Yes | No |

### Advantages / disadvantages of adopting NECF

**Advantages**

- Customers do not have to request to be returned to a standard billing cycle.
- Customers receive more information.

**Disadvantages**

- Retailers will incur costs to develop systems to 'automatically' return customers to standard billing cycle.
- Customers can be placed on a shortened billing cycle sooner.

- Customers on a shortened billing cycle do not receive reminder notices and can be disconnected without further notice.

**Recommendation**

a) Replace clauses 4.2(1) and (2) of the Code with rule 34(2) of the NERR but:
   - clarify that the clause only applies if the retailer has not obtained the customer's verifiable consent to the shortened billing cycle.
   - amend subrule 2(a) of the NERR by replacing the words "payment difficulties" with "financial hardship".
   - amend subrule (2)(b) by replacing "2" with "3".
   - replace subrules (2)(c)(i) to (v) with clauses 4.2(1)(a) to (d) of the Code and amend clause 4.2(1)(a) by inserting the words "or disconnection warning" after "reminder notice".
   - clarify that the information in subrule (2)(c) must have been given before the retailer gives the customer a reminder notice or disconnection warning for the third consecutive bill.

b) Replace clause 4.2(3) of the Code with rule 34(3) of the NERR but delete the words "without a further reminder notice" from subrule (c).

c) Retain clauses 4.2(4), (5) and (6) of the Code.

Reasons

**a) Replace clauses 4.2(1) and (2) of the Code with rule 34(2) of the NERR but:**

To improve consistency with the NECF.

- **clarify that the clause only applies if the retailer has not obtained the customer's verifiable consent to the shortened billing cycle**

  To ensure that where a customer requests to go on a shortened billing cycle, the retailer does not have to comply with the additional protections under this clause (which are intended to protect customers who have been placed on a shortened billing cycle due to non-payment).

- **amend subrule 2(a) of the NERR by replacing the words "payment difficulties" with "payment difficulties or financial hardship"**

  The terms "payment difficulties" and "financial hardship" are used in the Code.

- **amend subrule (2)(b) by replacing "2" with "3"**

  Retain existing Code protection.

- **replace subrules (2)(c)(i) to (v) with clauses 4.2(1)(a) to (d) of the Code and**

  Replacing clause 4.2(1)(d) with rules 34(2)(c)(ii) and (iii) would mean customers on shortened billing cycles would no longer receive reminder notices and disconnection warnings. There are no compelling reasons for removing this protection from the Code.

  The information that must be provided under clauses 4.2(1)(a), (b) and (c) is very similar to the information that must be provided under subrules (2)(c)(i), (iv) and (v).

  **amend clause 4.2(1)(a) by inserting the words "or disconnection warning" after "reminder notice"**

  Rule 34(2)(b) and (c) also refer to disconnection warnings.

- **clarify that the information in subrule (2)(c) must have been given before the retailer gives the customer a reminder notice or disconnection warning for the third consecutive bill**

  The wording of subrule 34(2)(c) could be read as referring to the third reminder notice or disconnection warning for a bill.

**b) Replace clause 4.2(3) of the Code with rule 34(3) of the NERR**

Customers would receive more information about their rights and responsibilities after having been being placed on a shortened billing cycle.

**but delete the words "without a further reminder notice" from subrule (c)**

There are no compelling reasons for removing the requirement to provide customers on shortened billing cycles with reminder notices.

**c) Retain clause 4.2(4) of the Code**

Retain existing Code protection that a shortened billing cycle must be at least 10 business days.

**Retain clauses 4.2(5) and (6) of the Code**

Under the NECF, retailers must 'automatically' return customers to their standard billing cycle if they have paid three consecutive bills by the due date. Adopting this requirement in the Code could increase costs for retailers.

Retaining clauses 4.2(5) and (6) ensures that retailers only have to return customers to their previous billing cycle upon their request.

Overall, the proposal aims to balance the interests of customers and retailers.

**BACKGROUND – Full extract of legislative provisions**

**Code**

**4.2 Shortened billing cycle**

(1) For the purposes of clause 4.1(a)(ii), a retailer has given a customer notice if the retailer has advised the customer, prior to placing the customer on a shortened billing cycle, that—

(a) receipt of a third reminder notice may result in the customer being placed on a shortened billing cycle;

(b) if the customer is a residential customer, assistance is available for residential customers experiencing payment difficulties or financial hardship;

(c) the customer may obtain further information from the retailer on a specified telephone number; and

(d) once on a shortened billing cycle, the customer must pay 3 consecutive bills by the due date to return to the customer's previous billing cycle.

(2) Notwithstanding clause 4.1(a)(ii), a retailer must not place a residential customer on a shortened billing cycle without the customer's verifiable consent if—

(a) the residential customer informs the retailer that the residential customer is experiencing payment difficulties or financial hardship; and

(b) the assessment carried out under clause 6.1 indicates to the retailer that the customer is experiencing payment difficulties or financial hardship.

(3) If, after giving notice as required under clause 4.1(a)(ii), a retailer decides to shorten the billing cycle in respect of a customer, the retailer must give the customer written notice of that decision within 10 business days of making that decision.

(4) A shortened billing cycle must be at least 10 business days.

(5) A retailer must return a customer, who is subject to a shortened billing cycle and has paid 3 consecutive bills by the due date, on request, to the billing cycle that applied to the customer before the shortened billing cycle commenced.

(6) A retailer must inform a customer, who is subject to a shortened billing cycle, at least once every 3 months that, if the customer pays 3 consecutive bills by the due date of each bill, the customer

**NECF**

***NERR***

**34 Shortened collection cycles**

(1) A retailer may place a small customer on a shortened collection cycle with the agreement of the customer.

(2) Otherwise, a retailer may place a small customer on a shortened collection cycle only if:

(a) in the case of a residential customer—the customer is not experiencing payment difficulties; and

(b) the retailer has given the customer a reminder or warning notice for 2 consecutive bills; and

(c) before the second reminder or warning notice, the retailer has given the customer a notice informing the customer that:

(i) receipt of the second reminder or warning notice may result in the customer being placed on a shortened collection cycle; and

(ii) being on a shortened collection cycle means the customer will not receive a reminder notice until the customer has paid 3 consecutive bills in the customer's billing cycle by the pay-by date; and

(iii) failure to make a payment may result in arrangements being made for disconnection of the supply of energy without a further reminder notice; and

(iv) alternative payment arrangements may be available; and

(v) the customer may obtain further information from the retailer (on a specified telephone number).

(3) The retailer must, within 10 business days of placing the small customer on a shortened collection cycle, give the customer notice that:

(a) the customer has been placed on a shortened collection cycle; and

(b) the customer must pay 3 consecutive bills in the customer's billing cycle by the pay-by date in order to be removed from the shortened collection cycle;

and

(c) failure to make a payment may result in arrangements being made for disconnection

will be returned, on request, to the billing cycle that applied to the customer before the shortened billing cycle commenced.

*[A retailer and customer may agree that this clause does not apply, or is amended, in a non-standard contract]*

of the supply of energy without a further reminder notice.

(4) The retailer must remove the small customer from the shortened collection cycle as soon as practicable after the customer pays 3 consecutive bills in the customer's billing cycle by the pay-by date, unless the customer requests that this not be done.

(5) In this rule:

**reminder or warning notice** means a reminder notice or a disconnection warning notice.

(6) **Application of this rule to standard retail contracts**

This rule applies in relation to standard retail contracts.

(7) **Application of this rule to market retail contracts**

This rule applies in relation to market retail contracts (other than prepayment meter market retail contracts).

# Bill smoothing

[Clause 4.3 of the Code]

## Comparative review of Code and NECF

### Summary of legislation

Both the Code and the NECF prescribe minimum standards for bill smoothing arrangements.

Notable differences:

- Although both Code and NECF customers must give verifiable/explicit informed consent for the arrangement, Code customers may only be placed on a bill smoothing arrangement upon their request.
- Code retailers must take into account more matters when setting the amount payable.
- Code customers, whose bill smoothing arrangement is for a defined period or has a specified end date, must be advised of their options once the arrangement ends.
- NECF customers on a market retail contract may contract out of rule 23.

### Advantages / disadvantages of adopting NECF

**Advantages**

- The stipulation that a retailer may only place a customer on bill smoothing arrangement on their request seems unnecessary as the customer already has to provide their verifiable consent to the arrangement.

**Disadvantages**

- The differences between the Code and NECF reflect the current practices of WA retailers. Removing these differences may have unintended consequences.
- Customers, whose bill smoothing arrangement is for a defined period or has a specified end date, would no longer be advised of their options once the arrangement ends.

## Recommendation

No amendments recommended.

Reasons

As clause 4.3 is proposed to be deleted (see recommendation 16 in the main body of the report), no amendments are recommended based on the NECF.

**BACKGROUND – Full extract of legislative provisions**

| Code | NECF |
|---|---|
| **4.3 Bill smoothing**<br>(1) Notwithstanding clause 4.1, in respect of any 12 month period, on receipt of a request by a customer, a retailer may provide the customer with a bill which reflects a bill smoothing arrangement.<br>(2) If a retailer provides a customer with a bill under a bill smoothing arrangement pursuant to subclause (1), the retailer must ensure that—<br>(a) the amount payable under each bill is initially the same and is set out on the basis of—<br>(i) the retailer's initial estimate of the amount of electricity the customer will consume over the 12 month period;<br>(ii) the relevant supply charge for the consumption and any other charges related to the supply of electricity agreed with the customer;<br>(iii) any adjustment from a previous bill smoothing arrangement (after being adjusted in accordance with clause 4.19); and<br>(iv) any other relevant information provided by the customer.<br>(b) the initial estimate is based on the customer's historical billing data or, if the retailer does not have that data, the likely average consumption at the relevant tariff calculated over the 12 month period as estimated by the retailer;<br>(c) in or before the seventh month—<br>(i) the retailer re-estimates the amount under subclause (2)(a)(i), taking into account any meter readings and relevant seasonal and other factors agreed with the customer; and<br>(ii) unless otherwise agreed, if there is a difference between the initial estimate and the re-estimate of greater than 10%, the amount payable under each of the remaining bills in the 12 month period is to be reset to reflect that difference; and<br>(d) at the end of the 12 month period, or any other time agreed between the retailer and the customer and at the end of the bill smoothing arrangement, the meter is read | ***NERR***<br>**23 Bill smoothing**<br>(1) Despite rules 20 and 21, a retailer may, in respect of any 12 month period, provide a small customer with bills based on an estimation under a bill smoothing arrangement if and only if:<br>(a) the amount payable under each bill is initially the same and is set on the basis of the retailer's initial estimate of the amount of energy the customer will consume over the 12 month period; and<br>(b) that initial estimate is based on the customer's historical billing data or, where the retailer does not have that data, average usage of energy by a comparable customer calculated over the 12 month period; and<br>(c) in the seventh month:<br>(i) the retailer re-estimates the amount of energy the customer will consume over the 12 month period, taking into account any actual meter readings or actual metering data and relevant seasonal factors;<br>and<br>(ii) if there is a difference between the initial estimate and the re-estimate of greater than 10 per cent, the amount payable under each of the remaining bills in the 12 month period is to be reset to reflect that difference; and<br>(d) at the end of the 12 month period, the meter is read or metering data is obtained and any undercharging or overcharging is adjusted under rule 30 or 31.<br>(2) The explicit informed consent of the small customer is required for the retailer's billing on the basis referred to in subrule (1).<br>(3) **Application of this rule to standard retail contracts**<br>This rule applies in relation to standard retail contracts<br>(4) **Application of this rule to market retail contracts**<br>This rule applies in relation to market retail contracts. |

and any adjustment is included on the next bill in accordance with clause 4.19; and

(e) the retailer has obtained the customer's verifiable consent to the retailer billing on that basis; and

(f) if the bill smoothing arrangement between the retailer and the customer is for a defined period or has a specified end date, the retailer must no less than one month before the end date of the bill smoothing arrangement notify the customer in writing—

(i) that the bill smoothing arrangement is due to end; and

(ii) the options available to the customer after the bill smoothing arrangement has ended.

**48 Retailer notice of end of fixed term retail contract**

(1) This rule applies to a fixed term retail contract.

(2) A retailer must, in accordance with this rule, notify a small customer with a fixed term retail contract that the contract is due to end.

Note: This subrule is a civil penalty provision for the purposes of the Law. (See the National Regulations, clause 6 and Schedule 1.)

(3) The notice must be given no earlier than 40 business days and no later than 20 business days before the end date of the contract.

(4) The notice must state:

(a) the date on which the contract will end; and

(b) details of the prices, terms and conditions applicable to the sale of energy to the premises concerned under a deemed customer retail arrangement; and

(c) the customer's options for establishing a customer retail contract (including the availability of a standing offer); and

(d) the consequences for the customer if the customer does not enter into a customer retail contract (whether with that or another retailer), including the entitlement of the retailer to arrange for the de-energisation of the premises and details of the process for de-energisation.

(5) The retailer is not required to give the notice where the customer has already entered into a new contract with the retailer, or has given instructions to the retailer as to what actions the retailer must take at the end of the contract.

(6) A retailer must, for a fixed term retail contract, include a term or condition to the effect that the retailer will:

(a) notify the customer that the contract is due to end; and

(b) give such notice no earlier than 40 business days and no later than 20 business days before the end of the contract.

# How bills are issued

[Clause 4.4 of the Code]

## Comparative review of Code and NECF

### Summary of legislation

Only the Code prescribes that a bill must be issued at the address nominated by the customer.

### Advantages / disadvantages of adopting NECF

**Advantages**

- Less regulatory burden for retailers.

**Disadvantages**

- Retailers would no longer be required to issue a bill at the address nominated by the customer.

## Recommendation

No amendments recommended.

Reasons

Recommendation 17 in the main body of the report is to delete clause 4.4. The reasons for the recommended deletion are not directly related to the NECF.

# How bills are issued

[Clause 4.4 of the Code]

| BACKGROUND – Full extract of legislative provisions | |
|---|---|
| **Code** | **NECF** |
| **4.4 How bills are issued**<br>A retailer must issue a bill to a customer at the address nominated by the customer, which may be an email address. | No equivalent provision. |

# Particulars on each bill

[Clause 4.5 of the Code]

## Comparative review of Code and NECF

### Summary of legislation

Both the Code and the NECF prescribe the minimum information to be included on a customer's bill.

Notable differences:

| | Code | NECF |
|---|---|---|
| **TTY number** | Yes | No |
| **Ombudsman phone number** | Yes | No |
| **Average daily cost of consumption** | Yes | No |
| **Number of days covered by the bill** | Yes | No |
| **Statement that assistance is available if the customer is having payment problems** | Yes | No |
| **Statement that a late payment fee may be imposed** | Yes | No |
| **Average daily consumption for:** | | |
| – Current bill | Yes | Yes |
| – Corresponding billing period previous year | No | Yes |
| **Calculation of the tariff for Type 7 connection points (unmetered supply)** | Yes | No |
| **Estimated date of the next scheduled meter read** | No | Yes |
| **Basis on which tariffs and charges are calculated** | No | Yes |
| **Contact details of interpreter services** | Yes | Yes, in community languages |
| **Security deposit** | No | Yes |
| **All telephone numbers at cost of local call** | No | Yes |
| **Customers and retailers can contract out** | Yes | No |

Other noticeable differences are:

- **Historical debt:** The NECF does not deal with historical debt. Under the Code, retailers must advise customers of the amount, and the basis of, any historical debt for which they wish to bill the customer.
- **Benchmarking information:** Part 11 of the NERR requires the AER to publish electricity consumption benchmarks based on consumption, zones and household size. Retailers must include on a customer's bill, a comparison of the customer's consumption against the benchmarks. The bill also needs to indicate the purpose of the information and a reference to an energy efficiency website. This information must be in graphical or tabular form and in a way that is easy to understand.

  The Code does not require retailers to benchmark the customer's consumption against other customers. It only requires retailers include a graph or bar chart on the bill that compares the customer's amount due or consumption for the period covered by the bill against the previous bill and the bill for the same period last year.

- **Billing period and date of meter read:** The NECF requires only the billing period and the date of the meter read to be on the bill. The Code requires the dates of the metering supply period or the date of the current read or estimate, and the dates of the account period if these differ from the metering supply period.

  The ERA included the references to metering supply periods in July 2010 to allow for meters other than accumulation meters.

### Advantages / disadvantages of adopting NECF

**Advantages**

- Customers are provided with more detailed consumption information, but this is facilitated by the benchmarking information that the Australian Energy Regulator is required to publish.

**Disadvantages**

- Overall, the NECF requires less information on a customer's bill, particularly in areas of customer protection (e.g. a statement that assistance is available for customers struggling to pay their bill and the telephone number for the Ombudsman).

| Recommendation |
| --- |
| No amendments recommended.[6] |
| Reasons |
| Overall, the NECF provides less protections for customers as it requires less information on a bill, particularly in areas of customer protection. |

[6] Recommendations 18, 19, 20, 21 and 22 in the main body of the report propose various amendments to clause 4.5 for reasons not related to the NECF.

# Particulars on each bill

[Clause 4.5 of the Code]

**BACKGROUND – Full extract of legislative provisions**

| Code | NECF |
|---|---|
| **4.5 Particulars on each bill**<br>(1) Unless a customer agrees otherwise, a retailer must include at least the following information on the customer's bill—<br>(a) either the range of dates of the metering supply period or the date of the current meter reading or estimate;<br>(b) if the customer has a Type 7 connection point, the calculation of the tariff in accordance with the procedures set out in clause 4.6(1)(c);<br>(c) if the customer has an accumulation meter installed (whether or not the customer has entered into an export purchase agreement with a retailer)—<br>(i) the current meter reading or estimate; or<br>(ii) if the customer is on a time of use tariff, the current meter reading or estimate for the total of each time band in the time of use tariff;<br>(d) if the customer has not entered into an export purchase agreement with a retailer—<br>(i) the customer's consumption, or estimated consumption; and<br>(ii) if the customer is on a time of use tariff, the customer's consumption or estimated consumption for the total of each time band in the time of use tariff;<br>(e) if the customer has entered into an export purchase agreement with a retailer—<br>(i) the customer's consumption and export;<br>(ii) if the customer is on a time of use tariff, the customer's consumption and export for the total of each time band in the time of use tariff; and<br>(iii) if the customer has an accumulation meter installed and the export meter reading has been obtained by the retailer, the export meter reading;<br>(f) the number of days covered by the bill;<br>(g) the dates on which the account period begins and ends, if different from the range of dates of the metering supply period or the range of dates of the metering supply | ***NERR***<br>**25 Contents of bills (SRC and MRC)**<br>(1) A retailer must prepare a bill so that a small customer can easily verify that the bill conforms to their customer retail contract and must include the following particulars in a bill for a small customer:<br>(a) the customer's name and account number;<br>(b) the address of the customer's premises for the sale of energy and the customer's mailing address (if different);<br>(c) the meter identifier;<br>(d) the billing period;<br>(e) the pay-by date for the bill and the bill issue date;<br>(f) the total amount payable by the customer, including amounts of any arrears or credits;<br>(g) tariffs and charges applicable to the customer;<br>(h) the basis on which tariffs and charges are calculated;<br>(i) whether the bill was issued as a result of a meter reading or an estimation and, if issued as a result of a meter reading, the date of the meter reading;<br>(j) the values of meter readings (or, if applicable, estimations) at the start and end of the billing period;<br>(k) particulars of the average daily consumption during the billing period;<br>(l) if a bill was issued by the same retailer for the corresponding billing period during the previous year, particulars of the average daily consumption during that previous billing period;<br>(m) the estimated date of the next scheduled meter reading (if applicable);<br>(n) details of consumption or estimated consumption of energy;<br>(o) for residential customers—energy consumption benchmarks in accordance with Part 11;<br>(p) any amount deducted, credited or received under a government funded energy charge |

period have not been included on the bill already;

(h) the applicable tariffs;

(i) the amount of any other fees or charges and details of the service provided;

(j) with respect to a residential customer, a statement that the residential customer may be eligible to receive concessions and how the residential customer may find out its eligibility for those concessions;

(k) if applicable, the value and type of any concessions provided to the residential customer that are administered by the retailer;

(l) if applicable, a statement on the bill that an additional fee may be imposed to cover the costs of late payment from the customer;

(m) the average daily cost of consumption, including charges ancillary to the consumption of electricity, unless the customer is a collective customer;

(n) the average daily consumption unless the customer is a collective customer;

(o) a meter identification number (clearly placed on the part of the bill that is retained by the customer);

(p) the amount due;

(q) the due date;

(r) a summary of the payment methods;

(s) a statement advising the customer that assistance is available if the customer is experiencing problems paying the bill;

(t) a telephone number for billing and payment enquiries;

(u) a telephone number for complaints;

(v) the contact details for the electricity ombudsman;

(w) the distributor's 24 hour telephone number for faults and emergencies;

(x) the supply address and any relevant mailing address;

(y) the customer's name and account number;

(z) the amount of arrears or credit;

(aa) if applicable and not included on a separate statement—

(i) payments made under an instalment plan; and

(ii) the total amount outstanding under the instalment plan;

(bb) with respect to residential customers, the telephone number for interpreter services

rebate, concession or relief scheme or under a payment plan;

(q) if the customer has provided a security deposit, the amount of that deposit;

(r) details of the available payment methods;

(s) reference to the availability of government funded energy charge rebate, concession or relief schemes;

(t) a telephone number for account enquiries, the charge for which is no more than the cost of a local call;

(u) a telephone number for complaints (which may be the same as that for account enquiries), the charge for which is no more than the cost of a local call;

(v) a separate 24 hour telephone number for fault enquiries and emergencies, the charge for which is no more than the cost of a local call, being the telephone number for the distributor and giving the name of the distributor;

(w) contact details of interpreter services in community languages;

(x) any proportionate billing information in accordance with rule 22.

Note: rule 22 of the NERR is:
*(1) If a small customer's bill covers a period other than the customer's usual billing cycle or a period during which the customer's tariff changes, the retailer must charge in proportion to the relevant periods and clearly show relevant details on the bill.*

(2) The retailer must include amounts billed for goods and services (other than the sale and supply of energy) in a separate bill or as a separate item in an energy bill.

Note: This subrule is a civil penalty provision for the purposes of the Law. (See the National Regulations, clause 6 and Schedule 1)

(3) **Application of this rule to standard retail contracts**

This rule applies in relation to standard retail contracts.

(4) **Application of this rule to market retail contracts**

This rule applies in relation to market retail contracts.

together with the National Interpreter Symbol and the words "Interpreter Services";

(cc) the telephone number for TTY services; and

(dd) to the extent that the data is available, a graph or bar chart illustrating the customer's amount due or consumption for the period covered by the bill, the previous bill and the bill for the same period last year.

(2) Notwithstanding subclause (1)(dd), a retailer is not obliged to include a graph or bar chart on the bill if the bill is—

(a) not indicative of a customer's actual consumption;

(b) not based upon a meter reading; or

(c) for a collective customer.

(3) If a retailer identifies a historical debt and wishes to bill a customer for that historical debt, the retailer must advise the customer of—

(a) the amount of the historical debt; and

(b) the basis of the historical debt, before, with, or on the customer's next bill.

# Basis of bill

[Clause 4.6 of the Code]

*Recommendation 23*

## Comparative review of Code and NECF

### Summary of legislation

Both the Code and the NECF prescribe the basis for bills.

Comparison between Code and NECF:

| | Code | NECF |
|---|---|---|
| **Distributor or metering agent's meter reading** | Yes, clause 4.6(a) | Yes, rule 20(1)(a)(i) of the NERR[7] |
| **Distributor estimation** | Yes, but included in a separate clause: 4.8(1) | Yes, rule 20(1)(a)(i) of the NERR[8] |
| **Retailer estimation** | No | Yes, rule 20(1)(a)(ii) of the NERR |
| **Self-read** | Yes, clause 4.6(b) | *(self-reads are considered retailer estimations under the NECF)* |
| **Type 7 connection points (no meter)** | Yes, clause 4.6(c) | Yes, rule 20(3) of the NERR |
| **Agreed by retailer and customer** | No | Yes, rule 20(1)(iii) of the NERR |

### Advantages / disadvantages of adopting NECF

**Advantages**

- Allowing retailers and customers to agree to the basis for the bill will facilitate the offering of new products, such as Alinta's former Home Capped Gas Plan.
- If a retailer does not receive metering data from a distributor, the retailer can base a bill on a retailer estimation. This ensures retailers can always issue a bill within 100 days.

**Disadvantages**

- The Code currently does not provide for retailer estimations. To allow for retailer estimations, the relatively long and complex framework set out in rule 21 of the NERR would have to be adopted in the Code.

## Recommendation

a) Replace clause 4.6(a) of the Code with rule 20(1)(a)(i) of the NERR but:
   - replace the words "metering data" with "energy data".
   - replace the words "metering coordinator" with "distributor or metering data agent".
   - remove the words "and determined in accordance with the metering rules".
   - clarify that bills issued under bill smoothing, or similar, arrangements are considered to be bills based on energy data.

b) Delete clause 4.6(b) of the Code.

---

7 Rule 20(1)(a)(i) of the NERR refers to metering data provided by the metering coordinator. Metering data is defined in the National Energy Rules as 'accumulated metering data, interval metering data, calculated metering data, substituted metering data, estimated metering data and check metering data'.

8 Id.

c) Replace clause 4.6(c) of the Code with rule 20(3) of the NERR but replace the words "applicable energy laws" with "the metrology procedure, the Metering Code or any other applicable law".

d) Adopt rule 20(1)(a)(iii) of the NERR but provide that customers and retailers may only agree to base a customer's bill on any other method if the customer is supplied under a non-standard contract.

Reasons

**a) Replace clause 4.6(a) of the Code with rule 20(1)(a)(i) of the NERR**

To clarify that bills may be based on (actual and estimated) energy data provided by the distributor, not only on a distributor's meter reading.

**but:**

- **replace the words "metering data" with "energy data"**

  "Metering data" is not a defined term in the Code or Metering Code. The equivalent term in the Metering Code is energy data.[9]

- **replace the words "metering coordinator" with "distributor or metering data agent"**

  These terms are used in the Metering Code.

- **remove the words "and determined in accordance with the metering rules"**

  As energy data will be defined by reference to the Metering Code, there is no need to specify that the energy data must be determined in accordance with the metering rules.

- **clarify that bills issued under bill smoothing, or similar, arrangements are considered to be bills based on energy data**

  To clarify that bill smoothing arrangements should be classified as bills based on energy data.

**b) Delete clause 4.6(b) of the Code**

In WA, customers who self-read their meters provide their reading to their distributor, Western Power,[10] who passes the data on to the retailer. The readings are considered 'energy data' under the Metering Code and will fall under amended clause 4.6(a). There is therefore no need to retain clause 4.6(b).

**c) Replace clause 4.6(c) of the Code with rule 20(3) of the NERR**

To improve consistency with the NECF.

**but replace the words "applicable energy law" with "the metrology procedure, the Metering Code or any other applicable law"**

The words "the metrology procedure, the Metering Code or any other applicable law" are consistent with the words used in current clause 4.6(1)(c) of the Code.

**d) Adopt rule 20(1)(a)(iii) of the NERR**

Rule 20(1)(a)(iii) provides that retailers may base a bill on "any other method agreed by the retailer and the customer". Allowing retailers and customers to agree to the basis for the bill will facilitate the offering of new products.

**but provide that customers and retailers may only agree to base a customer's bill on any other method if the customer is supplied under a non-standard contract**

Billing arrangements that are not based on meter readings or distributor estimations are markedly different from the current industry standard and should only be allowed under a non-standard contract.

[9] The term 'energy data' is defined in the Code. The definition refers to the definition of 'energy data' in the Metering Code.

[10] Horizon Power customers have advanced electronic meters that are read remotely; they do not require manual reading.

It is not recommended to adopt rule 20(1)(a)(ii) of the NERR (retailer estimations). To allow for retailer estimations, the relatively long and complex framework set out in rules 21(2) to (5) of the NERR would have to be adopted in the Code.

As retailers are not allowed to issue a bill based on their own estimation, retailers who do not receive energy data from a distributor on time to prepare a bill will have to hold off issuing a bill until the data is received – consistent with the current framework.[11]

[11] *Code of Conduct for the Supply of Electricity to Small Use Customers 2018* (WA) clause 4.1(b)(ii).

# Basis of bill

[Clause 4.6 of the Code]

| BACKGROUND – Full extract of legislative provisions | |
|---|---|
| **Code** | **NECF** |
| **4.6 Basis of bill**<br>Subject to clauses 4.3 and 4.8, a retailer must base a customer's bill on—<br>(a) the distributor's or metering agent's reading of the meter at the customer's supply address;<br>(b) the customer's reading of the meter at the customer's supply address, provided the distributor has expressly or impliedly consented to the customer reading the meter for the purpose of determining the amount due; or<br>(c) if the connection point is a Type 7 connection point, the procedure as set out in the metrology procedure or Metering Code, or otherwise as set out in any applicable law. | ***NERR***<br>**20 Basis for bills (SRC and MRC)**<br>(1) A retailer must base a small customer's bill for the customer's consumption of:<br>(a) electricity:<br>(i) on metering data provided for the relevant meter at the customer's premises provided by the metering coordinator and determined in accordance with the metering rules; or<br>(ii) on an estimation of the customer's consumption of energy, as provided by rule 21; or<br>(iii) on any other method agreed by the retailer and the small customer.<br>(b) gas:<br>[…]<br>(2) […]<br>(3) Despite subrules (1) and (2), if there is no meter in respect of the customer's premises, the retailer must base the customer's bill on energy data that is calculated in accordance with applicable energy laws.<br>(4) **Application of this rule to standard retail contracts.**<br>This rule applies in relation to standard retail contracts.<br>(5) **Application of this rule to market retail contracts**<br>This rule applies in relation to market retail contracts. |

# Frequency of meter readings

*Recommendation 25*

[Clause 4.7 of the Code]

## Comparative review of Code and NECF

### Summary of legislation

The Code requires retailers to use best endeavours to ensure that metering data is obtained as frequently as required to prepare bills.

The NECF requires retailers to use best endeavours to ensure that actual meter readings are carried out at least once every 12 months.

### Advantages / disadvantages of adopting NECF

**Advantages**

- Retailers must use best endeavours to ensure that actual meter readings are carried out at least once every 12 months.

**Disadvantages**

- In 2013, the ERA removed from the Code the absolute obligation on retailers to obtain an actual meter reading at least once every 12 months. The obligation was removed from the Code when the *Electricity Industry (Metering Code) 2012* took effect as the Metering Code already includes an absolute obligation on distributors to obtain an actual meter reading at least once every 12 months.[12]

  There does not appear to be a compelling reason for reinserting a similar obligation.

## Recommendation[13]

Retain clause 4.7 but incorporate in clause 4.6 of the Code.

Reasons

**Retain clause 4.7**

See NECF disadvantage listed above.

**but incorporate in clause 4.6 of the Code**

To improve consistency with the NECF.

12 *Electricity Industry Metering Code 2012* (WA) clause 5.4

13 Recommendations 26 and 27 in the main body of the report propose additional amendments to clause 4.7 for reasons not related to the NECF.

# Frequency of meter readings

[Clause 4.7 of the Code]

| BACKGROUND – Full extract of legislative provisions | |
|---|---|
| **Code** | **NECF** |
| **4.7 Frequency of meter readings**<br>Other than in respect of a Type 7 connection point, a retailer must use its best endeavours to ensure that metering data is obtained as frequently as required to prepare its bills. | ***NERR***<br>**20 Basis for bills (SRC and MRC)**<br>(2) The retailer must use its best endeavours to ensure that actual readings of the meter are carried out as frequently as is required to prepare its bills consistently with the metering rules and in any event at least once every 12 months.<br>[···]<br>(4) **Application of this rule to standard retail contracts.**<br>This rule applies in relation to standard retail contracts.<br>(5) **Application of this rule to market retail contracts**<br>This rule applies in relation to market retail contracts. |

# Estimations

[Clause 4.8 of the Code]

## Comparative review of Code and NECF

### Summary of legislation

Only the Code prescribes what information must be included on bills that are based on distributor estimations.[14]

### Advantages / disadvantages of adopting NECF

**Advantages**

- Less regulatory burden for retailers

**Disadvantages**

- Customers receive less information on their estimated bill about their rights.

## Recommendation

No amendments recommended.[15]

Reasons

The NECF provides less protections for customers than the Code.

[14] Rule 21 of the NERR, which prescribes what information must be included on an estimated bill, only applies to bills based on retailer estimations.

[15] Recommendation 28 in the main body of the report proposes an amendment to clause 4.8 for reasons not related to the NECF.

# Estimations

[Clause 4.8 of the Code]

| BACKGROUND – Full extract of legislative provisions | |
|---|---|
| **Code** | **NECF** |
| **4.8 Estimations**<br>(1) If a retailer is unable to reasonably base a bill on a reading of the meter at a customer's supply address, the retailer must give the customer an estimated bill.<br>(2) If a retailer bases a bill upon an estimation, the retailer must clearly specify on the customer's bill that—<br>(a) the retailer has based the bill upon an estimation;<br>(b) the retailer will tell the customer on request—<br>(i) the basis of the estimation; and<br>(ii) the reason for the estimation; and<br>(c) the customer may request—<br>(i) a verification of energy data; and<br>(ii) a meter reading.<br>(3) A retailer must tell a customer on request the—<br>(a) basis for the estimation; and<br>(b) reason for the estimation.<br>(4) For the purpose of this clause, where the distributor's or metering agent's reading of the meter at the customer's supply address is partly based on estimated data, then subject to any applicable law—<br>(a) where more than ten per cent of the interval meter readings are estimated interval meter readings; and<br>(b) the actual energy data cannot otherwise be derived, for that billing period, the bill is deemed to be an estimated bill. | No equivalent provision. |

# Adjustments to subsequent bills

*Recommendation 29*

[Clause 4.9 of the Code]

## Comparative review of Code and NECF

### Summary of legislation

The Code specifies the actions retailers must take if they have issued a bill based on a distributor estimation and subsequently issue a bill based on an actual meter reading.

The NECF does not expressly deal with this situation.[16] It is likely that the replacement of a bill based on a distributor estimation is covered by the general over- and undercharging provisions.

### Advantages / disadvantages of adopting NECF

| Advantages | Disadvantages |
|---|---|
| • Less complex drafting. | |

## Recommendation

Delete clause 4.9 of the Code.

Reasons

To improve consistency with the NECF.[17]

16 The NECF only specifies the actions retailers must take if they have issued a bill based on a retailer estimation and subsequently issue a bill based on an actual meter reading or on energy data provided by the distributor.

17 The main body of the paper sets out additional reasons for deleting clause 4.9 that are not related to the NECF.

## Adjustments to subsequent bills

[Clause 4.9 of the Code]

| BACKGROUND – Full extract of legislative provisions | |
|---|---|
| **Code** | **NECF** |
| **4.9 Adjustments to subsequent bills**<br>If a retailer gives a customer an estimated bill and the meter is subsequently read, the retailer must include an adjustment on the next bill to take account of the actual meter reading in accordance with clause 4.19. | No equivalent provision. |

# Customer may request meter reading

[Clause 4.10 of the Code]

## Comparative review of Code and NECF

### Summary of legislation

Both the Code and the NECF provide that a customer may request a bill based on an actual meter reading if the customer has been billed on an estimation.

Notable differences:

- The Code only requires retailers to use best endeavours to replace a bill. The NECF obligation is absolute.
- The Code includes an additional exception; retailers only have to replace a bill if the customer provides due access to the meter.

### Advantages / disadvantages of adopting NECF

**Advantages**

- Retailers must replace the bill if the conditions are met.

**Disadvantages**

- Retailers cannot replace a bill if a customer continues to fail to provide access to the meter.
- The drafting of clause 4.10 of the Code is clearer than the NECF drafting.

## Recommendation

No amendments recommended. [18]

Reasons

A retailer may, occasionally, be unable to replace an estimated bill with a bill based on a meter reading, even if all the conditions of clause 4.10 have been met.

[18] Recommendation 30 in the main body of the report proposes an amendment to clause 4.10 for reasons not related to the NECF.

# Customer may request meter reading

[Clause 4.10 of the Code]

| BACKGROUND – Full extract of legislative provisions | |
|---|---|
| **Code** | **NECF** |
| **4.10 Customer may request meter reading**<br>If a retailer has based a bill upon an estimation because a customer failed to provide access to the meter and the customer—<br>(a) subsequently requests the retailer to replace the estimated bill with a bill based on an actual reading of the customer's meter;<br>(b) pays the retailer's reasonable charge for reading the meter (if any); and<br>(c) provides due access to the meter, the retailer must use its best endeavours to do so. | ***NERR***<br>**21 Estimation as basis for bills (SRC and MRC)**<br>(5) Where an attempt to read the small customer's meter is unsuccessful due to an act or omission of the customer, and the customer subsequently requests a retailer to replace an estimated bill with a bill based on an actual meter reading, the retailer must comply with that request but may pass through to that small customer any costs it incurs in doing so.<br>(6) **Application of this rule to standard retail contracts.**<br>This rule applies in relation to standard retail contracts.<br>(7) **Application of this rule to market retail contracts**<br>This rule applies in relation to market retail contracts (other than prepayment meter market retail contracts), but only to the extent (if any) a contract provides for estimation as the basis for the small customer's bill. |

# Customer requests testing of meters or metering data

*Recommendation 31*

[Clause 4.11 of the Code]

## Comparative review of Code and NECF

### Summary of legislation

Both the Code and the NECF provide that a customer may request a test of the meter.

Comparison between Code and NECF:

| | Code | NECF |
|---|---|---|
| **Test of meter** | Yes | Yes |
| **Check of meter reading or metering data** | No | Yes |
| **Customer to pay for costs** | Yes, retailer may require payment in advance<br>*(cost will be refunded if the meter is found to be defective)* | Yes, but NECF drafting is not clear on when payment is due[19] |

In the NECF, the matter is addressed in the 'bill review' rule. In the Code, the matter is addressed in a stand-alone clause.

### Advantages / disadvantages of adopting NECF

**Advantages**

- Customers may ask for a check of their meter reading or metering data.

**Disadvantages**

- It is not clear whether retailers may require a customer to pay for a meter test in advance. It may be difficult for retailers to recover this amount afterwards.

## Recommendation

a) Replace clause 4.11(1) of the Code with rule 29(5)(a) of the NERR but:
   - replace the words "meter reading or metering data" with "energy data".
   - retain clause 4.11(1)(b) and add the words "checking the energy data".
   - replace the words "responsible person or metering coordinator (as applicable)" with "distributor or metering data agent" in subrule (5)(a)(ii).

b) Amend clause 4.11(2) of the Code to take account of the fact that customers may also request a check of the energy data.

c) Incorporate amended clause 4.11 into clause 4.15 of the Code (Review of bill).

[19] The NERR does not clearly specify whether the costs of a meter test are due before or after the test (if the meter is found to be faulty or incorrect). Rule 29(5) appears to imply that the costs are due after the test ('the retailer may require the customer to pay for the cost of the check or test if the check or test shows that the meter or metering data was not faulty or incorrect'). However, clause 12.3(b) of the model terms and conditions for standard retail contracts explicitly allows a retailer to request payment in advance ('You will be liable for the cost of the check or test and we may request payment in advance. However, if the meter or metering data proves to be faulty or incorrect, we must reimburse you for the amount paid').

Reasons

**a) Replace clause 4.11(1) of the Code with rule 29(5)(a) of the NERR**

Customers should be allowed to ask for their energy data to be checked.

**but:**

- **replace the words "meter reading or metering data" with "energy data"**

  The term metering data is not defined in the Code or *Electricity Industry Metering Code 2012*. The equivalent term in the Code and Metering Code is energy data.

  As the definition of energy data also includes data based on actual meter readings, it is not necessary to refer to meter readings in addition to energy data.

- **retain clause 4.11(1)(b) of the Code**

  To provide certainty to retailers that the cost of a meter test or check must be met by the customer before the check or test occurs.

  **and add the words "checking the energy data"**

  Consequential amendment.

- **replace the words "responsible person or metering coordinator (as applicable)" with "distributor or metering data agent" in subrule (5)(a)(ii)**

  The Metering Code uses the terms distributor and metering data agent.

**b) Amend clause 4.11(2) of the Code to take account of the fact that customers may also request a check of the energy data**

Consequential amendment.

**c) Incorporate clause 4.11 into clause 4.15 of the Code**

To improve consistency with the NECF.

# Customer requests testing of meters or metering data

[Clause 4.11 of the Code]

| BACKGROUND – Full extract of legislative provisions | |
|---|---|
| **Code** | **NECF** |
| **4.11 Customer requests testing of meters or metering data**<br>(1) If a customer—<br>(a) requests the meter to be tested; and<br>(b) pays the retailer's reasonable charge for testing the meter (if any),<br>the retailer must request the distributor or metering agent to test the meter.<br>(2) If the meter is tested and found to be defective, the retailer's reasonable charge for testing the meter (if any) is to be refunded to the customer. | ***NERR***<br>**29 Billing disputes**<br>(5) If the small customer requests that, in reviewing the bill, the meter reading or metering data be checked or the meter tested:<br>(a) the retailer must, as the case may require:<br>(i) arrange for a check of the meter reading or metering data; or<br>(ii) request the responsible person or metering coordinator (as applicable) to test the meter; and<br>(b) the retailer may require the customer to pay for the cost of the check or test if the check or test shows that the meter or metering data was not faulty or incorrect.<br>(8) **Application of this rule to standard retail contracts.**<br>This rule applies in relation to standard retail contracts.<br>(9) **Application of this rule to market retail contracts**<br>This rule applies in relation to market retail contracts (other than prepayment meter market retail contracts). |

# Customer applications

*Recommendation 32*

[Clause 4.12 of the Code]

## Comparative review of Code and NECF

### Summary of legislation

Both the Code and the NECF provide that a customer may request to transfer to an alternative tariff offered by their retailer.

Both clauses are drafted very similar.

### Advantages / disadvantages of adopting NECF

| Advantages | Disadvantages |
|---|---|
| • Improve consistency with the NECF. | |

## Recommendation

Replace clause 4.12 of the Code with rules 37(1) and (2) of the NERR but clarify that transfer in subrule (2) refers to a transfer under subrule (1).

Reasons

**Replace clause 4.12 of the Code with rules 37(1) and (2) of the NERR**

See NECF advantage listed above.

**but clarify that transfer in subrule (2) refers to a transfer under subrule (1)**

The words "For the purposes of subclause (1)", that are currently included in subclause (2), clarify the relationship between subclause (1) and (2). A similar clarification should be included in the amended clause.

**BACKGROUND – Full extract of legislative provisions**

| Code | NECF |
|---|---|
| **4.12 Customer applications**<br>(1) If a retailer offers alternative tariffs and a customer—<br>(a) applies to receive an alternative tariff; and<br>(b) demonstrates to the retailer that the customer satisfies all of the conditions relating to eligibility for the alternative tariff,<br>the retailer must change the customer to the alternative tariff within 10 business days of the customer satisfying those conditions.<br>(2) For the purposes of subclause (1), the effective date of change will be—<br>(a) the date on which the last meter reading at the previous tariff is obtained; or<br>(b) the date the meter adjustment is completed, if the change requires an adjustment to the meter at the customer's supply address. | ***NERR***<br>**37 Customer request for change of tariff (SRC)**<br>(1) Where a retailer offers alternative tariffs or tariff options and a small customer:<br>(a) requests a retailer to transfer from that customer's current tariff to another tariff; and<br>(b) demonstrates to the retailer that it satisfies all of the conditions relating to that other tariff and any conditions imposed by the customer's distributor,<br>the retailer must transfer the small customer to that other tariff within 10 business days of satisfying those conditions.<br>(2) Where a small customer transfers from one tariff type to another, the effective date of the transfer is:<br>(a) subject to paragraph (b), the date on which the meter reading was obtained; or<br>(b) where the transfer requires a change to the meter at the small customer's premises, the date the meter change is completed.<br>(3) **Application of this rule to standard retail contracts**<br>This rule applies in relation to standard retail contracts.<br>(4) **Application of this rule to market retailer contracts**<br>This rule applies in relation to market retail contracts. |

# Written notification of a change to an alternative tariff

[Clause 4.13 of the Code]

## Comparative review of Code and NECF

### Summary of legislation

Both the Code and the NECF deal with the situation where a customer's use of electricity has changed.

The objectives of both provisions differ. While the Code aims to ensure retailers notify customers before they are transferred to another tariff, the NECF aims to regulate when customers may be transferred to the other tariff.

Other notable differences:

| | Code | NECF |
|---|---|---|
| **Obligation on customer to notify retailer** | No<br>*(the Code cannot place obligations on customers)* | Yes |
| **Retailer may transfer customer to another tariff** | Not explicitly addressed | Yes |
| **Retailer must notify customer before transferring to another tariff** | Yes, in writing before the transfer | Yes, at time of transfer |
| **Additional requirements apply if the change in use results in reclassification of customer**[20] | No | Yes |

### Advantages / disadvantages of adopting NECF

**Advantages**

- Retailers can decide how they notify a customer before transferring the customer to another tariff.
- Clarifies from when a customer may be transferred to another tariff.

**Disadvantages**

- Customers do not have to be notified in writing before they are transferred to another tariff.
- Customers do not receive prior notice of the transfer. Notification may occur at the same time as the transfer to the new tariff.
- The Code does not deal with reclassification of customers. Rules 38(3) and (5) are therefore not relevant.
- The Code cannot place obligations on customers.

## Recommendation

No amendments recommended.[21]

Reasons

The NECF provides less protections for customers than the Code as, under the NECF, customers do not receive prior notice of a transfer.

20 Reclassification refers to a change in the classification of a customer as a residential or business customer.

21 Recommendations 33 and 34 in the main body of the report propose amendments to clause 4.13 for reasons not related to the NECF.

# Written notification of a change to an alternative tariff

[Clause 4.13 of the Code]

| BACKGROUND – Full extract of legislative provisions | |
|---|---|
| **Code** | **NECF** |
| **4.13 Written notification of a change to an alternative tariff**<br>If—<br>(a) a customer's electricity use at the customer's supply address changes or has changed; and<br>(b) the customer is no longer eligible to continue to receive an existing, more beneficial tariff,<br>a retailer must, prior to changing the customer to the tariff applicable to the customer's use of electricity at that supply address, give the customer written notice of the proposed change. | ***NERR***<br>**38 Change in use (SRC)**<br>(1) A small customer must notify its retailer of a change in use of the customer's premises.<br>(2) Where a small customer notifies a retailer of a change in use of the customer's premises, the retailer may require the customer to transfer to a tariff applicable to the customer's use of that premises with effect from the date on which the retailer notifies the customer of the new tariff.<br>(3) If a reclassification is necessary as a result of the change in use notified by the customer under subrule (2), the date on which the retailer notifies the customer of the new tariff must not be earlier than the date notice is provided under rule 8 or 10 (as the case requires).<br>(4) If a small customer fails to give notice of a change in use of the customer's premises, the retailer may, upon giving notice to the customer, transfer the customer to the applicable tariff with effect from the date on which the change of use occurred.<br>(5) Despite rules 8 (5) and 10 (5), if a reclassification is necessary as a result of a change of use under subrule (4), the reclassification takes effect on the date on which the new tariff applies under subrule (4).<br>(6) **Application of this rule to standard retail contracts.**<br>This rule applies in relation to standard retail contracts.<br>(7) **Application of this rule to market retail contracts**<br>This rule does not apply in relation to market retail contracts. |

# Request for final bill

*Recommendation 35*

[Clause 4.14 of the Code]

## Comparative review of Code and NECF

### Summary of legislation

Both the Code and the NECF require a retailer to issue a final bill on the customer's request. Both clauses are very similar, but the NECF also requires a retailer to use best endeavours to arrange for a meter reading.

The Code specifies what the retailer must do if the customer's account is in credit or debit at the time of account closure. The NECF does not deal with this matter.

### Advantages / disadvantages of adopting NECF

**Advantages**

- Retailers must use best endeavours to arrange for a meter reading when customers request a final bill.
- Retailers must use best endeavours, instead of reasonable endeavours, to issue a final bill.

**Disadvantages**

- Retailers would no longer be required to ask customers for instructions before transferring the credit.
- Retailers would no longer be allowed to use the credit to offset a debt owed by the customer.

## Recommendation[22]

Replace clause 4.14(1) of the Code with rule 35(1) of the NERR.

Reasons

See NECF advantages listed above.

It is recommended to retain clauses 4.14(2) and (3) so retailers have to continue to ask customers for instructions before transferring a credit, and will continue to be able to use a credit to offset a debt owed by the customer.

[22] Recommendation 36 in the main body of the report proposes an amendment to clause 4.14 for reasons not related to the NECF.

# Request for final bill

[Clause 4.14 of the Code]

**BACKGROUND – Full extract of legislative provisions**

| Code | NECF |
|---|---|
| **4.14 Request for final bill**<br>(1) If a customer requests a retailer to issue a final bill at the customer's supply address, the retailer must use reasonable endeavours to arrange for that bill in accordance with the customer's request.<br>(2) If a customer's account is in credit at the time of account closure, subject to subclause (3), a retailer must, at the time of the final bill, ask the customer for instructions whether the customer requires the retailer to transfer the amount of credit to—<br>(a) another account the customer has, or will have, with the retailer; or<br>(b) a bank account nominated by the customer, and the retailer must credit the account, or pay the amount of credit in accordance with the customer's instructions, within 12 business days of receiving the instructions or other such time as agreed with the customer.<br>(3) If a customer's account is in credit at the time of account closure, and the customer owes a debt to a retailer, the retailer may, with written notice to the customer, use that credit to set off the debt owed to the retailer. If, after the set off, there remains an amount of credit, the retailer must ask the customer for instructions to transfer the remaining amount of credit in accordance with subclause (2). | ***NERR***<br>**35 Request for final bill (SRC)**<br>(1) If a customer requests the retailer to arrange for the preparation and issue of a final bill for the customer's premises, the retailer must use its best endeavours to arrange for:<br>(a) a meter reading; and<br>(b) the preparation and issue of a final bill for the premises in accordance with the customer's request.<br>Note: Rule 118 makes provision for the issue of a final bill where the customer requests de-energisation of the premises.<br>(2) **Application of this rule to standard retail contracts.**<br>This rule applies in relation to standard retail contracts.<br>(3) **Application of this rule to market retail contracts.**<br>This rule does not apply in relation to market retail contracts. |

# Review of bill

[Clause 4.15 of the Code]

## Comparative review of Code and NECF

### Summary of legislation

Both the Code and the NECF require a retailer to review a bill upon a customer's request. In both cases, retailers may require customers to pay the part of the bill that is not under review (or an amount equal to the customer's average bill) and any future bills.

The NECF also provides that retailers must conduct their review in accordance with their standard complaints and dispute resolution procedures, including any time limits applicable under those procedures.

### Advantages / disadvantages of adopting NECF

**Advantages**

- Retailers must conduct a review of a bill in accordance with their standard complaints and dispute resolution procedures.
- Improve consistency with the NECF.

**Disadvantages**

- Every request for a bill review would be treated as a complaint. However, bill reviews often occur when a customer simply queries the amount of the bill or seeks more information.

## Recommendation

No amendments recommended.

Reasons

A bill review should not be treated as a complaint unless the bill review is in response to a customer expressing dissatisfaction with the bill.

# Review of bill

[Clause 4.15 of the Code]

| BACKGROUND – Full extract of legislative provisions | |
|---|---|
| **Code** | **NECF** |
| **4.15 Review of bill**<br>Subject to a customer—<br>(a) paying—<br>(i) that portion of the bill under review that the customer and a retailer agree is not in dispute; or<br>(ii) an amount equal to the average amount of the customer's bills over the previous 12 months (excluding the bill in dispute),<br>whichever is less; and<br>(b) paying any future bills that are properly due, a retailer must review the customer's bill on request by the customer. | ***NERR***<br>**29 Billing disputes (SRC and MRC)**<br>(1) A retailer must review a bill if requested to do so by the small customer.<br>Note: This subrule is a civil penalty provision for the purposes of the Law. (See the National Regulations, clause 6 and Schedule 1.)<br>(2) The retailer must conduct the review in accordance with the retailer's standard complaints and dispute resolution procedures, including any time limits applicable under those procedures.<br>(3) [···]<br>(4) The retailer may require the small customer to pay:<br>(a) the lesser of:<br>(i) that portion of the bill under review that the customer and the retailer agree is not the subject of review; or<br>(ii) an amount equal to the average amount of the customer's bills in the previous 12 months (excluding the bill in dispute); and<br>(b) any other bills that are properly due.<br>(5) [···]<br>(5A) [···]<br>(6) [···]<br>(7) [···]<br>(8) **Application of this rule to standard retail contracts**<br>This rule applies in relation to standard retail contracts.<br>(9) **Application of this rule to market retail contracts**<br>This rule applies in relation to market retail contracts (other than prepayment meter market retail contracts). |

# Procedures following a review of a bill

*Recommendation 37*

[Clause 4.16 of the Code]

## Comparative review of Code and NECF

### Summary of legislation

Both the Code and the NECF prescribe the actions a retailer must take following a review of a bill.

Notable differences:

| | Code | NECF |
|---|---|---|
| **Bill is found to be correct** | | |
| – Retailer may require customer to pay outstanding amount | Yes | Yes |
| – Retailer must advise customer of availability of meter test | Yes | No |
| – Retailer must advise customer of existence of: | | |
| – internal dispute process | Yes | No |
| – ombudsman | Yes[23] | Yes |
| **Bill is found to be incorrect** | | |
| – Retailer must adjust the bill | Yes | Yes |
| – Retailer may require customer to pay outstanding amount | Not addressed. | Yes |
| **Inform customer of outcome of review** | Yes, as soon as practicable | Yes, as soon as reasonably possible but, in any event, within any time limits applicable under the retailer's standard complaints and dispute resolution procedures. |
| **Notification of status of review** | Yes, if retailer has not informed customer of outcome within 20 business days | No |

### Advantages / disadvantages of adopting NECF

**Advantages**

- Explicitly allows retailers to require customers to pay any amount that remains outstanding after the bill has been adjusted. (e.g. the retailer may have placed the full bill on hold, while only part of the bill was disputed).
- Improve consistency with the NECF.

**Disadvantages**

- Customers are not advised of the availability of a meter test.
- Customers are not advised of the existence of the retailer's internal dispute process.
- Customers are not advised of the status of the review when the review takes more than 20 business days.

[23] 'any applicable external complaints handling processes'

**Recommendation**[24]

a) Adopt rule 29(6)(b)(ii) of the NERR.

b) Amalgamate clauses 4.15 and 4.16 of the Code.

Reasons

**a) Adopt rule 29(6)(b)(ii) of the NERR**

To clarify that retailers may require customers to pay any amount that remains outstanding after the bill has been adjusted.

**b) Amalgamate clauses 4.15 and 4.16 of the Code**

To improve consistency with the NECF.

[24] Recommendation 38 in the main body of the report proposes an additional amendment to clause 4.16 for reasons not related to the NECF.

# Procedures following a review of a bill

[Clause 4.16 of the Code]

**BACKGROUND – Full extract of legislative provisions**

| Code | NECF |
|---|---|
| **4.16 Procedures following a review of a bill**<br>(1) If, after conducting a review of a bill, a retailer is satisfied that the bill is—<br>(a) correct, the retailer—<br>(i) may require a customer to pay the unpaid amount;<br>(ii) must advise the customer that the customer may request the retailer to arrange a meter test in accordance with applicable law; and<br>(iii) must advise the customer of the existence and operation of the retailer's internal complaints handling processes and details of any applicable external complaints handling processes, or<br>(b) incorrect, the retailer must adjust the bill in accordance with clauses 4.17 and 4.18.<br>(2) A retailer must inform a customer of the outcome of the review as soon as practicable.<br>(3) If a retailer has not informed a customer of the outcome of the review within 20 business days from the date of receipt of the request for review under clause 4.15, the retailer must provide the customer with notification of the status of the review as soon as practicable. | ***NERR***<br>**29 Billing disputes (SRC and MRC)**<br>(1) [···]<br>(2) [···]<br>(3) The retailer must inform the small customer of the outcome of the review as soon as reasonable possible but, in any event, within any time limits applicable under the retailer's standard complaints and dispute resolution procedures.<br>(4) [···]<br>(5) [···]<br>(5A) [···]<br>(6) Where, after conducting a review of the bill, the retailer is satisfied that it is:<br>(a) correct, the retailer may require the small customer to pay the amount of the bill that is still outstanding; or<br>(b) incorrect, the retailer:<br>(i) must adjust the bill in accordance with rule 30 or 31, as the case requires; and<br>(ii) may require the customer to pay the amount (if any) of the bill that is still outstanding; and<br>(7) The retailer must inform the small customer that the customer may lodge a dispute with the energy ombudsman after completion of the retailer's review of a bill, where the customer is not satisfied with the retailer's decision in the review and the retailer's action or proposed action under subrule (6).<br>Note:<br>This subrule is a civil penalty provision for the purposes of the Law. (See the National Regulations, clause 6 and Schedule 1.)<br>(8) **Application of this rule to standard retail contracts**<br>This rule applies in relation to standard retail contracts.<br>(9) **Application of this rule to market retail contracts**<br>This rule applies in relation to market retail contracts (other than prepayment meter market retail contracts). |

# Undercharging

[Clause 4.17 of the Code]

## Comparative review of Code and NECF

### Summary of legislation

Both the Code and the NECF deal with undercharging.

Notable differences:

| | Code | NECF |
|---|---|---|
| **Only applies if undercharge was result of error, defect or default for which the retailer or distributor is responsible** | Yes[25] | No, but limitation on amount that may be recovered only applies if the undercharge occurred due to the customer's fault or an unlawful act or omission. |
| **Undercharge limit** | Yes, last 12 months | Yes, last 9 months |
| **No late payment fee** | Yes | No |
| **Specific requirements for undercharging due to change in electricity use** | Yes | No |
| **Interest or late payment fees may be charged if customer does not pay, or enter into an instalment plan, by new due date** | Yes | Not addressed |

### Advantages / disadvantages of adopting NECF

**Advantages**

- The clause applies to all instances of undercharging.
- For customers: recovery of an undercharged amount is limited to the last 9 months.
- The amount of the undercharge is calculated the same regardless of the reason for the undercharge
- Less complex drafting

**Disadvantages**

- No protections around late payment fees.
- It is unclear whether a retailer may charge interest if a customer fails to pay the outstanding amount by the due date.

## Recommendation

No amendments recommended.[26]

Reasons

If rule 30 of the NERR was adopted, retailers would have to manage all undercharges in accordance with clause 4.17, regardless of whether the undercharge was the result of an error, defect or default by the retailer or distributor, or not.

[25] A customer denying access to the meter is not an undercharge as a result of an error, defect or default for which the retailer or distributor is responsible: clause 4.17(4).

[26] Recommendation 39 in the main body of the report proposes amendments to clause 4.17 for reasons not related to the NECF.

Although the 12 month limit on recovering undercharges would not apply if the amount was undercharged as a result of the customer's fault or unlawful act or omission, retailers would need to determine whether any undercharge was the result of the customer's fault or unlawful act or omission before they could limit the amount to be recovered to the last 12 months. Given the limited information available to retailers, this determination may sometimes be difficult to make for retailers.

The ECCC considers that the advantages of the adopting rule 30 of the NERR are unlikely to outweigh the disadvantages.

**BACKGROUND – Full extract of legislative provisions**

| Code | NECF |
|---|---|
| **4.17 Undercharging**<br>(1) This clause 4.17 applies whether the undercharging became apparent through a review under clause 4.15 or otherwise.<br>(2) If a retailer proposes to recover an amount undercharged as a result of an error, defect or default for which the retailer or distributor is responsible (including where a meter has been found to be defective), the retailer must—<br>(a) subject to subclause (b), limit the amount to be recovered to no more than the amount undercharged in the 12 months prior to the date on which the retailer notified the customer that undercharging had occurred;<br>(b) other than in the event that the information provided by a customer is incorrect, if a retailer has changed the customer to an alternative tariff in the circumstances set out in clause 4.13 and, as a result of the customer being ineligible to receive the tariff charged prior to the change, the retailer has undercharged the customer, limit the amount to be recovered to no more than the amount undercharged in the 12 months prior to the date on which the retailer notified the customer under clause 4.13.<br>(c) notify the customer of the amount to be recovered no later than the next bill, together with an explanation of that amount;<br>(d) subject to subclause (3), not charge the customer interest on that amount or require the customer to pay a late payment fee; and<br>(e) in relation to a residential customer, offer the customer time to pay that amount by means of an instalment plan in accordance with clause 6.4(2) and covering a period at least equal to the period over which the recoverable undercharging occurred.<br>(3) If, after notifying a customer of the amount to be recovered in accordance with subclause (2)(c), the customer has failed to pay the amount to be recovered by the due date and has not entered into an instalment plan under subclause (2)(e), a retailer may charge the customer interest on that amount from the due date or require the customer to pay a late payment fee. | ***NERR***<br>**30 Undercharging (SRC and MRC)**<br>(1) Subject to subrule (2), where a retailer has undercharged a small customer, it may recover from the customer the amount undercharged.<br>(2) Where a retailer proposes to recover an amount undercharged the retailer must:<br>(a) unless the amount was undercharged as a result of the small customer's fault or unlawful act or omission, limit the amount to be recovered to the amount undercharged in the 9 months before the date the customer is notified of the undercharging; and<br>(b) not charge the customer interest on that amount; and<br>(c) state the amount to be recovered as a separate item in a special bill or in the next bill, together with an explanation of that amount; and<br>(d) offer the customer time to pay that amount by agreed instalments, over a period nominated by the customer being no longer than:<br>(i) the period during which the undercharging occurred, if the undercharging occurred over a period of less than 12 months; or<br>(ii) 12 months, in any other case.<br>*Note:*<br>*This subrule is a civil penalty provision for the purposes of the Law. (See the National Regulations, clause 6 and Schedule 1.)*<br>(3) To avoid doubt, a reference in this rule to undercharging by a retailer includes a reference to a failure by the retailer to issue a bill.<br>(4) **Application of this rule to standard retail contracts**<br>This rule applies in relation to standard retail contracts.<br>(5) **Application of this rule to market retail contracts**<br>This rule applies in relation to market retail contracts (other than prepayment meter market retail contracts). |

| | |
|---|---|
| (4) For the purpose of subclause (2), an undercharge that has occurred as a result of a customer denying access to the meter is not an undercharge as a result of an error, defect or default for which a retailer or distributor is responsible. | |

# Overcharging

[Clause 4.18 of the Code]

## Comparative review of Code and NECF

### Summary of legislation

Both the Code and the NECF deal with overcharging.

Notable differences:

| | Code | NECF |
|---|---|---|
| **Only applies if overcharging was result of error, defect or default for which retailer or distributor is responsible** | Yes | No, applies to all overcharging. However, if overcharging was result of customer's unlawful act or omission, retailer only has to refund overcharge for last 12 months. |
| **Threshold amount below which retailer may credit next bill without seeking customer's instructions** | $100 | $50 |
| **Retailer must seek instructions on how the credit should be refunded if overcharge is more than threshold amount** | Yes | Implied |
| **Retailer must credit next bill if overcharge is below threshold amount** | No, retailer may also repay the amount | Yes |
| **Retailer may use credit to offset debt** | Yes | No |
| **Timeframe for repaying credit** | Yes, 12 business days | No |
| **Timeframe for customer to respond to request for instructions** | Yes, 5 business days | No |

### Advantages / disadvantages of adopting NECF

**Advantages**

- The clause applies to all instances of overcharging.
- Lower threshold amount.

**Disadvantages**

- Retailers may not repay credit if below threshold amount (must be credited to next bill).
- For retailers: Retailers may not use credit to offset debt.
- No specified timeframes for some actions.

| Recommendation |
| --- |
| No amendments recommended.[27] |
| Reasons |
| If rule 31 of the NERR was adopted, retailers would have to manage all overcharges in accordance with clause 4.18, regardless of whether the overcharge was the result of an error, defect or default by the retailer or distributor, or not. This raises the question as to whether, for example, failure by a customer to apply for a different, more beneficial tariff or a concession would constitute an overcharge or not.<br>Although the definition could be amended to include examples of situations that would not constitute an overcharge, it may be difficult to cover all situations and some ambiguity may remain.<br>Therefore, the ECCC does not recommend adopting rule 31 of the NERR. |

[27] Recommendations 40 and 41 in the main body of the report proposes amendments to clause 4.18 for reasons not related to the NECF.

**BACKGROUND – Full extract of legislative provisions**

| Code | NECF |
|---|---|
| **4.18 Overcharging**<br>(1) This clause 4.18 applies whether the overcharging became apparent through a review under clause 4.15 or otherwise.<br>(2) If a customer (including a customer who has vacated the supply address) has been overcharged as a result of an error, defect or default for which a retailer or distributor is responsible (including where a meter has been found to be defective), the retailer must use its best endeavours to inform the customer accordingly within 10 business days of the retailer becoming aware of the error, defect or default and, subject to subclauses (6) and (7), ask the customer for instructions as to whether the amount should be—<br>(a) credited to the customer's account; or<br>(b) repaid to the customer.<br>(3) If a retailer receives instructions under subclause (2), the retailer must pay the amount in accordance with the customer's instructions within 12 business days of receiving the instructions.<br>(4) If a retailer does not receive instructions under subclause (2) within 5 business days of making the request, the retailer must use reasonable endeavours to credit the amount overcharged to the customer's account.<br>(5) No interest shall accrue to a credit or refund referred to in subclause (2).<br>(6) If the amount referred to in subclause (2) is less than $100, a retailer may notify a customer of the overcharge by no later than the next bill after the retailer became aware of the error, and—<br>(a) ask the customer for instructions under subclause (2) (in which case subclauses (3) and (4) apply as if the retailer sought instructions under subclause (2)); or<br>(b) credit the amount to the customer's next bill.<br>(7) If a customer has been overcharged by a retailer, and the customer owes a debt to the retailer, then provided that the customer is not a residential customer experiencing payment difficulties or financial hardship, the retailer may, with written notice to the customer, use the amount of the overcharge to set off the debt | ***NERR***<br>**31 Overcharging (SRC and MRC)**<br>(1) Where a small customer has been overcharged by an amount equal to or above the overcharge threshold, the retailer must inform the customer accordingly within 10 business days after the retailer becomes aware of the overcharging.<br>*Note:*<br>*This subrule is a civil penalty provision for the purposes of the Law. (See the National Regulations, clause 6 and Schedule 1.)*<br>(2) If the amount overcharged is equal to or above the overcharge threshold, the retailer must:<br>(a) repay that amount as reasonably directed by the small customer; or<br>(b) if there is no such reasonable direction, credit that amount to the next bill; or<br>(c) if there is no such reasonable direction and the small customer has ceased to obtain customer retail services from the retailer, use its best endeavours to refund that amount within 10 business days.<br>*Note:*<br>*Money not claimed is to be dealt with by the retailer in accordance with the relevant unclaimed money legislation.*<br>*Note:*<br>*This subrule is a civil penalty provision for the purposes of the Law (See the National Regulations, clause 6 and Schedule 1).*<br>(3) If the amount overcharged is less than the overcharge threshold, the retailer must:<br>(a) credit that amount to the next bill; or<br>(b) if the small customer has ceased to obtain customer retail services from the retailer, use its best endeavours to refund that amount within 10 business days.<br>*Note:*<br>*This subrule is a civil penalty provision for the purposes of the Law. (See the National Regulations, clause 6 and Schedule 1.)*<br>(4) No interest is payable on an amount overcharged.<br>(5) If the small customer was overcharged as a result of the customer's unlawful act or omission, the retailer is only required to repay, credit or refund the customer the amount the customer was |

owed to the retailer. If, after the set off, there remains an amount of credit, the retailer must deal with that amount of credit in accordance with subclause (2) or, if the amount is less than $100, subclause (6).

(a) Not Used

(b) Not Used

overcharged in the 12 months before the error was discovered.

(6) The overcharge threshold is $50 or such other amount as the AER determines under subrule (7).

(7) The AER may from time to time determine a new overcharge threshold in accordance with the retail consultation procedure.

(8) The AER must publish the current overcharge threshold on its website.

(9) **Application of this rule to standard retail contracts**

This rule applies in relation to standard retail contracts.

(10) **Application of this rule to market retail contracts**

This rule applies in relation to market retail contracts (other than prepayment meter market retail contracts).

# Adjustments

[Clause 4.19 of the Code]

## Comparative review of Code and NECF

### Summary of legislation

The Code regulates what a retailer must do when adjusting a bill following an estimation that was provided by a distributor or made under a bill smoothing arrangement.

The NECF only deals with adjustments following retailer estimations. It does not include a general provision dealing with adjustments. It is likely that adjustments, other than those following a retailer estimation, are treated as a general overcharge or undercharge.

### Advantages / disadvantages of adopting NECF

| Advantages | Disadvantages |
|---|---|
| • Less complex drafting. | |

## Recommendation

No amendments recommended.

Reasons

Recommendation 42 in the main body of the report is to delete clause 4.19. The reasons for the deletion are not directly related to the NECF.

# Adjustments

[Clause 4.19 of the Code]

| BACKGROUND – Full extract of legislative provisions | |
|---|---|
| **Code** | **NECF** |
| **4.19 Adjustments**<br>(1) If a retailer proposes to recover an amount of an adjustment which does not arise due to any act or omission of a customer, the retailer must—<br>(a) limit the amount to be recovered to no more than the amount of the adjustment for the 12 months prior to the date on which the meter was read on the basis of the retailer's estimate of the amount of the adjustment for the 12 month period taking into account any meter readings and relevant seasonal and other factors agreed with the customer;<br>(b) notify the customer of the amount of the adjustment no later than the next bill, together with an explanation of that amount;<br>(c) not require the customer to pay a late payment fee; and<br>(d) in relation to a residential customer, offer the customer time to pay that amount by means of an instalment plan in accordance with clause 6.4(2) and covering a period at least equal to the period to which the adjustment related.<br>(2) If the meter is read under either clause 4.6 or clause 4.3(2)(d) and the amount of the adjustment is an amount owing to the customer, the retailer must use its best endeavours to inform the customer accordingly within 10 business days of the retailer becoming aware of the adjustment and, subject to subclauses (5) and (7), ask the customer for instructions as to whether the amount should be—<br>(a) credited to the customer's account;<br>(b) repaid to the customer; or<br>(c) included as a part of the new bill smoothing arrangement if the adjustment arises under clause 4.3(2)(a)-(b),<br>(3) If a retailer received instructions under subclause (2), the retailer must pay the amount in accordance with the customer's instructions within 12 business days of receiving the instructions.<br>(4) If a retailer does not receive instructions under subclause (2) within 5 business days of making the request, the retailer must use reasonable | No equivalent provision. |

endeavours to credit the amount of the adjustment to the customer's account.

(5) If the amount referred to in subclause (2) is less than $100, the retailer may notify the customer of the adjustment by no later than the next bill after the meter is read; and

(a) ask the customer for instructions under subclause (2), (in which case subclauses (3) and (4) apply as if the retailer sought instructions under subclause (2)); or

(b) credit the amount to the customer's next bill.

(6) No interest shall accrue to an adjustment amount under subclause (1) or (2).

(7) If the amount of the adjustment is an amount owing to the customer, and the customer owes a debt to the retailer, then provided that the customer is not a residential customer experiencing payment difficulties or financial hardship, the retailer may, with written notice to the customer, use the amount of the adjustment to set off the debt owed to the retailer. If, after the set off, there remains an amount of credit, the retailer must deal with that amount of credit in accordance with subclause (2) or, if the amount is less than $100, subclause (5).

(a) Not Used

(b) Not Used

# Due dates for payment

*Recommendation 43*

[Clause 5.1 of the Code]

## Comparative review of Code and NECF

### Summary of legislation

Both the Code and the NECF prescribe the minimum due date to pay a bill.

Notable differences:

| | Code | NECF |
|---|---|---|
| **Minimum due date** | 12 business days from date of bill | 13 business days from bill issue date |
| **Date of bill is date of dispatch** | Yes | Not specified |
| **May agree to different due date** | Yes, all customers | No, but the rule does not apply to customers on a market retail contract |

### Advantages / disadvantages of adopting NECF

**Advantages**

- Customers will receive an extra business day to pay a bill.
- Improve consistency between the Code and the NECF.

**Disadvantages**

- Retailers and customers will lose the right to agree to a different minimum due date under the Code.

## Recommendation

a) Replace clause 5.1 of the Code with rule 26(1) of the NERR but replace the words "13 business days" with "12 business days".

**Consequential amendments**

b) Amend clause 1.5 of the Code to insert a definition of bill issue date consistent with the definition of bill issue date in rule 3 of the NERR, but delete the words ", included in a bill under rule 25(1)(e),".

Reasons

**a) Replace clause 5.1 of the Code with rule 26(1) of the NERR but replace the words "13 business days" with "12 business days"**

At least one of the two incumbent retailers already provides for a bill due date that is more than 12 business days from the date of the bill. The ECCC considers there are no compelling reasons for extending the minimum due date from 12 to 13 business days.

Subclause (2) would no longer be needed as the term "bill issue date" would be defined.

**Consequential amendments**

**b) Amend clause 1.5 of the Code to insert a definition of bill issue date consistent with the definition of bill issue date in rule 3 of the NERR**

To improve consistency with NECF.

**but delete the words ", included in a bill under rule 25(1)(e),"**

There are no compelling reasons to require retailers to include the bill issue date on their bills.

# Due dates for payment

[Clause 5.1 of the Code]

| BACKGROUND – Full extract of legislative provisions | |
|---|---|
| **Code** | **NECF** |
| **5.1 Due dates for payment*** | ***NERR*** |
| (1) The due date on a bill must be at least 12 business days from the date of that bill unless otherwise agreed with a customer. | **26 Pay-by date (SRC)** |
| (2) Unless a retailer specifies a later date, the date of dispatch is the date of the bill. | (1) The pay-by date for a bill must not be earlier than 13 business days from the bill issue date. |
| *[A retailer and customer may agree that this clause does not apply, or is amended, in a non-standard contract]* | (2) **Application of this rule to standard retail contracts**<br>This rule applies in relation to standard retail contracts. |
| | (3) **Application of this rule to market retail contracts**<br>This rule does not apply in relation to market retail contracts. |

# Minimum payment methods

*Recommendation 44*

[Clause 5.2 of the Code]

## Comparative review of Code and NECF

### Summary of legislation

Both the Code and the NECF are broadly similar for the payment methods that must be provided to customers, although the Code is generally more prescriptive.

Code customers can agree that the minimum payment methods of clause 5.2 do not apply. NECF customers can only agree to set aside the minimum payment methods if they are supplied under a market retail contract.

Comparison of minimum payment methods under the Code and NECF:

| | Code | NECF |
|---|---|---|
| **In person** | At one or more payment outlets within the customer's Local Government District | In person |
| **Mail** | By mail | By mail |
| **Telephone** | By telephone by means of credit card or debit card | By telephone |
| **Electronically** | Electronically, including by means of BPay or credit card | By electronic funds transfer |
| **Direct debit**[28] | Optional for retailers to provide payment by direct debit. Customer must give verifiable consent. | By direct debit. Customer must agree to direct debit. |
| **Centrepay** | For residential customers only. | A customer may request to pay using Centrepay, but it is optional for the retailer to offer this payment method (unless the customer is in hardship).[29] |

### Advantages / disadvantages of adopting NECF

**Advantages**

- Retailers must offer direct debit as a payment method (it is optional under the Code).
- The payment methods are less prescriptive than the Code's, giving retailers more discretion on how to offer each payment method.

**Disadvantages**

- It is optional for retailers to offer Centrepay as a payment method, unless the customer is in hardship (it is not optional under the Code).

[28] The Code addresses direct debit payments in a separate clause (5.3), but it has been included in the table, because the NERR includes it in rule 32. See the comparative review for clause 5.3 for more information.

[29] Rule 74 requires retailers to permit payment by Centrepay if a hardship customer requests it.

**Recommendation**

Replace clause 5.2 of the Code with rule 32(1) of the NERR but:

- do not adopt rule 32(1)(d) of the NERR.
- retain the requirement that the customer must be able to pay in person at one or more payment outlets within the customer's Local Government District (clause 5.2(a) of the Code).
- retain Centrepay as a minimum payment method for all residential customers (clause 5.2(c) of the Code).

Reasons

**Replace clause 5.2 of the Code with rule 32(1) of the NERR**

The payment methods listed in the NERR are less prescriptive, giving retailers more flexibility when offering each payment method.

**but:**

- **do not adopt rule 32(1)(d) of the NERR**

  Most electricity retailers already offer direct debit as a payment method. There is no need to regulate this matter.

  Also, some customers have previously used direct debit fraudulently. For example, by using another person's bank account details. Making direct debit mandatory would make it difficult for retailers to refuse direct debit to these customers.

- **retain the requirement that the customer must be able to pay in person at one or more payment outlets within the customer's Local Government District**

  Removing this requirement could result in retailers only allowing customers to pay, for example, at the retailer's offices (which may be difficult to access for customers). Retaining this requirement ensures customers will continue to be able to pay their bill in person locally. This is especially important for customers with low digital skills.

- **retain Centrepay as a minimum payment method for all residential customers**

  Centrepay helps customers who receive Centrelink payments to budget for essential household bills, such as utilities, and may reduce the risk of falling behind in payments. Centrepay should remain accessible to all residential customers, not only those who are experiencing financial hardship.

# Minimum payment methods

[Clause 5.2 of the Code]

| BACKGROUND – Full extract of legislative provisions | |
|---|---|
| **Code** | **NECF** |
| **5.2 Minimum payment methods**<br>Unless otherwise agreed with a customer, a retailer must offer the customer at least the following payment methods—<br>(a) in person at 1 or more payment outlets located within the Local Government District of the customer's supply address;<br>(b) by mail;<br>(c) for residential customers, by Centrepay;<br>(d) electronically by means of BPay or credit card; and<br>(e) by telephone by means of credit card or debit card.<br>*[A retailer and customer may agree that this clause does not apply, or is amended, in a non-standard contract]* | ***NERR***<br>**32 Payment methods (SRC and MRC)**<br>(1) A retailer must accept payment for a bill by a small customer in any of the following ways:<br>(a) in person;<br>(b) by telephone;<br>(c) by mail;<br>(d) by direct debit;<br>(e) by electronic funds transfer.<br>Note:<br>This subrule is a civil penalty provision for the purposes of the Law. (See the National Regulations, clause 6 and Schedule 1.)<br>(2) A small customer:<br>(a) applying for or on a standard retail contract; or<br>(b) on a market retail contract, may request the retailer to permit payment by using Centrepay as a payment option and, subject to rule 74, the retailer may elect to permit this option.<br>(3) [···]<br>(4) [···]<br>(5) [···]<br>(6) **Application of this rule to standard retail contracts**<br>This rule applies in relation to standard retail contracts.<br>(7) **Application of this rule to market retail contracts**<br>This rule (other than subrule (1)) applies in relation to market retail contracts (other than prepayment market retail contracts). |

# Direct debit

[Clause 5.3 of the Code]

## Comparative review of Code and NECF

### Summary of legislation

Both the Code and the NECF deal with direct debit arrangements.

Notable differences:

| | Code | NECF |
|---|---|---|
| **Must offer direct debit** | No | Yes |
| **Retailer and customer must agree to amount of direct debit** | No | Yes |
| **Notify customer in writing that retailer will cease to rely on direct debit if requested by customer** | No | Yes |
| **Terminate direct debit if requested by customer** | No | Yes |

### Advantages / disadvantages of adopting NECF

**Advantages**

- More protections for customers.
- Retailers must offer direct debit as a payment method.

**Disadvantages**

- Increase in regulation.

## Recommendation

No amendments recommended.

Reasons

As clause 5.3 is proposed to be deleted (see recommendation 45 in the main body of the report), no amendments are recommended based on the NECF.

# Direct debit

[Clause 5.3 of the Code]

| BACKGROUND – Full extract of legislative provisions | |
|---|---|
| **Code** | **NECF** |
| **5.3 Direct debit**<br>If a retailer offers the option of payment by a direct debit facility to a customer, the retailer must, prior to the direct debit facility commencing, obtain the customer's verifiable consent, and agree with the customer the date of commencement of the direct debit facility and the frequency of the direct debits. | ***NERR***<br>**32 Payment methods (SRC and MRC)**<br>(1) […]<br>(2) […]<br>(3) Where a direct debit arrangement is to be entered into between a retailer and a small customer:<br>(a) the retailer and the small customer must agree the amount, initial date and frequency of the direct debits; and<br>(b) the explicit informed consent of the small customer is required for entering into the arrangement.<br>(4) Where a direct debit arrangement is entered into between a retailer and a small customer, the retailer must:<br>(a) notify the small customer in writing that if the customer requests the retailer to cease to rely on the arrangement, the retailer will no longer rely on the direct debit authority; and<br>(b) terminate the arrangement on being requested by the customer to do so.<br>*Note:*<br>*This subrule is a civil penalty provision for the purposes of the Law. (See the National Regulations, clause 6 and Schedule 1.)*<br>(5) […]<br>(6) **Application of this rule to standard retail contracts**<br>This rule applies in relation to standard retail contracts.<br>(7) **Application of this rule to market retail contracts**<br>This rule (other than subrule (1)) applies in relation to market retail contracts (other than prepayment market retail contracts). |

# Payment in advance

[Clause 5.4 of the Code]

## Comparative review of Code and NECF

### Summary of legislation

Both the Code and the NECF require retailers to allow a customer to pay a bill in advance.

The Code also provides that:

- A retailer does not have to credit interest to amounts paid in advance.
- $20 is the minimum amount for which the retailer must accept advance payments, unless otherwise agreed with the customer.

### Advantages / disadvantages of adopting NECF

**Advantages**

- For customers: They can make a payment in advance for any amount.

**Disadvantages**

- For retailers: As there are often costs associated with payments (for example, credit card or Australia Post fees), the costs incurred by retailers for accepting payment in advance for small amounts may be disproportionate compared to the benefit to the customer.
- Removing the explicit protection for retailers that they do not have to pay interest on amounts paid in advance would make it unclear what the retailer is required to do in this situation. It is questionable that a retailer should have to pay interest on these amounts and is likely to be difficult for retailers to administer.

## Recommendation

No amendments recommended.[30]

Reasons

The Code's additional provisions provide clarity around two issues that the NECF does not.

[30] Recommendation 46 in the main body of the report proposes an amendment to clause 5.4 for reasons not related to the NECF.

# Payment in advance

[Clause 5.4 of the Code]

| BACKGROUND – Full extract of legislative provisions | |
|---|---|
| **Code** | **NECF** |
| **5.4 Payment in advance**<br>(1) A retailer must accept payment in advance from a customer on request.<br>(2) Acceptance of an advance payment by a retailer will not require the retailer to credit any interest to the amounts paid in advance.<br>(3) Subject to clause 6.9, for the purposes of subclause (1), $20 is the minimum amount for which a retailer will accept advance payments unless otherwise agreed with a customer.<br>*[A retailer and customer may agree that this clause does not apply, or is amended, in a non-standard contract]* | ***NERR***<br>**32 Payment methods (SRC and MRC)**<br>(1) [···]<br>(2) [···]<br>(3) [···]<br>(4) [···]<br>(5) A retailer must accept payments by a small use customer for a bill in advance.<br>(6) **Application of this rule to standard retail contracts**<br>This rule applies in relation to standard retail contracts.<br>(7) **Application of this rule to market retail contracts**<br>This rule (other than subrule (1)) applies in relation to market retail contracts (other than prepayment market retail contracts). |

# Absence or illness

[Clause 5.5 of the Code]

## Comparative review of Code and NECF

### Summary of legislation

If a residential customer is unable to pay a bill using the methods in clause 5.2 due to absence or illness, the Code requires a retailer to offer the customer on request a redirection of the customer's bill to a third person at no charge.

The NECF does not include an equivalent provision.

### Advantages / disadvantages of adopting NECF

**Advantages**

- Less regulatory burden for retailers.

**Disadvantages**

- Removal of a customer protection.

## Recommendation

No amendments recommended.[31]

Reasons

The NECF provides less protections for customers than the Code.

[31] Recommendation 47 in the main body of the report proposes an amendment to clause 5.5 for reasons not related to the NECF.

## Absence or illness

[Clause 5.5 of the Code]

| BACKGROUND – Full extract of legislative provisions | |
|---|---|
| **Code** | **NECF** |
| **5.5 Absence or illness**<br>If a residential customer is unable to pay by way of the methods described in clause 5.2, due to illness or absence, a retailer must offer the residential customer on request redirection of the residential customer's bill to a third person at no charge. | No equivalent provision. |

# Late payments

[Clause 5.6 of the Code]

## Comparative review of Code and NECF

### Summary of legislation

Both the Code and the NECF provide several protections against the charging of late payment fees by retailers. The protections under the Code only apply to residential customers.

No late payment fees are allowed in the following circumstances:

| | Code | NECF |
|---|---|---|
| **Customer receives concession** | Yes[32] | No |
| **Customer is in hardship** | Yes | Yes |
| **Retailer has given customer payment extension and customer pays by new due date** | Yes | No |
| **Customer is on instalment plan and makes payments in accordance with plan** | Yes | No |
| **Customer has made complaint directly related to non-payment of bill:** | | |
| – to retailer, and complaint remains unresolved | Yes | Yes |
| – to retailer, and complaint is resolved in favour of customer | Yes | Yes |
| – to retailer, and complaint is resolved in favour of retailer | Yes[33] | Yes |
| – to energy ombudsman, and complaint has not been determined | Yes | Yes |
| – to energy ombudsman, and complaint is upheld | Yes | Yes |
| – to energy ombudsman, and complaint is not upheld | Yes[34] | Yes |
| **Within 5 business days of last late payment fee notice** | Yes | No |
| **No more than 2 late payment fees for same bill** | Yes | No |
| **No more than 12 late payment fees per year** | Yes | No |

[32] Provided the customer did not receive two or more reminder notices within the previous 12 months.

[33] Until retailer has made a decision.

[34] Until energy ombudsman has made a determination.

Under the Code, a retailer must also retrospectively waive or refund late payment fees for customers who have:

- been assessed as experiencing financial hardship; or
- made a complaint to the retailer or energy ombudsman but the retailer was not aware of the complaint at the time.

The NECF requires that any late payment fee must not exceed the reasonable costs of the retailer in recovering an overdue amount.

### Advantages / disadvantages of adopting NECF

| Advantages | Disadvantages |
|---|---|
| • Less complex to administer for retailers | • Less protections for customers |

**Recommendation**

No amendments recommended.

Reasons

The NECF provides less protections for customers than the Code.

The one additional protection provided to NECF customers (cost of late payment fee) is not relevant as the late payment fees for the two main electricity providers, Synergy and Horizon Power, are set by the WA Government.

# Late payments

[Clause 5.6 of the Code]

**BACKGROUND – Full extract of legislative provisions**

| Code | NECF |
|---|---|
| **5.6 Late payments**<br>(1) A retailer must not charge a residential customer a late payment fee if—<br>(a) the residential customer receives a concession, provided the residential customer did not receive 2 or more reminder notices within the previous 12 months; or<br>(b) the residential customer and the retailer have agreed to—<br>(i) a payment extension under Part 6, and the residential customer pays the bill by the agreed (new) due date; or<br>(ii) an instalment plan under Part 6, and the residential customer is making payments in accordance with the instalment plan; or<br>(c) subject to subclause (2), the residential customer has made a complaint directly related to the non-payment of the bill to the retailer or to the electricity ombudsman, and—<br>(i) the complaint has not been resolved by the retailer;<br>(ii) the complaint is resolved by the retailer in favour of the residential customer. If the complaint is not resolved in favour of the residential customer, any late payment fee shall only be calculated from the date of the retailer's decision; or<br>(iii) the complaint has not been determined or has been upheld by the electricity ombudsman (if a complaint has been made to the electricity ombudsman). If the complaint is determined by the electricity ombudsman in favour of the retailer, any late payment fee shall only be calculated from the date of the electricity ombudsman's decision; or<br>(d) the residential customer is assessed by the retailer under clause 6.1(1) as being in financial hardship.<br>(2) If a retailer has charged a late payment fee in the circumstances set out in subclause (1)(c) because the retailer was not aware of the complaint, the retailer will not contravene subclause (1)(c) but must refund the late payment fee on the customer's next bill. | ***NERL***<br>**24 Late payment fees**<br>(1) A retailer may impose a fee for late payment of a bill for a customer retail service.<br>(2) However, if the service is provided under a customer retail contract with a small customer—<br>(a) the fee must not exceed the reasonable costs of the retailer in recovering an overdue amount; and<br>(b) if the customer lodges a complaint in relation to the bill under Part 4 of the National Energy Retail Law (South Australia), the retailer must not take steps to recover a fee for late payment while the complaint is being dealt with under that Part.<br><br>***NERR***<br>**73 Waiver of late payment fee for hardship customer**<br>A retailer must waive any fee payable under a customer retail contract with a small customer who is a hardship customer for late payment of a bill for customer retail services.<br>Note: This rule is a civil penalty provision for the purposes of the Law. (See the National Regulations, clause 6 and Schedule 1.) |

| | |
|---|---|
| (3) If a retailer has charged a residential customer a late payment fee, the retailer must not charge an additional late payment fee in relation to the same bill within 5 business days from the date of receipt of the previous late payment fee notice.<br>(4) A retailer must not charge a residential customer more than 2 late payment fees in relation to the same bill or more than 12 late payment fees in a year.<br>(5) If a residential customer has been assessed as being in financial hardship under clause 6. 1(1), a retailer must retrospectively waive any late payment fee charged under the residential customer's last bill prior to the assessment being made. | |

# Vacating a supply address

[Clause 5.7 of the Code]

## Comparative review of Code and NECF

### Summary of legislation

The Code prescribes the final day for which a retailer can charge a customer for electricity used at the supply address.

The NECF does not address this matter; it only deals with termination of a customer's contract.

In WA, termination of a customer's contract is addressed in the *Electricity Industry (Customer Contracts) Regulations 2005*.

Contract termination and liability for payment are not necessarily the same thing. For example, retailers may opt to continue to supply customers under the same contract when they move into a new supply address. If a customer's contract is not terminated when they vacate a supply address, it may not be clear when the customer's liability for payment at that address ends. Clause 5.7 aims to address this matter.

### Advantages / disadvantages of adopting NECF

| Advantages | Disadvantages |
|---|---|
| | • Less clarity about when a customer's liability for payment ends. |

## Recommendation

No amendments recommended.[35]

Reasons

See NECF disadvantage listed above.

[35] Recommendation 48 in the main body of the report proposes an amendment to clause 5.7 for reasons not related to the NECF.

# Vacating a supply address

[Clause 5.7 of the Code]

| BACKGROUND – Full extract of legislative provisions | |
|---|---|
| **Code** | **NECF** |
| **5.7 Vacating a supply address**<br>(1) Subject to—<br>(a) subclauses (2) and (4);<br>(b) a customer giving a retailer notice; and<br>(c) the customer vacating the supply address at the time specified in the notice, the retailer must not require the customer to pay for electricity consumed at the customer's supply address from—<br>(d) the date the customer vacated the supply address, if the customer gave at least 5 days' notice; or<br>(e) 5 days after the customer gave notice, in any other case, unless the retailer and the customer have agreed to an alternative date.<br>(2) If a customer reasonably demonstrates to a retailer that the customer was evicted or otherwise required to vacate the supply address, the retailer must not require the customer to pay for electricity consumed at the customer's supply address from the date the customer gave the retailer notice.<br>(3) For the purposes of subclauses (1) and (2), notice is given if a customer—<br>(a) informs a retailer of the date on which the customer intends to vacate, or has vacated the supply address; and<br>(b) gives the retailer a forwarding address to which a final bill may be sent.<br>(4) Notwithstanding subclauses (1) and (2), if—<br>(a) a retailer and a customer enter into a new contract for the supply address, the retailer must not require the previous customer to pay for electricity consumed at the customer's supply address from the date that the new contract becomes effective;<br>(b) another retailer becomes responsible for the supply of electricity to the supply address, the previous retailer must not require the customer to pay for electricity consumed at the customer's supply address from the date that the other retailer becomes responsible; and<br>(c) the supply address is disconnected, the retailer must not require the customer to pay for electricity consumed at the customer's | No equivalent provision. |

supply address from the date that disconnection occurred.

(5) Notwithstanding subclauses (1), (2) and (4), a retailer's right to payment does not terminate with regard to any amount that was due up until the termination of the contract.

*[A retailer and customer may agree that this clause does not apply, or is amended, in a non-standard contract]*

# Debt collection

[Clause 5.8 of the Code]

## Comparative review of Code and NECF

### Summary of legislation

Both the Code and the NECF preclude a retailer from recovering debt from a residential customer who is:

- on a payment plan (or extension) and adhering to its terms; and/or
- experiencing payment difficulties or financial hardship, until the retailer has offered all available assistance.

The Code also precludes a retailer from recovering debt from a person other than the customer at the supply address.

The Code explicitly allows a retailer to transfer a customer's debt to another customer upon the customer's request, provided the retailer obtains the other customer's verifiable consent.

### Advantages / disadvantages of adopting NECF

**Advantages**

**Disadvantages**

- Retailers would potentially be able to initiate debt proceedings against someone at the supply address other than the customer.
- Customers would lose the right to ask to transfer debt to another customer, who may be in a better position to pay.

## Recommendation

No amendments recommended.

Reasons

The NECF provides less protections for customers than the Code.

**BACKGROUND – Full extract of legislative provisions**

| Code | NECF |
|---|---|
| **5.8 Debt collection**<br>(1) A retailer must not commence proceedings for recovery of a debt—<br>(a) from a residential customer who has informed the retailer in accordance with clause 6.1(1) that the residential customer is experiencing payment difficulties or financial hardship, unless and until the retailer has complied with all the requirements of clause 6.1 and (if applicable) clause 6.3; and<br>(b) while a residential customer continues to make payments under an alternative payment arrangement under Part 6.<br>(2) A retailer must not recover or attempt to recover a debt relating to a supply address from a person other than a customer with whom the retailer has or had entered into a contract for the supply of electricity to that customer's supply address.<br>(3) If a customer with a debt owing to a retailer requests the retailer to transfer the debt to another customer, the retailer may transfer the debt to the other customer provided that the retailer obtains the other customer's verifiable consent to the transfer. | ***NERL***<br>**51 – Debt Recovery**<br>A retailer must not commence proceedings for the recovery of a debt relating to the sale and supply of energy from a residential customer if—<br>(a) the customer continues to adhere to the terms of a payment plan or other agreed payment arrangement; or<br>(b) the retailer has failed to comply with the requirements of—<br>(i) its customer hardship policy in relation to that customer; or<br>(ii) this Law and the Rules relating to non-payment of bills, payment plans and assistance to hardship customers or residential customers experiencing payment difficulties. |

# Disconnection for failure to pay a bill – general requirements

[Clause 7.1 of the Code]

## Comparative review of Code and NECF

### Summary of legislation

Both the Code and the NECF contain comprehensive provisions on the disconnection of customers who fail to pay a bill. There are several differences between both instruments.

One of the differences is that the NECF has a general clause specifying the minimum content and timeframes for reminder notices and disconnection warnings. In the Code, these matters are addressed separately for each type of disconnection.

Another difference is that the NECF has separate disconnection procedures for customers on a shortened billing cycle.[36] These customers do not receive any reminder notices.

Comparison between Code and NECF:

| | Code | NECF |
|---|---|---|
| **Reminder notice** | | |
| – Content | – Retailer's phone number for billing and payment enquiries<br>– Advice on how the retailer may assist if the customer is experiencing payment difficulties or financial hardship. | – Date of issue<br>– Date the reminder notice period ends<br>– The bill must be paid during the reminder notice period<br>– Retailer's phone number for complaints and disputes. |
| – May be sent | Not less than 15 business days from the date of dispatch of the bill. | No earlier than the next business day after bill pay-by date. |
| – New due date | Not specified. | No earlier than six business days from the date of issue of the reminder notice. |
| **Direct contact** | Use best endeavours to contact the customer to advise of the proposed disconnection. [37] | Use best endeavours to contact the customer after giving the customer a disconnection warning.<br>Contact by telephone and electronic means is only taken to have occurred if the customer has acknowledged receipt of the message. |
| **Disconnection warning** | | |
| – Content | – That the retailer may disconnect the customer with at least 5 business days' notice. | – Date of issue.<br>– State the matter giving rise to the potential disconnection.<br>– Date the warning notice period ends. |

[36] Rule 111(3).

[37] It is unclear exactly when the retailer must attempt to make contact. The clause is after the reminder notice clause and before the warning notice clause.

| | | |
|---|---|---|
| | – Retailer's complaint handling processes, including details of the electricity ombudsman. | – The bill must be paid during the warning period.<br>– Inform the customer of applicable reconnection procedures and (if applicable) that a charge will be imposed for reconnection.<br>– Contact details of the energy ombudsman.<br>– Retailer's telephone number. |
| – May be sent | Not less than 20 business days from the date of dispatch of the bill | No earlier than the next business day after the end of the reminder notice period.[38] |
| – New due date | Must give customer at least five business days' notice of the disconnection. | No earlier than six business days from the date of issue of the disconnection warning.[39] |
| **When disconnection may occur** | If the customer has not:<br>– paid the retailer's bill by the due date;<br>– agreed with the retailer to an offer of an instalment plan or other payment arrangement to pay the retailer's bill; or<br>– adhered to the customer's obligations to make payments in accordance with an agreed instalment plan or other payment arrangement relating to the payment of the retailer's bill. | If:<br>– the customer:<br>– has not paid a bill by the pay-by date; or<br>– is on a payment plan with the retailer and has not adhered to the terms of the plan; and<br>– if the customer is a residential customer, the customer:<br>– has not paid a bill by the pay-by date; and<br>– has not agreed to an offer to pay the bill by instalments or, having agreed to the offer, has failed to adhere to an instalment arrangement. |
| **Prerequisites for disconnection of customers experiencing payment difficulties or financial hardship** | | The retailer has offered the customer 2 payment plans in the previous 12 months and:<br>– the customer has agreed to neither of them; or<br>– the customer has agreed to one but not the other of them but the plan to which the customer |

[38] At the earliest, a disconnection warning may be sent 21 business days after the bill issue date.

[39] See the definition of disconnection warning period in rule 108 of the NERR.

agreed has been cancelled due to non-payment by the customer; or

- the customer has agreed to both of them, but the plans have been cancelled due to non-payment by the customer.

### Advantages / disadvantages of adopting NECF

**Advantages**

- Customers receive more information on their reminder notices and disconnection warnings.
- Residential customers may only be disconnected if they have been offered at least two instalment plans and failed to accept either plan or did not adhere to the plan(s).

**Disadvantages**

- Some of the drafting, especially around timeframes, is more complex.
- The framework for timeframes does not align with the current processes of some retailers. Retailers may incur costs to change their systems to comply with the NECF framework.
- Unlike the Code, the NECF does not require a reminder notice to include information about seeking help for hardship or payment difficulties.

| Recommendation |
| --- |
| No amendments recommended. |
| Reasons |
| See NECF disadvantages listed above. There are no compelling reasons to adopt the NECF. |

# Disconnection for failure to pay a bill – general requirements

[Clause 7.1 of the Code]

**BACKGROUND – Full extract of legislative provisions**

| Code | NECF |
|---|---|
| **Subdivision 1 – Disconnection for failure to pay a bill**<br>**7.1 General requirements**<br>(1) Prior to arranging for disconnection of a customer's supply address for failure to pay a bill, a retailer must—<br>(a) give the customer a reminder notice, not less than 15 business days from the date of dispatch of the bill, including—<br>(i) the retailer's telephone number for billing and payment enquiries; and<br>(ii) advice on how the retailer may assist in the event the customer is experiencing payment difficulties or financial hardship;<br>(b) use its best endeavours to contact the customer to advise of the proposed disconnection; and<br>(c) give the customer a disconnection warning, not less than 20 business days from the date of dispatch of the bill, advising the customer—<br>(i) that the retailer may disconnect the customer with at least 5 business days notice to the customer; and<br>(ii) of the existence and operation of complaint handling processes including the existence and operation of the electricity ombudsman and the Freecall telephone number of the electricity ombudsman.<br>(2) For the purposes of subclause (1), a customer has failed to pay a retailer's bill if the customer has not—<br>(a) paid the retailer's bill by the due date;<br>(b) agreed with the retailer to an offer of an instalment plan or other payment arrangement to pay the retailer's bill; or<br>(c) adhered to the customer's obligations to make payments in accordance with an agreed instalment plan or other payment arrangement relating to the payment of the retailer's bill. | ***NERR***<br>**Part 6 De-energisation (or disconnection) of premises—small customers**<br>Division 1 Preliminary<br>**107 Application of this Part**<br>(1) This Part (except for rules 119 and 120 (1) (a), (2) and (3)) applies to small customers only, and references to a customer are to be construed accordingly.<br>(2) A retailer must not arrange de-energisation of a customer's premises except in accordance with Division 2.<br>Note: This subrule is a civil penalty provision for the purposes of the Law. (See the National Regulations, clause 6 and Schedule 1.)<br>(3) A distributor must not de-energise a customer's premises except in accordance with Division 3.<br>Note: This subrule is a civil penalty provision for the purposes of the Law. (See the National Regulations, clause 6 and Schedule 1.)<br>(4) This Part does not apply to interruptions under Division 6 of Part 4 or under Division 9A of Part 2.<br>(5) A reference in this Part to the de-energisation or re-energisation of a customer's premises includes arranging for the premises to be de-energised or re-energised remotely.<br>**108 Definitions**<br>In this Part:<br>*disconnection warning period* means the period that starts on the date of issue of a disconnection warning notice under rule 110, which must be no earlier than the next business day after the end of the reminder notice period, and ends no earlier than 6 business days from the date of issue of the disconnection warning notice;<br>*extreme weather event* means an event declared by a local instrument as an extreme weather event in the jurisdiction in which the customer's premises are located;<br>*protected period* means:<br>(a) a business day before 8am or after 3pm; or<br>(b) a Friday or the day before a public holiday; or<br>(c) a weekend or a public holiday; or |

(d) the days between 20 December and 31 December (both inclusive) in any year;

*public holiday*, in relation to a customer, means a day that is observed as a local public holiday in the area in which the customer's premises are located (including the whole of the State or Territory in which the area is located);

*reminder notice period* means the period that starts on the date of issue of a reminder notice under rule 109, which must be no earlier than the next business day after the pay-by date, and ends no earlier than 6 business days from the date of issue of the reminder notice.

**109 Reminder notices—retailers**

(1) **Nature of reminder notices**

A reminder notice is a notice issued by a retailer after the pay-by date for a bill to remind the customer that payment is required.

(2) **Particulars to be included in reminder notices**

A reminder notice must:

(a) state the date of its issue; and

(b) state the date on which the reminder notice period ends; and

(c) state that payment of the bill must be made during the reminder notice period; and

(d) include details of the retailer's telephone number for complaints and disputes.

**110 Disconnection warning notices—retailers and distributors**

(1) **Nature of disconnection warning notices**

A disconnection warning notice is a notice issued by a retailer or a distributor as applicable to warn a customer that the customer's premises will or may be de-energised.

(2) **Particulars to be included in disconnection warning notices**

A disconnection warning notice must:

(a) state the date of its issue; and

(b) state the matter giving rise to the potential de-energisation of the customer's premises; and

(c) where the notice has been issued for not paying a bill:

(i) state the date on which the disconnection warning period ends; and

(ii) state that payment of the bill must be made during the disconnection warning period; and

(d) for matters other than not paying a bill—allow a period of not fewer than 5 business

days after the date of issue for the customer to rectify the matter before de-energisation will or may occur; and

(e) inform the customer of applicable re-energisation procedures and (if applicable) that a charge will be imposed for re-energisation; and

(f) include details of the existence and operation of the energy ombudsman, including contact details;

(g) include details of the telephone number of the retailer and the distributor (as applicable).

**Division 2 Retailer-initiated de-energisation of premises**

**111 De-energisation for not paying bill**

(1) A retailer may arrange de-energisation of a customer's premises if:

(a) the customer:

(i) has not paid a bill by the pay-by date; or

(ii) is on a payment plan with the retailer and has not adhered to the terms of the plan; and

(b) if the customer is a residential customer, the customer:

(i) has not paid a bill by the pay-by date; and

(ii) has not agreed to an offer to pay the bill by instalments or, having agreed to the offer, has failed to adhere to an instalment arrangement; and

(c) the retailer has given the customer a reminder notice; and

(d) the retailer has given the customer a disconnection warning notice after the expiry of the period referred to in the reminder notice; and

(e) the retailer has, after giving the disconnection warning notice, used its best endeavours to contact the customer, in connection with the failure to pay, or to agree to the offer or to adhere to the payment plan or instalment arrangement as referred to in paragraphs (a) (ii) and (b) (ii), in one of the following ways:

(i) in person;

(ii) by telephone (in which case contact is, if the telephone is unanswered, taken to have occurred only if the customer acknowledges receipt of a message);

(iii) by facsimile or other electronic means (in which case contact is taken to have occurred only if the customer acknowledges receipt of the message); and

(f) the customer has refused or failed to take any reasonable action towards settling the debt.

(2) Where a customer is a hardship customer or a residential customer who has informed the retailer in writing or by telephone that the customer is experiencing payment difficulties, a retailer must not arrange for de-energisation of the customer's premises under subrule (1), unless the retailer has offered the customer 2 payment plans in the previous 12 months and:

(a) the customer has agreed to neither of them; or

(b) the customer has agreed to one but not the other of them but the plan to which the customer agreed has been cancelled due to non-payment by the customer; or

(c) the customer has agreed to both of them but the plans have been cancelled due to non-payment by the customer.

(3) A retailer may arrange de-energisation of a customer's premises if:

(a) the customer has, while on a shortened collection cycle, not paid a bill by the pay-by date; and

(b) the retailer has given the customer a disconnection warning notice after the pay-by date; and

(c) the retailer has, after giving the disconnection warning notice, used its best endeavours to contact the customer, in connection with the failure to pay, or to agree to the offer or to adhere to the payment plan or instalment arrangement as referred to in subrule (1) (a) (ii) and (b) (ii), in one of the following ways:

(i) in person;

(ii) by telephone (in which case contact is, if the telephone is unanswered, taken to have occurred only if the customer acknowledges receipt of a message);

(iii) by facsimile or other electronic means (in which case contact is taken to have occurred only if the customer acknowledges receipt of the message); and

(d) the customer has refused or failed to take any reasonable action towards settling the debt.

(4) **Application of this rule to standard retail contracts**

This rule applies in relation to standard retail contracts.

(5) **Application of this rule to market retail contracts**

This rule applies in relation to market retail contracts.

# Limitations on disconnection for failure to pay bill

*Recommendations 64 and 65*

[Clause 7.2 of the Code]

## Comparative review of Code and NECF

### Summary of legislation

Both the Code and the NECF preclude retailers from disconnecting a customer's supply for failure to pay a bill in certain circumstances.

Their approaches differ somewhat. While many of the Code restrictions only apply for failure to pay a bill, most of the NECF restrictions apply to all grounds of disconnection.

Also, in the NECF, all restrictions on disconnection are listed in two rules: rule 116 (for retailers) and rule 120 (for distributors). Those rules not only set out what restrictions apply, but also when the restrictions do not apply (for example, if the customer has used electricity illegally).

Comparison between Code and NECF of the restrictions on disconnection for failure to pay a bill:

| | Code | NECF |
|---|---|---|
| ***No disconnection*** | | |
| **Within 1 business day after the expiry of the disconnection warning period** | Yes | No |
| **If residential customer is:** | | |
| – accepted/adhering to a payment plan | Yes | Yes |
| – used reasonable endeavours to settle debt before expiry of disconnection warning period | Yes | No |
| **If amount outstanding is less than amount approved by ERA/AER** | Yes | Yes |
| **If customer has applied for concession and decision is outstanding** | Yes | Yes |
| **If customer has not paid amount which does not relate to the sale of electricity** | Yes | Yes |
| **If supply address does not relate to the bill (unless the amount due relates to a supply address previously occupied by the customer)** | Yes | No |
| **During an extreme weather event** | No | Yes |

### Advantages / disadvantages of adopting NECF

**Advantages**

- The restriction on disconnection for customers on an instalment plan is not subject to the customer having used reasonable endeavours to settle the debt before the expiry of the disconnection warning period. Customers who are on an instalment plan should not be expected to settle their debt before the disconnection

**Disadvantages**

- The NECF does not specifically preclude retailers from disconnecting other supply addresses for which the customer has a supply contract.

warning period as long as they comply with the conditions of their plan.

- Clarifies that retailers may only not disconnect a customer who has applied for a concession, if the customer has informed the retailer of the application or the retailer is otherwise aware.
- Customers may not be disconnected during an extreme weather event.
- The NECF clearly sets out when the restrictions on disconnection do, and do not, apply.

**Recommendation**[40]

a) Replace clause 7.2(1)(b) of the Code with rule 116(1)(d) of the NERR but do not adopt the words "is a hardship customer or residential customer and".

b) Replace clause 7.2(1)(d) of the Code with rule 116(1)(e) of the NERR but replace the words "a rebate, concession or relief available under any government funded energy rebate, concession or relief scheme" with "a concession".

Reasons

**a) Replace clause 7.2(1)(b) of the Code with rule 116(1)(d) of the NERR**

Clause 7.2(1)(b) currently requires customers who are on an instalment plan to use reasonable endeavours to settle their debt before the disconnection warning period. This seems unreasonable. The amendment would ensure that disconnection will not occur while the customer 'is adhering to an instalment plan'.

**but do not adopt the words "is a hardship customer or residential customer and"**

The Code does not use the term "hardship customer". The words are also unnecessary if the reference to rule 33 or 72 is replaced with reference to clause 6.4(1). Under clause 6.4(1) of the Code, instalment plans only have to be offered to residential customers.

**b) Replace clause 7.2(1)(d) of the Code with rule 116(1)(e) of the NERR**

Retailers will not always be aware that a customer has applied for a concession. Adopting the drafting of rule 116(1)(e) would ensure that the restriction only applies if the customer has informed the retailer, or the retailer is otherwise aware, that the customer has applied for a concession.

**but replace the words "a rebate, concession or relief available under any government funded energy rebate, concession or relief scheme" with "a concession"**

Clause 1.5 of the Code defines concession as "means a concession, rebate, subsidy or grant related to the supply of electricity available to residential customers only".

[40] Recommendation 66 in the main body of the report proposes an additional amendment to clause 7.2 for reasons not related to the NECF.

# Limitations on disconnection for failure to pay bill

[Clause 7.2 of the Code]

| BACKGROUND – Full extract of legislative provisions | |
|---|---|
| **Code** | **NECF** |
| **7.2 Limitations on disconnection for failure to pay bill**<br>(1) Notwithstanding clause 7.1, a retailer must not arrange for the disconnection of a customer's supply address for failure to pay a bill –<br>(a) within 1 business day after the expiry of the period referred to in the disconnection warning;<br>(b) if the retailer has made the residential customer an offer in accordance with clause 6.4(1) and the residential customer –<br>(i) has accepted the offer before the expiry of the period specified by the retailer in the disconnection warning; and<br>(ii) has used reasonable endeavours to settle the debt before the expiry of the time frame specified by the retailer in the disconnection warning;<br>(c) if the amount outstanding is less than an amount approved and published by the Authority in accordance with subclause (2) and the customer has agreed with the retailer to repay the amount outstanding;<br>(d) if the customer has made an application for a concession and a decision on the application has not yet been made;<br>(e) if the customer has failed to pay an amount which does not relate to the supply of electricity; or<br>(f) if the supply address does not relate to the bill, unless the amount outstanding relates to a supply address previously occupied by the customer.<br>(2) For the purposes of subclause (1)(c), the Authority may approve and publish, in relation to failure to pay a bill, an amount outstanding below which a retailer must not arrange for the disconnection of a customer's supply address. | ***NERR***<br>**116 When retailer must not arrange de-energisation**<br>(1) **Restrictions on de-energisation**<br>Despite any other provisions of this Division but subject to subrules (2), (3) and (4), a retailer must not arrange for the de-energisation of a customer's premises to occur:<br>(a)-(c1) […]<br>(d) where the customer is a hardship customer or residential customer and is adhering to a payment plan under rule 33 or 72; or<br>(e) where the customer informs the retailer, or the retailer is otherwise aware, that the customer has formally applied for assistance to an organization responsible for a rebate, concession or relief available under any government funded energy charge rebate, concession or relief scheme and a decision on the application has not been made; or<br>(f) on the ground that the customer has failed to pay an amount on a bill that relates to goods and services other than for the sale of energy; or<br>(g) for non-payment of a bill where the amount outstanding is less than an amount approved by the AER and the customer has agreed with the retailer to repay that amount; or<br>(h)-(i) […] |

# Dual fuel contracts

[Clause 7.3 of the Code]

## Comparative review of Code and NECF

### Summary of legislation

The Code and the NECF provide customers on dual fuel contracts with similar protections. Both instruments require the retailer to wait at least 15 business days after disconnecting the gas supply to disconnect the electricity supply.

There are two main differences:

- The Code protection only applies to residential customers, while the NECF applies to all customers.
- The NECF protection only applies to dual fuel contracts, while the Code applies to dual fuel contracts as well as separate contracts for the supply of electricity and gas (provided the customer receives a single bill for energy or separate, simultaneous bills for electricity and gas).

### Advantages / disadvantages of adopting NECF

**Advantages**

- Protection applies to all customers (not only residential customers)

**Disadvantages**

- Protection only applies to customers on a dual fuel contract.

## Recommendation

No amendments recommended.

Reasons

See NECF disadvantage listed above.

| BACKGROUND – Full extract of legislative provisions | |
|---|---|
| **Code** | **NECF** |
| **7.3 Dual fuel contracts**<br>(1) If a retailer and a residential customer have entered into—<br>(a) a dual fuel contract; or<br>(b) separate contracts for the supply of electricity and the supply of gas, under which—<br>(i) a single bill for energy is; or<br>(ii) separate, simultaneous bills for electricity and gas are,<br>issued to the residential customer,<br>the retailer must not arrange for disconnection of the residential customer's supply address for failure to pay a bill within 15 business days from the date of disconnection of the residential customer's gas supply. | ***NERR***<br>**117 Timing of de-energisation where dual fuel market contract**<br>(1) **Application of this rule**<br>This rule applies where a retailer and a customer have entered into a dual fuel market contract for the customer's premises and the retailer has the right to arrange for de-energisation of the customer's gas supply and the customer's electricity supply under this Division.<br>(2) **De-energisation of gas supply**<br>Despite any other provision of this Division, the retailer may exercise the right to arrange for de-energisation of the customer's gas supply in accordance with timing determined under the dual fuel market contract.<br>(3) **De-energisation of electricity supply**<br>The retailer may exercise the right to arrange for de-energisation of the customer's electricity supply in accordance with timing determined under the dual fuel market contract but no earlier than 15 business days after the date of the de-energisation of the customer's gas supply under subrule (2).<br>(4) **Restrictions on de-energisation not affected**<br>Nothing in this rule affects the operation of rule 116. |

# Disconnection for denying access to meter – general requirements

*Recommendation 67*

[Clause 7.4 of the Code]

## Comparative review of Code and NECF

### Summary of legislation

Both the Code and the NECF restrict disconnection for denying access to the meter.

The NERR has two provisions for denying access to the meter. Rule 113(1) deals with denying access to read the meter. Rule 113(2) deals with denying access to test, maintain, inspect or alter the meter, check the accuracy of the meter or replace the meter.

The Code implies that clause 7.4 only applies to denying access to the customer's supply address to read the meter, but this is not explicit.[41]

Comparison between Code and NECF disconnection provisions for denying access to read the meter:

| | Code | NECF |
|---|---|---|
| **Minimum period denying access to the meter before disconnection** | 9 months | 3 consecutive meter readings |
| **Provide notice** | Yes, of date or timeframe for next scheduled meter reading | Yes, requesting access to the meter |
| **Use best endeavours to contact customer** | Yes | Yes[42] |
| **Give customer opportunity to offer reasonable alternative access arrangements** | Yes | Yes, but arrangements must be acceptable to the distributor or metering agent |
| **Advise customer of alternative meters** | Yes | No |
| **Notice of intention to arrange for disconnection** | No | Yes |
| **Disconnection warning notice** | Yes | Yes |
| – Timeframe for issuing disconnection notice | No | Yes, after expiry of period referred to in 'notice of intention to arrange for disconnection' |
| – Timeframe for disconnection after notice issued | 5 business days | 6 business days |
| **Disconnection only allowed if customer has not rectified the matter that give rise to the right to arrange for disconnection** | No | Yes |

[41] Clause 7.4(1)(b) twice refers to 'scheduled meter reading'.

[42] Contact by telephone and electronic means is only taken to have occurred if the customer has acknowledged receipt of the message.

| | | |
|---|---|---|
| **Retailer may arrange for distributor to carry out one or more of the requirements** | Yes | Not addressed. |

The NECF provides less protections where a customer has denied access for testing, maintaining, inspecting or altering the meter, checking the accuracy of the meter or replacing the meter. In these cases, the retailer only has to give the customer a disconnection warning.

### Advantages / disadvantages of adopting NECF

**Advantages**

- Clarity re protections that apply when access is denied for reasons other than reading the meter.
- Contact by telephone and electronic means is only taken to have occurred if the customer has acknowledged receipt of the message.
- Retailers must provide a reminder notice (notice of intention to arrange for disconnection) and disconnection warning.
- Disconnection only allowed if customer has not rectified the matter that gave rise to the right to arrange for disconnection.

**Disadvantages**

- Unclear if customers receive prior notice of the date / timeframe of at least one scheduled meter reading.
- Retailers may disconnect supply after 3 consecutive meter readings. As most electricity meters in WA are read every two months, disconnection could occur after 6 months.
- Customers do not receive information about alternative meters, such as meters that can be read remotely.
- Unclear if retailers can arrange for a distributor to carry out one or more of the requirements.

### Recommendation[43]

Adopt rule 113(2) of the NERR but:

- do not adopt the words "in accordance with any requirement under the energy laws or otherwise".
- extend the application of the clause to distributors.

Reasons

**Adopt rule 113(2) of the NERR**

To improve clarity about the protections that apply when access is denied for reasons other than reading the meter.

**but:**

- **do not adopt the words "in accordance with any requirement under the energy laws or otherwise"**

  The words are likely unnecessary. A retailer should always comply with any requirements under other laws.
- **extend the application of the clause to distributors**

  Distributors are most likely to require access to a customer's meter to test, inspect, alter, check or replace the meter.

[43] Recommendation 68 in the main body of the report proposes an additional amendment to clause 7.4 for reasons not related to the NECF.

# Disconnection for denying access to meter – general requirements

[Clause 7.4 of the Code]

**BACKGROUND – Full extract of legislative provisions**

| Code | NECF |
|---|---|
| **7.4 General requirements**<br>(1) A retailer must not arrange for the disconnection of a customer's supply address for denying access to the meter, unless—<br>(a) the customer has denied access for at least 9 consecutive months;<br>(b) the retailer has, prior to giving the customer a disconnection warning under subclause (f), at least once given the customer in writing 5 business days notice—<br>(i) advising the customer of the next date or timeframe of a scheduled meter reading at the supply address;<br>(ii) requesting access to the meter at the supply address for the purpose of the scheduled meter reading; and<br>(iii) advising the customer of the retailer's ability to arrange for disconnection if the customer fails to provide access to the meter;<br>(c) the retailer has given the customer an opportunity to provide reasonable alternative access arrangements;<br>(d) where appropriate, the retailer has informed the customer of the availability of alternative meters which are suitable to the customer's supply address;<br>(e) the retailer has used its best endeavours to contact the customer to advise of the proposed disconnection; and<br>(f) the retailer has given the customer a disconnection warning with at least 5 business days notice of its intention to arrange for disconnection.<br>(2) A retailer may arrange for a distributor to carry out 1 or more of the requirements referred in subclause (1) on behalf of the retailer. | ***NERR***<br>**113 De-energisation for denying access to meter**<br>(1) A retailer may arrange for de-energisation of a customer's premises if the customer has failed to allow, for 3 consecutive scheduled meter readings, access to the customer's premises to read a meter and if:<br>(a) the retailer has given the customer an opportunity to offer reasonable alternative arrangements for access that are acceptable to the responsible person or metering coordinator (as applicable); and<br>(b) the retailer has, on each of the occasions access was denied, arranged for the customer to be given a notice requesting access to the meter at the premises and advising of the retailer's ability to arrange for de-energisation; and<br>(c) the retailer has used its best endeavours to contact the customer:<br>(i) in person; or<br>(ii) by telephone (in which case contact is, if the telephone is unanswered, taken to have occurred only if the customer acknowledges receipt of a message); or<br>(iii) by facsimile or other electronic means (in which case contact is taken to have occurred only if the customer acknowledges receipt of the message); and<br>(d) the retailer has given the customer a notice of its intention to arrange for de-energisation; and<br>(e) the retailer has given the customer a disconnection warning notice after the expiry of the period referred to in the notice of its intention; and<br>(f) the customer has not rectified the matter that gave rise to the right to arrange for de-energisation.<br>(2) A retailer may arrange for de-energisation of a customer's premises if the customer does not provide the retailer or its representatives safe access to the customer's premises in accordance with any requirement under the energy laws or otherwise for the purposes of: |

(a) testing, maintaining, inspecting or altering any metering installation at the premises;

(b) checking the accuracy of metered consumption at the premises; or

(c) replacing meters, and if:

(d) the retailer has given the customer a disconnection warning notice; and

(e) the customer has not rectified the matter that gave rise to the right to arrange for de-energisation of the premises.

(3) **Application of this rule to standard retail contracts**

This rule applies in relation to standard retail contracts.

(4) **Application of this rule to market retail contracts**

This rule applies in relation to market retail contracts.

# Disconnection or interruption for emergencies – general requirements

[Clause 7.5 of the Code]

## Comparative review of Code and NECF

### Summary of legislation

Both the Code and the NECF require distributors to provide a 24-hour emergency line.

Comparison between Code and NECF (rule 91 of the NERR):

| | Code | NECF |
|---|---|---|
| **24-hour telephone service** | Yes | Yes |
| **Available in case of:** | Emergencies[44] | Unplanned interruptions[45] |
| **Telephone service must be established within 30 minutes of distributor being advised of unplanned interruption** | No | Yes |
| **At cost of local call** | Yes | Yes |
| **Estimate of when supply will be restored** | Yes | Yes |
| **If telephone service is automated – must provide option for customer to be directly connected to operator if required** | No | Yes |
| **Distributor must use best endeavours to restore supply as soon as possible.** | Yes | Yes |

The NECF also requires distributors to maintain a fault information and reporting telephone number (rule 85 of the NERR). The Code does not include an equivalent requirement.

[44] Clause 1.5 of the Code defines an emergency as:

means an emergency due to the actual or imminent occurrence of an event which in any way endangers or threatens to endanger the safety or health of any person, or the maintenance of power system security, in Western Australia or which destroys or damages, or threatens to destroy or damage, any property in Western Australia.

[45] Rule 88 of the NERRR defines an unplanned interruption as:

means an interruption of the supply of energy to carry out unanticipated or unplanned maintenance or repairs in any case where there is an actual or apprehended threat to the safety, reliability or security of the supply of energy, and includes:

(a) an interruption in circumstances where, in the opinion of the distributor, a customer's installation or the distribution system poses an immediate threat of injury or material damage to any person, any property or the distribution system; or

(b) an interruption in circumstances where:

(i) there are health or safety reasons warranting an interruption; or

(ii) there is an emergency warranting an interruption; or

(iii) the distributor is required to interrupt the supply at the direction of a relevant authority; or

(c) an interruption to shed demand for energy because the total demand for energy at the relevant time exceeds the total supply available; or

(d) an interruption to restore supply to a customer.

### Advantages / disadvantages of adopting NECF

**Advantages**

- The 24-hour emergency line applies to all unplanned interruptions, not only emergencies.
- Customers have the right to be directed to operator if required.
- Distributors have 30 minutes to make available information on an unplanned interruption after becoming aware of it.
- Distributors must also maintain a general fault information and reporting telephone number. This number could be the same as the number for unplanned interruptions; with customers being able to choose from an automated menu the service they need.

**Disadvantages**

- WA distributors already provide this information to customers. Regulating this matter in the Code would increase regulatory burden and compliance costs for distributors.

| **Recommendation** |
| --- |
| No amendments recommended. |
| Reasons |
| See NECF disadvantage listed above. |

# Disconnection or interruption for emergencies – general requirements

[Clause 7.5 of the Code]

| BACKGROUND – Full extract of legislative provisions | |
|---|---|
| **Code** | **NECF** |
| **7.5 General requirements**<br>If a distributor disconnects or interrupts a customer's supply address for emergency reasons, the distributor must—<br>(a) provide, by way of a 24 hour emergency line at the cost of a local call (excluding mobile telephones), information on the nature of the emergency and an estimate of the time when supply will be restored; and<br>(b) use its best endeavours to restore supply to the customer's supply address as soon as possible. | ***NERR***<br>**85 Fault reporting and correction**<br>A distributor must maintain a 24 hour fault information and reporting telephone number (the charge for which is no more than the cost of a local call).<br>Note: This rule is a civil penalty provision for the purposes of the Law. (See the National Regulations, clause 6 and Schedule 1.)<br>**91 Unplanned interruptions**<br>In the case of an unplanned interruption, a distributor must:<br>(a) within 30 minutes of being advised of the interruption, or otherwise as soon as practicable, make available, by way of a 24 hour telephone service (the charge for which is no more than the cost of a local call), information on the nature of the interruption and an estimate of the time when supply will be restored or when reliable information on restoration of supply will be available; and<br>(b) if the telephone service is automated—provide options for customers who call the service to be directly connected to a telephone operator if required; and<br>(c) use its best endeavours to restore supply to affected customers as soon as possible.<br>Note: Subrule (c) is a civil penalty provision for the purposes of the Law. (See the National Regulations, clause 6 and Schedule 1.)<br>**Definitions**<br>**unplanned interruption** means an interruption of the supply of energy to carry out unanticipated or unplanned maintenance or repairs in any case where there is an actual or apprehended threat to the safety, reliability or security of the supply of energy, and includes:<br>(a) an interruption in circumstances where, in the opinion of the distributor, a customer's installation or the distribution system poses an immediate threat of injury or material damage to any person, any property or the distribution system; or<br>(b) an interruption in circumstances where: |

(i) there are health or safety reasons warranting an interruption; or

(ii) there is an emergency warranting an interruption; or

(iii) the distributor is required to interrupt the supply at the direction of a relevant authority; or

(c) an interruption to shed demand for energy because the total demand for energy at the relevant time exceeds the total supply available; or

(d) an interruption to restore supply to a customer.

**interruption** means a temporary unavailability or temporary curtailment of the supply of energy to a customer's premises, but does not include unavailability or curtailment in accordance with the terms and conditions of a customer retail contract or customer connection contract, and any applicable tariff, agreed with the customer.

**relevant authority** means:

(a) AEMO; or

(b) State or federal police; or

(c) a person or body who has the power under law to direct a distributor to de-energise premises.

# General limitations on disconnection

[Clause 7.6 of the Code]

*Recommendations 69 and 70*

## Comparative review of Code and NECF

### Summary of legislation

Both the Code and the NECF include disconnection restrictions that apply regardless of the reason for the disconnection. Although the restrictions are generally similar, the NECF has some additional restrictions.

Comparison between Code and NECF:

| | Code | NECF |
|---|---|---|
| ***No disconnection allowed if*** | | |
| **Unresolved complaint with retailer/ distributor about matter relating to disconnection** | Yes | Yes |
| **Unresolved complaint about retailer/ distributor with Energy Ombudsman about matter relating to disconnection** | Yes | Yes |
| **Hardship customer or residential customer is adhering to payment plan** | Yes[46] | Yes |
| **Customer has applied to an organisation for financial assistance with their bill** | Yes[47] | Yes |
| **Customer has failed to pay an amount on a bill that relates to goods and services other than the sale of energy** | Yes[48] | Yes |
| **For non-payment of a bill where the amount outstanding is less than an amount approved by the ERA / AER** | Yes[49] | Yes |
| **Customer has asserted that explicit informed consent was not obtained but should have been by law** | No | Yes |
| **Registered life support customer** | Yes | Yes |
| **During extreme weather event** | No | Yes |
| **During a protected period** | | |
| • Before 8am Monday to Thursday | - | Yes (on business days) |
| • After 3pm Monday to Thursday | Yes | Yes (on business days) |
| • Friday | Yes, after noon | Yes, all day |
| • Weekend | Yes | Yes |

46 This restriction is in clause 7.2 of the Code and discussed under that section.
47 Id.
48 Id.
49 Id.

| | | |
|---|---|---|
| • Day before a public holiday | Yes, but business day before public holiday | Yes |
| • Between 20 and 31 December (both inclusive) | No | Yes |

### Advantages / disadvantages of adopting NECF

**Advantages**

- For customers:
  - Customers may not be disconnected during an extreme weather event.
  - Customers may not be disconnected any time on a Friday.
  - Customers may not be disconnected between 20 and 31 December.
- For retailers: it is clearer when the restrictions on disconnection do not apply.

**Disadvantages**

- Some of the limitations are only relevant to disconnection for failure to pay a bill. It would be clearer to deal with these limitations separately.
- Retailers are only precluded from arranging disconnection if the customer has made a complaint to the retailer or electricity ombudsman. Under the Code, retailers may also not arrange disconnection if a complaint has been made to the distributor.
- Retailers may not arrange disconnection if a complaint has been made to the electricity ombudsman, even if the retailer is unaware of the complaint.

## Recommendation

**Retailers**

a) Insert a new paragraph, in clause 7.6(1) of the Code, consistent with rule 116(1)(a) of the NERR.

**Distributors**

b) Insert a new paragraph, in clause 7.6(2) of the Code, consistent with rule 120(1)(a) of the NERR.

**Retailers and distributors**

c) Replace clause 7.6(3)(a) of the Code with rules 116(3), 120(2) and 120(3)(a) and (b) of the NERR.

d) Insert an additional subclause in revised clause 7.6(3) of the Code that provides that the restrictions in clauses 7.6(1) and (2) do not apply if electricity is being consumed illegally at the customer's supply address.

**Consequential amendments**

e) Delete clauses 7.7(1)(d), (2)(g) and (4)(a) of the Code.

Reasons

**Retailers**

**a) Insert a new paragraph, in clause 7.6(1) of the Code, consistent with rule 116(1)(a) of the NERR**

To ensure life support customers are not disconnected, unless the disconnection was requested by the customer, required for health, safety or emergency reasons, or in case of illegal use. Currently life support customers may only not be disconnected for failure to pay their bill.

**Distributors**

**b) Insert a new paragraph, in clause 7.6(2) of the Code, consistent with rule 120(1)(a) of the NERR**

To ensure life support customers are not disconnected, unless the disconnection was requested by the customer, required for health, safety or emergency reasons, or in case of illegal use. Currently life support customers may only not be disconnected for failure to pay their bill.

**Retailers and distributors**

**c) Replace clause 7.6(3)(a) of the Code with rules 116(3), 120(2), 120(3)(a) and (b) of the NERR**

- To ensure distributors may disconnect a supply address for health and safety reasons.
- For clarity and to improve consistency with the NECF.

**d) Insert an additional subclause in revised clause 7.6(3) of the Code that provides that the restrictions in clauses 7.6(1) and (2) do not apply if electricity is being consumed illegally at the customer's supply address**

For clarity (similar to rules 114 and 116(4) and 120(4) of the NERR).

**Consequential amendments**

**e) Delete clauses 7.7(1)(d), (2)(g) and (4)(a) of the Code**

Rules 116(1)(a) and 120(1)(a) of the NERR provide that a retailer and distributor may only disconnect supply to life support customers if the customer requested disconnection, for health or safety reasons, or in case of an emergency or illegal use. To avoid duplication, clauses 7.7(1)(d), (2)(g) and (4)(a) of the Code should be deleted.

**BACKGROUND – Full extract of legislative provisions**

| Code | NECF |
|---|---|
| **7.6 General limitations on disconnection**<br>(1) Subject to subclause (3), a retailer must not arrange for disconnection of a customer's supply address if—<br>(a) a complaint has been made to the retailer directly related to the reason for the proposed disconnection; or<br>(b) the retailer is notified by the distributor, electricity ombudsman or an external dispute resolution body that there is a complaint, directly related to the reason for the proposed disconnection, that has been made to the distributor, electricity ombudsman or external dispute resolution body,<br>and the complaint is not resolved by the retailer or distributor or determined by the electricity ombudsman or external dispute resolution body.<br>(2) Subject to subclause (3), a distributor must not disconnect a customer's supply address—<br>(a) if—<br>(i) a complaint has been made to the distributor directly related to the reason for the proposed disconnection; or<br>(ii) the distributor is notified by a retailer, the electricity ombudsman or an external dispute resolution body that there is a complaint, directly related to the reason for the proposed disconnection, that has been made to the retailer, electricity ombudsman or external dispute resolution body,<br>and the complaint is not resolved by the retailer or distributor or determined by the electricity ombudsman or external dispute resolution body; or<br>(b) during any time—<br>(i) after 3.00 pm Monday to Thursday;<br>(ii) after 12.00 noon on a Friday; or<br>(iii) on a Saturday, Sunday, public holiday or on the business day before a public holiday,<br>unless—<br>(iv) the customer is a business customer; and<br>(v) the business customer's normal trading hours— | ***NERR***<br>**116 When retailer must not arrange de-energisation**<br>(1) **Restrictions on de-energisation**<br>Despite any other provisions of this Division but subject to subrules (2), (3) and (4), a retailer must not arrange for the de-energisation of a customer's premises to occur:<br>(a) where the premises are registered under Part 7 as having life support equipment; or<br>(b) where the customer has made a complaint, directly related to the reason for the proposed de-energisation, to the retailer under the retailer's standard complaints and dispute resolution procedures, and the complaint remains unresolved; or<br>(c) where the customer has made a complaint, directly related to the reason for the proposed de-energisation, to the energy ombudsman, and the complaint remains unresolved; or<br>(c1) where the customer has contacted the retailer under section 41(2)(a) of the Law and the issue raised by the customer remains unresolved; or<br>(d) where the customer is a hardship customer or residential customer and is adhering to a payment plan under rule 33 or 72; or<br>(e) where the customer informs the retailer, or the retailer is otherwise aware, that the customer has formally applied for assistance to an organisation responsible for a rebate, concession or relief available under any government funded energy charge rebate, concession or relief scheme and a decision on the application has not been made; or<br>(f) on the ground that the customer has failed to pay an amount on a bill that relates to goods and services other than for the sale of energy; or<br>(g) for non-payment of a bill where the amount outstanding is less than an amount approved by the AER and the customer has agreed with the retailer to repay that amount; or<br>(h) where the customer's premises are to be de-energised under rule 111—during an extreme weather event; or<br>(i) during a protected period. |

(A) fall within the time frames set out in subclause (b)(i) (ii) or (iii); and

(B) do not fall within any other time period; and

(vi) it is not practicable for the distributor to disconnect at any other time.

(3) A retailer or a distributor may arrange for disconnection or interruption of a customer's supply address if—

(a) the disconnection was requested by the customer; or

(b) the disconnection or interruption was carried out for emergency reasons.

(2) **Restrictions not applying for non-access to meter**

The restrictions in subrule (1)(d), (e) and (f) do not apply if the reason for deenergisation was failure to provide access to a meter.

(3) **Non-application of restrictions where de-energisation requested by customer**

The restrictions in subrule (1) do not apply if the customer has requested deenergisation.

(4) **Non-application of restrictions where illegal use of energy**

Apart from the restriction in subrule (1)(a) relating to life support equipment, the restrictions in subrule (1) do not apply in relation to de-energisation of a customer's premises for:

(a) the fraudulent acquisition of energy at those premises; or

(b) the intentional consumption of energy at those premises otherwise than in accordance with the energy laws.

(5) **Application of this rule to standard retail contracts**

This rule applies in relation to standard retail contracts.

(6) **Application of this rule to market retail contracts**

This rule applies in relation to market retail contracts.

**120 When distributor must not de-energise premises**

(1) **Restrictions on de-energisation**

Despite any other provisions of this Division but subject to subrules (2), (3) and (4), a distributor must not de-energise a customer's premises:

(a) where the premises are registered under Part 7 as having life support equipment; or

(b) where the customer has made a complaint, directly related to the reason for the proposed de-energisation, to the distributor under the distributor's standard complaints and dispute resolution procedures, and the complaint remains unresolved; or

(c) where the customer has made a complaint, directly related to the reason for the proposed de-energisation, to the energy ombudsman and the complaint remains unresolved; or

(d) where the customer's premises are to be de-energised under rule 111— during an extreme weather event; or

(e) during a protected period.

(2) **Non-application of restrictions where de-energisation requested by customer**

The restrictions in subrule (1) do not apply if the customer has requested deenergisation.

(3) **Non-application of restrictions where emergency, health or safety issues, emergency or de-energisation direction**

The restrictions in subrule (1) do not apply if:

(a) there are health or safety reasons warranting de-energisation (as referred to in rule 119(1)(g)); or

(b) there is an emergency warranting de-energisation (as referred to in rule 119(1)(h)); or

(c) the distributor is required to de-energise the premises at the direction of a relevant authority (as referred to in rule 119(1)(i)).

(4) **Non-application of restrictions where illegal use or interference**

Apart from the restriction in subrule (1)(a) relating to life support equipment, the restrictions in subrule (1) do not apply in relation to de-energisation of a customer's premises where the customer is in breach of rule 119 (2).

# Life support

*Recommendation 71*

[Clause 7.7 of the Code]

## Comparative review of Code and NECF

### Summary of legislation

Both the Code and the NECF deal with life support. The provisions in the NECF are much more extensive than those in the Code.

One of the differences between the NECF and the Code is that under the NECF customers may register their supply address as requiring life support with either their retailer or distributor. Under the Code, customers can only register with their retailer. This difference is likely due to the fact that NECF customers have a direct contractual relationship with both their retailer and distributor, while Code customers only have a direct contractual relationship with their retailer.

The NECF provisions that prescribe what should happen if a customer registers with a distributor are therefore not relevant to the Code.

Other notable differences:

| | Code | NECF |
|---|---|---|
| **When retailer/distributor must register customer**[50] | Once customer provides the retailer with medical confirmation that their address requires life support equipment. | Once customer advises the retailer or distributor that a person residing or intending to reside at the customer's premises requires life support equipment.<br>The customer has 50 business days to provide medical confirmation. |
| **Medical confirmation** | Confirmation from an 'appropriately qualified medical practitioner'. [51] | Confirmation from a registered medical practitioner. |
| **What the retailer/distributor must do after registration** | Retailer must:<br>• register the customer's address as a life support address.<br>• register the customer's contact details.<br>• notify the distributor. | Retailer / distributor must:<br>• register that the customer requires life support equipment.<br>• provide in writing to the customer:<br>– a medical confirmation form.<br>– information explaining that they will only be protected if they provide the medical confirmation form.<br>– advice that there may be retailer or distributor planned interruptions. |

[50] Protection commences upon registration.

[51] The Code defines a 'appropriately qualified medical practitioner' as 'means –

(a) within the Perth Metropolitan Area, a specialist medical practitioner, a hospice doctor, or a practitioner working in a specialist department of a hospital; or

(b) outside of the Perth Metropolitan Area, a doctor or general practitioner if he/she also works on an occasional basis from a local hospital or rural health service, or a hospice doctor.'

| | | |
|---|---|---|
| | | – advice about how to deal with an unplanned interruption.<br>– emergency phone numbers for the retailer and the distributor.<br>– advice that if they change retailer, they will need to inform the new retailer about the life support.<br>• notify the distributor / retailer about the life support at the customer's residence. |
| **Disconnection** | • The customer must not be disconnected from the time the customer provides medical confirmation.<br>• The restriction on disconnection only applies to disconnection for failure to pay a bill. | • The premises must not be disconnected from the date the life support is required.<br>• The restriction on disconnection applies to all types of disconnection (except if the customer requested disconnection, for health or safety reasons, or in case of an emergency). |
| **Written notice of planned interruptions** | 3 business days | 4 business days |
| **Deregistration** | • The retailer or distributor must register the change.<br>• The retailer must notify the distributor of the change. | Very detailed deregistration processes. The retailer or distributor must also provide notification of several matters to customers who are being deregistered. |
| **Registration and deregistration policies** | | Retailers and distributors must establish policies, systems and procedures for registering and deregistering life support requirements.<br>Details of registration and deregistration must be maintained and kept up to date. |

### Advantages / disadvantages of adopting NECF

**Advantages**

- NECF provides more comprehensive processes and protection for life support customers.

**Disadvantages**

- Adopting all of the NECF provisions would likely overregulate and overcomplicate management of life support customers.
- Greater regulatory burden for retailers and distributors.

**Recommendation**[52]

Adopt rules 124(1)(b)(iv), (v) and (vi) of the NERR but:

- specify that the information has to be provided before or within 5 business days of the retailer registering the customer's supply address as a life support equipment address, rather than of "receipt of advice from the customer".
- amend rule 124(1)(b)(v) so retailers have to recommend customers to prepare a plan of action to deal with an unplanned interruption.
- specify that the telephone service does not have to be available to mobile phones at the cost of a local call.

Reasons

**Adopt rules 124(1)(b)(iv), (v) and (vi) of the NERR**

Increase customer protections by ensuring retailers provide customers with the following information:

- advice that the distributor must notify them of planned interruptions.
- advise them to prepare a plan of action to deal with an unplanned interruption.
- the emergency contact phone numbers for the retailer and distributor.

**but:**

- **specify that the information has to be provided before or within 5 business days of the retailer registering the customer's supply address as a life support equipment address, rather than of "receipt of advice from the customer"**

  The protections of the Code only apply if a customer has provided the retailer with confirmation from an appropriately qualified medical practitioner that a person residing at the supply address requires life support equipment. The amendment would ensure that retailers only have to provide the information to customers who have provided the required confirmation; rather than only advice.

- **amend rule 124(1)(b)(v) so retailers have to recommend customers to prepare a plan of action to deal with an unplanned interruption**

  As each customers' circumstances will differ, it is difficult for retailers to provide information to customers that assists them to prepare a plan of action that suits their individual circumstances. Retailers should instead have to recommend that customers prepare a plan of action.

- **specify that the telephone service does not have to be available to mobile phones at the cost of a local call**

  A similar clarification is included in other Code clauses. There are no compelling reasons for not including this clarification.

[52] Recommendations 72, 73, 74, 75 and 76 propose additional amendments to clause 7.7 for reasons not related to the NECF.

**BACKGROUND – Full extract of legislative provisions**

| Code | NECF |
|---|---|
| **7.7 Life Support**<br>(1) If a customer provides a retailer with confirmation from an appropriately qualified medical practitioner that a person residing at the customer's supply address requires life support equipment, the retailer must—<br>(a) register the customer's supply address as a life support equipment address;<br>(b) register the customer's contact details;<br>(c) notify the customer's distributor that the customer's supply address is a life support equipment address, and of the contact details of the customer—<br>(i) that same day, if the confirmation is received before 3pm on a business day; or<br>(ii) no later than the next business day, if the confirmation is received after 3pm or on a Saturday, Sunday or public holiday; and<br>(d) not arrange for disconnection of that customer's supply address for failure to pay a bill while the person continues to reside at that address and requires the use of life support equipment.<br>(2) If a customer registered with a retailer under subclause (1) notifies the retailer—<br>(a) that the person residing at the customer's supply address who requires life support equipment is changing supply address;<br>(b) that the customer is changing supply address but the person who requires life support equipment is not changing supply address;<br>(c) of a change in contact details; or<br>(d) that the customer's supply address no longer requires registration as a life support equipment address,<br>the retailer must—<br>(e) register the change;<br>(f) notify the customer's distributor of the change—<br>(i) that same day, if the notification is received before 3pm on a business day; or<br>(ii) no later than the next business day, if the notification is received after 3pm or on a Saturday, Sunday or public holiday; and | ***NERR***<br>**Part 7 Life support equipment**<br>**123 Application of this Part**<br>This Part applies in relation to a customer who is a party to a contract with a retailer for the sale of energy, and prevails to the extent of any inconsistency with Part 6 except in the case of an emergency warranting de-energisation of the premises of a customer referred to in rule 119.<br>**123A Definitions**<br>In this Part:<br>*confirmation reminder notice* – see subrule 124A(1)(b);<br>*deregistration* or *deregister* means the updating of a retailer's or distributor's registration of a customer's premises under subrules 124(1)(a), 124(3), 124(4)(a) or 124(5) to remove, for that particular premises, the requirement for life support equipment;<br>*deregistration notice* means a written notice issued by a retailer or distributor to inform a customer that their premises will cease to be registered as requiring life support equipment if the customer does not provide medical confirmation by the date specified in that deregistration notice;<br>*Market Settlement* and *Transfer Solution Procedures* has the same meaning as in the NER.<br>*medical confirmation* means certification from a registered medical practitioner that a person residing or intending to reside at a customer's premises requires life support equipment;<br>*medical confirmation form* means a written form issued by a retailer or distributor:<br>(a) when the retailer or distributor receives advice from a customer that a person residing or intending to reside at the customer's premises requires life support equipment; and<br>(b) to facilitate the provision of medical confirmation by the customer to the retailer or distributor.<br>**124 Registration of life support equipment**<br>(1) **Retailer obligations when advised by customer**<br>When advised by a customer that a person residing or intending to reside at the customer's premises requires life support equipment, a retailer must: |

(g) continue to comply with subclause (1)(d) with respect to that customer's supply address.

(3) If a distributor has been informed by a retailer under subclause (1)(c) or by a relevant government agency that a person residing at a customer's supply address requires life support equipment, or of a change of details notified to the retailer under subclause (2), the distributor must—

(a) register the customer's supply address as a life support equipment address or update the details notified by the retailer under subclause (2)—

(i) the next business day, if the notification is received before 3pm on a business day; or

(ii) within 2 business days, if the notification is received after 3pm or on a Saturday, Sunday or public holiday; and

(b) if informed by a relevant government agency, notify the retailer in accordance with the timeframes specified in subclause (3)(a).

(4) If life support equipment is registered at a customer's supply address under subclause (3)(a), a distributor must—

(a) not disconnect that customer's supply address for failure to pay a bill while the person continues to reside at that address and requires the use of life support equipment; and

(b) prior to any planned interruption, provide at least 3 business days written notice to the customer's supply address and any other address nominated by the customer, or notice by electronic means to the customer, and unless expressly requested in writing by the customer not to, use best endeavours to obtain verbal acknowledgement, written acknowledgement or acknowledgement by electronic means from the customer or someone residing at the supply address that the notice has been received.

(4A) Notwithstanding clause 7.7(4)(b)—

(a) an interruption, planned or otherwise, to restore supply to a supply address that is registered as a life support equipment address is not subject to the notice requirements in clause 7.7(4)(b); however

(b) a distributor must use best endeavours to contact the customer, or someone residing at the supply address, prior to an interruption to restore supply to a supply address that is registered as a life support equipment address.

(5) If a distributor has already provided notice of a planned interruption under the Electricity Industry

(a) register that a person residing or intending to reside at the customer's premises requires life support equipment and the date from which the life support equipment is required;

(b) subject to subrule (2), no later than 5 business days after receipt of advice from the customer, provide in writing to the customer:

(i) a medical confirmation form;

(ii) information explaining that, if the customer fails to provide medical confirmation, the customer's premises may be deregistered and, if so, the customer will cease to receive the protections under this Part;

(iii) advice that there may be retailer planned interruptions under rule 59C to the supply at the address and that the retailer is required to notify them of these interruptions in accordance with rule 124B;

(iv) advice that there may be distributor planned interruptions or unplanned interruptions to the supply at the address and that the distributor is required to notify them of a distributor planned interruption in accordance with rule 124B;

(v) information to assist the customer to prepare a plan of action in the case of an unplanned interruption;

(vi) an emergency telephone contact number for the distributor and the retailer (the charge for which is no more than the cost of a local call); and

(vii) advice that if the customer decides to change retailer at the premises and a person residing at the customer's premises continues to require life support equipment, the customer should advise their new retailer of the requirement for life support equipment; and

(c) subject to subrule (2), notify the distributor that a person residing or intending to reside at the customer's premises requires life support equipment and the date from which the life support equipment is required.

(2) Subrules (1)(b) (other than subrules (1)(b)(iii) and (1)(b)(vi)) and (1)(c) do not apply to a retailer if:

(a) a customer of that retailer has previously advised the distributor for the premises that a person residing or intending to reside at the customer's premises requires life support equipment;

(b) the customer advises that retailer that they have already provided medical confirmation to the distributor for the premises; and

Code that will affect a supply address, prior to the distributor registering a customer's supply address as a life support equipment address under clause 7.7(3)(a), the distributor must use best endeavours to contact that customer or someone residing at the supply address prior to the planned interruption.

(6) (a) No earlier than 3 months prior to the 12 month anniversary of the confirmation from the appropriately qualified medical practitioner referred to in subclause (1), and in any event no later than 3 months after the 12 month anniversary of the confirmation, a retailer must contact a customer to—

(i) ascertain whether a person residing at the customer's supply address continues to require life support equipment; and

(ii) if the customer has not provided the initial certification or re-certification from an appropriately qualified medical practitioner within the last 3 years, request that the customer provide that re-certification.

(b) A retailer must provide a minimum period of 3 months for a customer to provide the information requested by the retailer in subclause (6)(a).

(7) (a) When—

(i) a person who requires life support equipment, vacates the supply address; or

(ii) a person who required life support equipment, no longer requires the life support equipment; or

(iii) subject to subclause (7)(b), a customer fails to provide the information requested by a retailer for the purposes of subclause (6)(a)(i) or the re-certification referred to in subclause (6)(a)(ii), within the time period referred to in subclause (6)(b), or greater period if allowed by the retailer, the retailer's and distributor's obligations under subclauses (1) to (6) terminate and the retailer or distributor (as applicable) must remove the customer's details from the life support equipment address register upon being made aware of any of the matters in subclauses (7)(a)(i), (ii) or (iii)—

(iv) the next business day, if the retailer or distributor (as applicable) becomes aware of the relevant matter in subclause (7)(a)(i), (ii) or (iii) before 3pm on a business day; or

(v) within 2 business days, if the retailer or distributor (as applicable) becomes aware of the relevant matter in subclause (7)(a)(i),

(c) the retailer confirms with the distributor for the premises that the customer has already provided medical confirmation to the distributor.

(3) **Retailer obligations when advised by distributor**

When notified by a distributor:

(a) under subrule (4)(c), a retailer must register that a person residing or intending to reside at the customer's premises requires life support equipment and the date from which the life support equipment is required; and

(b) under subrule 124B(2)(b), a retailer must:

(i) register that a person residing or intending to reside at the customer's premises requires life support equipment and the date from which the life support equipment is required; and

(ii) no later than 5 business days after receipt of advice from the distributor, provide the customer with the information required by subrules (1)(b)(iii) and (1)(b)(vi), if not already provided by the retailer to the customer in respect of the customer's premises.

(4) **Distributor obligations when advised by customer**

When advised by a customer that a person residing or intending to reside at the customer's premises requires life support equipment, a distributor must:

(a) register that a person residing or intending to reside at the customer's premises requires life support equipment and the date from which the life support equipment is required;

(b) no later than 5 business days after receipt of advice from the customer, provide in writing to the customer:

(i) a medical confirmation form;

(ii) information explaining that, if the customer fails to provide medical confirmation, the customer's premises may be deregistered and, if so, the customer will cease to receive the protections under this Part;

(iii) advice that there may be retailer planned interruptions under rule 59C to the supply at the address and that the retailer is required to notify them of these interruptions in accordance with rule 124B;

(iv) advice that there may be distributor planned interruptions or unplanned interruptions to the supply at the address and that the distributor is required to notify them of a distributor planned interruption in accordance with rule 124B;

(ii) or (iii) after 3pm or on a Saturday, Sunday or public holiday.

(b) A customer will have failed to provide the information requested by a retailer for the purposes of subclause (6)(a)(i) or the re-certification referred to in subclause (6)(a)(ii) if the contact by the retailer consisted of at least the following, each a minimum of 10 business days from the date of the last contact—

(i) written correspondence sent by registered post to the customer's supply address and any other address nominated by the customer; and

(ii) a minimum of 2 other attempts to contact the customer by any of the following means—

(A) electronic means;

(B) telephone;

(C) in person; or

(D) Not Used

(E) by post sent to the customer's supply address and any other address nominated by the customer.

(c) If a distributor's obligations under subclauses (3), (4), (4A) and (5) terminate as a result of the operation of subclause (7)(a)(iii), a retailer must notify the distributor of this fact as soon as reasonably practicable, but in any event, within 3 business days.

(d) For the avoidance of doubt, the retailer's and distributor's obligations under subclauses (1) to (6) do not terminate by operation of this subclause (7) if the retailer or distributor has been informed in accordance with subclause (1) that another person who resides at the supply address continues to require life support equipment.

(v) information to assist the customer to prepare a plan of action in the case of an unplanned interruption;

(vi) an emergency telephone contact number for the distributor and the retailer (the charge for which is no more than the cost of a local call); and

(vii) advice that if the customer decides to change retailer at the premises and a person residing at the customer's premises continues to require life support equipment, the customer should advise their new retailer of the requirement for life support equipment; and

(c) notify the retailer that a person residing or intending to reside at the customer's premises requires life support equipment and the date from which the life support equipment is required.

(5) **Distributor obligations when advised by retailer**

When notified by a retailer under subrule (1)(c), a distributor must register that a person residing or intending to reside at the customer's premises requires life support equipment and the date from which the life support equipment is required.

(6) **Content of medical confirmation form**

(a) A medical confirmation form must:

(i) be dated;

(ii) state that completion and return of the form to the retailer or distributor (as the case may be) will satisfy the requirement to provide medical confirmation under the Rules;

(iii) request the following information from the customer:

(A) property address;

(B) the date from which the customer requires supply of energy at the premises for the purposes of the life support equipment; and

(C) medical confirmation;

(iv) specify the types of equipment that fall within the definition of life support equipment;

(v) advise the date by which the customer must return the medical confirmation form to the retailer or distributor (as the case may be); and

(vi) advise the customer they can request an extension of time to complete and return the medical confirmation form.

(7) **Application of this rule to standard retail contracts**

This rule applies in relation to standard retail contracts.

(8) **Application of this rule to market retail contracts**

This rule applies in relation to market retail contracts.

**124A Confirmation of premises as requiring life support equipment**

(1) Where a medical confirmation form is provided under rule 124, the retailer or distributor (as the case may be) must:

(a) from the date of the medical confirmation form, give the customer a minimum of 50 business days to provide medical confirmation;

(b) provide the customer at least two written notices to remind the customer that the customer must provide medical confirmation (each a **confirmation reminder notice**);

(c) ensure the first confirmation reminder notice is provided no less than 15 business days from the date of issue of the medical confirmation form;

(d) ensure the second confirmation reminder notice is provided no less than 15 business days from the date of issue of the first confirmation reminder notice; and

(e) on request from a customer, give the customer at least one extension of time to provide medical confirmation. The extension must be a minimum of 25 business days.

(2) A confirmation reminder notice must:

(a) be dated;

(b) state the date by which the medical confirmation is required;

(c) specify the types of equipment that fall within the definition of life support equipment; and

(d) advise the customer that:

(i) the customer must provide medical confirmation;

(ii) the premises is temporarily registered as requiring life support equipment until the medical confirmation is received;

(iii) failure to provide medical confirmation may result in the premises being deregistered; and

(iv) the customer can request an extension of time to provide medical confirmation.

(3) **Application of this rule to standard retail contracts**

This rule applies in relation to standard retail contracts.

(4) **Application of this rule to market retail contracts**

This rule applies in relation to market retail contracts.

**124B Ongoing retailer and distributor obligations**

(1) **Retailer obligations**

Where a retailer is required to register a customer's premises under subrule 124(1)(a) or 124(3), the retailer has the following ongoing obligations:

(a) give the distributor relevant information about the life support equipment requirements for the customer's premises and any relevant contact details for the purposes of updating the distributor's registration under subrule 124(4)(a) or 124(5), unless the relevant information was provided to the retailer by the distributor;

(b) when advised by a customer or distributor of any updates to the life support equipment requirements for the customer's premises or any relevant contact details, update the retailer's registration;

(c) except in the case of a retailer planned interruption under rule 59C, not arrange for the de-energisation of the premises from the date the life support equipment will be required at the premises; and

(d) in the case of a retailer planned interruption under rule 59C, other than in the circumstances described in paragraph (e), from the date the life support equipment will be required at the premises, give the customer at least 4 business days written notice of the retailer planned interruption to supply at the premises (the 4 business days to be counted from, but not including the date of receipt of the notice); and

(e) in the case of a retailer planned interruption where the customer has provided consent to the retailer under subrule 59C(1)(c), give written notice to the customer of the expected time and duration of the retailer planned interruption, and specify a 24 hour telephone number for enquiries (the charge for which is no more than the cost of a local call).

*Note:*
*This subrule is a civil penalty provision for the purposes of the Law. (See the National Regulations, clause 6 and Schedule 1.)*

**(2) Distributor obligations**

(a) Where a distributor is required to register a customer's premises under subrule 124(4)(a) or 124(5), the distributor has the following ongoing obligations:

(i) give the retailer relevant information about the life support equipment requirements for the customer's premises and any relevant contact details for the purposes of updating the retailer's registration under subrule 124(1)(a) or 124(3), unless the relevant information was provided to the distributor by the retailer;

(ii) when advised by a customer or retailer of any updates to the life support equipment requirements for the customer's premises or any relevant contact details, update the distributor's registration;

(iii) except in the case of an interruption, not arrange for the de-energisation of the premises from the date the life support equipment will be required at the premises;

(iv) in the case of an interruption that is a distributor planned interruption other than in the circumstances described in subparagraph (v), from the date the life support equipment will be required at the premises, give the customer at least 4 business days written notice of the interruption to supply at the premises (the 4 business days to be counted from, but not including the date of receipt of the notice); and

(v) in the case of a distributor planned interruption where the customer has provided consent to the distributor under subrule 90(1)(c), give written notice to the customer of the expected time and duration of the distributor planned interruption, and specify a 24 hour telephone number for enquiries (the charge for which is no more than the cost of a local call);

(b) In addition to the obligations specified in subrule (2)(a), where a distributor is required to register a customer's premises under subrule 124(4)(a), if the distributor becomes aware (including by way of notification in accordance with the Market Settlement and Transfer Solution Procedures) that the customer has subsequently transferred to another retailer (a new retailer) at that premises, the distributor must notify the new retailer that a person residing at the customer's premises requires life support equipment.

Note:
This subrule is a civil penalty provision for the purposes of the Law. (See the National Regulations, clause 6 and Schedule 1.)

(3) **Application of this rule to standard retail contracts**

This rule applies in relation to standard retail contracts.

(4) **Application of this rule to market retail contracts**

This rule applies in relation to market retail contracts.

**125 Deregistration of premises**

(1) A retailer or distributor may only deregister a customer's premises in the circumstances permitted under this rule 125.

(2) If a customer's premises is deregistered:

(a) by a retailer, the retailer must, within 5 business days of the date of deregistration, notify the distributor of the date of deregistration and reason for deregistration;

(b) by a distributor, the distributor must, within 5 business days of the date of deregistration, notify the retailer of the date of deregistration and reason for deregistration; and

(c) the retailer and the distributor must update their registrations under subrules 124(1)(a), 124(3), 124(4)(a) and 124(5) as required by rule 126.

(3) **Cessation of retailer and distributor obligations after deregistration**

The retailer and distributor obligations under rule 124B cease to apply in respect of a customer's premises once that customer's premises is validly deregistered.

(4) **Deregistration where medical confirmation not provided**

Where a customer, whose premises have been registered by a retailer under subrule 124(1)(a) (and subrule 124(2) does not apply), fails to provide medical confirmation, the retailer may deregister the customer's premises only when:

(a) the retailer has complied with the requirements under rule 124A;

(b) the retailer has taken reasonable steps to contact the customer in connection with the customer's failure to provide medical confirmation in one of the following ways:

(i) in person;

(ii) by telephone; or

(iii) by electronic means;

(c) the retailer has provided the customer with a deregistration notice no less than 15 business days from the date of issue of the second confirmation reminder notice issued under subrule 124A(1)(d); and

(d) the customer has not provided medical confirmation before the date for deregistration specified in the deregistration notice.

(5) Where a customer, whose premises have been registered by a distributor under subrule 124(4)(a), fails to provide medical confirmation, the distributor may deregister the customer's premises only when:

(a) the distributor has complied with the requirements under rule 124A;

(b) the distributor has taken reasonable steps to contact the customer in connection with the customer's failure to provide medical confirmation in one of the following ways:

(i) in person;

(ii) by telephone; or

(iii) by electronic means;

(c) the distributor has provided the customer with a deregistration notice no less than 15 business days from the date of issue of the second confirmation reminder notice issued under subrule 124A(1)(d); and

(d) the customer has not provided medical confirmation before the date for deregistration specified in the deregistration notice.

(6) A deregistration notice must:

(a) be dated;

(b) specify the date on which the customer's premises will be deregistered, which must be at least 15 business days from the date of the deregistration notice;

(c) advise the customer the premises will cease to be registered as requiring life support equipment unless medical confirmation is provided before the date for deregistration; and

(d) advise the customer that the customer will no longer receive the protections under this Part when the premises is deregistered.

(7) A distributor may deregister a customer's premises registered under subrule 124(5) after being notified by the retailer that the retailer has deregistered the customer's premises pursuant to subrule (4).

(8) A retailer may deregister a customer's premises registered under subrule 124(3) after being notified by the distributor that the distributor has deregistered the customer's premises pursuant to subrule (5).

(9) **Deregistration where there is a change in the customer's circumstances**

Where a customer whose premises have been registered by a retailer under subrule 124(1)(a) or 124(3) advises the retailer that the person for whom the life support equipment is required has vacated the premises or no longer requires the life support equipment, the retailer may deregister the customer's premises on the date specified in accordance with subrule (9)(a)(ii) if:

(a) the retailer has provided written notification to the customer advising:

(i) that the customer's premises will be deregistered on the basis that the customer has advised the retailer that the person for whom the life support equipment is required has vacated the premises or no longer requires the life support equipment;

(ii) the date on which the customer's premises will be deregistered, which must be at least 15 business days from the date of that written notification;

(iii) that the customer will no longer receive the protections under this Part when the premises is deregistered; and

(iv) that the customer must contact the retailer prior to the date specified in accordance with subrule (9)(a)(ii) if the person for whom the life support equipment is required has not vacated the premises or requires the life support equipment; and

(b) the customer has not contacted the retailer prior to the date specified in accordance with subrule (9)(a)(ii) to advise that the person for whom the life support equipment is required has not vacated the premises or requires the life support equipment.

(10) Where a customer whose premises have been registered by a distributor under subrule 124(4)(a) or 124(5) advises the distributor that the person for whom the life support equipment is required has vacated the premises or no longer requires the life support equipment, the distributor may deregister the customer's premises on the date specified in accordance with subrule (10)(a)(ii) if:

(a) the distributor has provided written notification to the customer advising:

(i) that the customer's premises will be deregistered on the basis that the customer has advised the distributor that the person for whom the life support equipment is required has vacated the premises or no longer requires the life support equipment;

(ii) the date on which the customer's premises will be deregistered, which must be at least 15 business days from the date of that written notification;

(i) that the customer will no longer receive the protections under this Part when the premises is deregistered; and

(iv) that the customer must contact the distributor prior to the date specified in accordance with subrule (10)(a)(ii) if the person for whom the life support equipment is required has not vacated the premises or requires the life support equipment; and

(b) the customer has not contacted the distributor prior to the date specified in accordance with subrule (10)(a)(ii) to advise that the person for whom the life support equipment is required has not vacated the premises or requires the life support equipment.

(11) A retailer may deregister a customer's premises after being notified by the distributor that the distributor has deregistered the customer's premises pursuant to subrule (10).

(12) A distributor may deregister a customer's premises after being notified by the retailer that the retailer has deregistered the customer's premises pursuant to subrule (9).

(13) A retailer or distributor may, at any time, request a customer whose premises have been registered under rule 124 to confirm whether the person for whom life support equipment is required still resides at the premises or still requires life support equipment.

(14) **Deregistration where there is a change in the customer's retailer**

Where a distributor has registered a customer's premises pursuant to subrule 124(5) and the distributor becomes aware (including by way of notification in accordance with the Market Settlement and Transfer Solution Procedures) that the customer has subsequently transferred to another retailer at that premises, the distributor may deregister the customer's premises on the date specified in accordance with subrule (14)(a)(ii) if:

(a) the distributor has provided written notification to the customer advising:

(i) that the customer's premises will be deregistered;

(ii) the date on which the customer's premises will be deregistered, which must be at least 15 business days from the date of that written notification;

(iii) that the customer will no longer receive the protections under this Part when the premises is deregistered; and

(iv) that the customer must contact the distributor prior to the date specified in accordance with subrule (14)(a)(ii) if a person residing at the customer's premises requires life support equipment; and

(b) the customer has not contacted the distributor prior to the date specified in accordance with subrule (14)(a)(ii) to advise that a person residing at the customer's premises requires life support equipment.

(15) Nothing in subrule (14) affects the operation of subrules 124(4)(a) and 124(5) following a customer's transfer to the other retailer.

(16) **Application of this rule to standard retail contracts**

This rule applies in relation to standard retail contracts.

(17) **Application of this rule to market retail contracts**

This rule applies in relation to market retail contracts.

**126 Registration and deregistration details must be kept by retailers and distributors**

Retailers and distributors must:

(a) Establish policies, systems and procedures for registering and deregistering a premises as requiring life support equipment to facilitate compliance with the requirements in this Part.

(b) Ensure that life support equipment registration and deregistration details maintained in accordance with rules 124, 124A, 124B and 125 are kept up to date, including:

(i) the date when the customer requires supply of energy at the premises for the purposes of the life support equipment;

(ii) when medical confirmation was received from the customer in respect of the premises;

(iii) the date when the premises is deregistered and the reason for deregistration; and

(iv) a record of communications with the customer required by rules 124A and 125.

# Reconnection by retailer

*Recommendation 77*

[Clause 8.1 of the Code]

## Comparative review of Code and NECF

### Summary of legislation

Both the Code and the NECF specify when a retailer must arrange reconnection of a customer's supply address.

The Code provides timeframes for the retailer to organise reconnection whilst the NECF focuses on timeframes for customers to rectify the reason for the disconnection.

Notable differences:

| | Code | NECF |
|---|---|---|
| **When retailer must arrange reconnection** | Requires a retailer to arrange reconnection if the customer has rectified the reason for the disconnection.<br>Unlike the NECF, the Code sets out for each disconnection ground the measures the customer must have taken to rectify the reason for the disconnection | Requires a retailer to arrange reconnection if 'the customer has rectified the matter that led to' the disconnection. |
| **Timeframe within which rectification must occur** | No timeframe given. | Customer must rectify the issue within 10 business days of disconnection |
| **Payment of reconnection fee** | Customer must have:<br>– paid the reconnection fee; or<br>– accepted an offer for an instalment plan for the reconnection fee. | Customer must have paid the reconnection fee. |
| **Timeframe for forwarding reconnection request to distributor** | – The same day, if request received before 3pm on a business day.<br>– Before 3pm the next business day, in any other event. | No timeframe given. |

### Advantages / disadvantages of adopting NECF

**Advantages**

- Removing timeframes for forwarding reconnection requests reduces regulatory burden and compliance costs for retailers.
- Setting timeframes for customers to rectify issues with their account provides certainty for retailers.
- Less complex drafting.

**Disadvantages**

- Removing timeframes for forwarding reconnection requests may result in longer reconnection times for customers.
- Customers only have 10 business days to rectify the issue which may not be enough time for some customers.

- Customers no longer have the right to pay their reconnection fee as part of an instalment plan.

**Recommendation**

a) Replace clause 8.1(1) of the Code with rule 121(1) of the NERR but:
   - do not adopt the requirement that a customer must rectify the issue and request reconnection within 10 business days.
   - retain clause 8.1(1)(e)(ii) of the Code.
   - do not adopt the words "in accordance with any requirements under the energy laws" and "or arrange to re-energise the customer's premises remotely if permitted under energy laws".

b) Retain clauses 8.1(2) and (3) of the Code.

Reasons

**a) Replace clause 8.1(1) of the Code with rule 121(1) of the NERR**

To simplify the drafting. Rather than setting out for each ground of disconnection how the customer must rectify the issue, the NERR includes a general requirement that the customer must have 'rectified the matter that led to the de-energisation'.

**but:**

- **do not adopt the requirement that a customer must rectify the issue and request reconnection within 10 business days**

  Some customers may need more time to rectify the issue. There are no compelling reasons for adopting this requirement.

- **retain clause 8.1(1)(e)(ii) of the Code**

  To ensure customers can continue to pay their reconnection fee as part of an instalment plan. There are no compelling reasons for removing this customer protection.

- **do not adopt the words "in accordance with any requirements under the energy laws" and "or arrange to re-energise the customer's premises remotely if permitted under energy laws"**

  The words are likely unnecessary. A retailer should always comply with any requirements under other laws.

  Also, the Code does not distinguish between physical and remote reconnections.

**b) Retain clause 8.1(2) of the Code**

To ensure customers are reconnected within prescribed timeframes.

**Retain clause 8.1(3) of the Code**

This subclause was inserted in 2018 to clarify that a retailer who has not met the timeframes of subclause (2) but has taken measures to ensure the customer is still reconnected on time (for example, by issuing an urgent reconnection request with the distributor) has not breached clause 8.1. There are no compelling reasons for removing this provision.

# Reconnection by retailer

[Clause 8.1 of the Code]

**BACKGROUND – Full extract of legislative provisions**

| Code | NECF |
|---|---|
| **8.1 Reconnection by retailer**<br>(1) If a retailer has arranged for disconnection of a customer's supply address due to—<br>(a) failure to pay a bill, and the customer has paid or agreed to accept an offer of an instalment plan, or other payment arrangement;<br>(b) the customer denying access to the meter, and the customer has subsequently provided access to the meter; or<br>(c) illegal use of electricity, and the customer has remedied that breach, and has paid, or made an arrangement to pay, for the electricity so obtained, the retailer must arrange for reconnection of the customer's supply address, subject to—<br>(d) the customer making a request for reconnection; and<br>(e) the customer—<br>(i) paying the retailer's reasonable charge for reconnection, if any; or<br>(ii) accepting an offer of an instalment plan for the retailer's reasonable charges for reconnection, if any.<br>(2) For the purposes of subclause (1), a retailer must forward the request for reconnection to the relevant distributor—<br>(a) that same business day, if the request is received before 3pm on a business day; or<br>(b) no later than 3pm on the next business day, if the request is received—<br>(i) after 3pm on a business day, or<br>(ii) on a Saturday, Sunday or public holiday.<br>(3) If a retailer does not forward the request for reconnection to the relevant distributor within the timeframes in subclause (2), the retailer will not be in breach of this clause 8.1 if the retailer causes the customer's supply address to be reconnected by the distributor within the timeframes in clause 8.2(2) as if the distributor had received the request for reconnection from the retailer in accordance with subclause (2).<br>*[A retailer and customer may agree that this clause does not apply, or is amended, in a non-standard contract]* | ***NERR***<br>**Division 4 Re-energisation of premises**<br>**121 Obligation on retailer to arrange re-energisation of premises**<br>(1) Where a retailer has arranged for the de-energisation of a small customer's premises and the customer has within 10 business days of the de-energisation:<br>(a) if relevant, rectified the matter that led to the de-energisation or made arrangements to the satisfaction of the retailer; and<br>(b) made a request for re-energisation; and<br>(c) paid any charge for re-energisation;<br>the retailer must, in accordance with any requirements under the energy laws, initiate a request to the distributor for re-energisation of the premises or arrange to re-energise the customer's premises remotely if permitted under energy laws.<br>*Note: This subrule is a civil penalty provision for the purposes of the Law. (See the National Regulations, clause 6 and Schedule 1.)*<br>(2) **Application of this rule to standard retail contracts**<br>This rule applies in relation to standard retail contracts.<br>(3) **Application of this rule to market retail contracts**<br>This rule applies in relation to market retail contracts. |

# Reconnection by distributor

*Recommendation 78*

[Clause 8.2 of the Code]

## Comparative review of Code and NECF

### Summary of legislation

Both the Code and the NECF specify when a distributor must reconnect a customer's supply address. While the Code only deals with reconnections following retailer initiated disconnections, the NECF also deals with reconnections following distributor initiated disconnections.

The other notable difference between the Code and the NECF is that the Code specifies the minimum timeframe within which the distributor must reconnect the customer's supply address. The NECF does not specify reconnection timeframes.[53]

### Advantages / disadvantages of adopting NECF

**Advantages**

- Removing timeframes for reconnections reduces regulatory burden and compliance costs for distributors.
- Sets standards for distributor-initiated reconnections (e.g. distributor disconnected the supply address for health and safety reasons, but the customer has rectified the matter that gave rise to the disconnection).

**Disadvantages**

- Removing timeframes for reconnections may result in longer reconnection times for customers.
- Customers only have 10 business days to rectify the issue which may not be enough time for some customers.

## Recommendation

a) Replace clause 8.2(1) of the Code with rule 122(1) of the NERR except for the words "in accordance with the distributor service standards".

b) Adopt rule 122(2) of the NERR except for:

- the requirement that a customer must rectify the issue and request reconnection within 10 business days.
- the words "in accordance with the distributor service standards".

c) Retain clauses 8.2(2) and (3) of the Code.

Reasons

**a) Replace clause 8.2(1) of the Code with rule 122(1) of the NERR**

To improve consistency with the NECF.

**except for the words "in accordance with the distributor service standards".**

The term distributor service standards is not defined in the NERR. As it is unclear to which standards the term refers, it is difficult to determine the equivalent standards for WA distributors. Also, clause 8.2 currently does not include a similar requirement.

**b) Adopt rule 122(2) of the NERR**

Increase customer protections by providing standards for reconnections following distributor initiated disconnections.

**except for:**

- **the requirement that a customer must rectify the issue and request reconnection within 10 business days**

[53] Rules 122(1) and (2) do require the distributor to reconnect the supply address 'in accordance with the distributor service standards'.

The NERR's 10-business day timeframe likely aims to provide certainty to distributors about when their obligation to reconnect a customer's supply address finishes and they may terminate the customer's contract. As, under the WA framework, distributors and customers do not have a direct contractual relationship, there is no need to specify a timeframe.

- **the words "in accordance with the distributor service standards"**

  The term distributor service standards is not defined in the NERR. As it is unclear to which standards the term refers, it is difficult to determine the equivalent standards for WA distributors. Also, clause 8.2 currently does not include a similar requirement.

**c) Retain clause 8.2(2) of the Code**

To ensure customers are reconnected within prescribed timeframes.

**Retain clause 8.2(3) of the Code**

To ensure a distributor does not have to meet the prescribed timeframes in case of an emergency.

# Reconnection by distributor

[Clause 8.2 of the Code]

| BACKGROUND – Full extract of legislative provisions | |
|---|---|
| **Code** | **NECF** |
| **8.2 Reconnection by distributor**<br>(1) If a distributor has disconnected a customer's supply address on request by the customer's retailer, and a retailer has subsequently requested the distributor to reconnect the customer's supply address, the distributor must reconnect the customer's supply address.<br>(2) For the purposes of subclause (1), a distributor must reconnect a customer's supply address—<br>(a) for supply addresses located within the metropolitan area—<br>(i) within 1 business day of receipt of the request, if the request is received prior to 3pm on a business day; and<br>(ii) within 2 business days of receipt of the request, if the request is received after 3pm on a business day or on a Saturday, Sunday or public holiday;<br>(b) for supply addresses located within the regional area—<br>(i) within 5 business days of receipt of the request, if the request is received prior to 3pm on a business day; and<br>(ii) within 6 business days of receipt of the request, if the request is received after 3pm on a business day, or on a Saturday, Sunday or public holiday.<br>(3) Subclause (2) does not apply in the event of an emergency. | ***NERR***<br>**122 Obligation on distributor to re-energise premises**<br>(1) **Re-energisation where de-energisation was retailer-initiated**<br>Where:<br>(a) a distributor has de-energised a small customer's premises at the request of a retailer; and<br>(b) the retailer has initiated a request to the distributor for re-energisation of the premises,<br>the distributor must, in accordance with the distributor service standards, re-energise the premises.<br>(2) **Re-energisation where de-energisation was not retailer-initiated**<br>Where a distributor has de-energised a small customer's premises otherwise than at the request of a retailer and the customer has within 10 business days of the de-energisation:<br>(a) if relevant, rectified the matter that led to the de-energisation; and<br>(b) made a request for re-energisation; and<br>(c) paid any charge for re-energisation, the distributor must, in accordance with the distributor service standards, re-energise the premises.<br>*Note: This rule is a civil penalty provision for the purposes of the Law. (See the National Regulations, clause 6 and Schedule 1.)* |

# Information and communication

*Recommendation 82*

[Part 10]

## Comparative review of Code and NECF

### Summary of legislation

The Code includes several clauses that require a retailer to provide certain information to a customer.

The NECF includes a general provision for retailers and distributors (rules 56 and 80) about the provision of information. Under the provision, retailers and distributors must publish certain information on their website. If a customer requests the information, the retailer or distributor may either refer the customer to the website or provide a copy of the information to the customer. If the customer requests a copy of the information, the retailer or distributor must provide it.

### Advantages / disadvantages of adopting NECF

**Advantages**

- The information will be available on the retailer's and distributor's website.
- Retailers and distributors may refer customers to their website, which may reduce their compliance costs.

**Disadvantages**

- Retailers and distributors must publish certain information on their website and should ensure it remains up to date. This may increase compliance costs for retailers and distributors.

## Recommendation

Adopt rules 56 and 80 of the NERR to the extent that they explain how information must be provided to customers but do not adopt the words "but information requested more than once in any 12 month period may be provided subject to a reasonable charge" (in rules 56(4) and 80(4)).

Reasons

**Adopt rules 56 and 80 of the NERR**

- Consolidating several of the information provisions from the Code into two clauses would simplify the drafting.
- To ensure the specified information is also available online.
- To clarify that a retailer or distributor only has to give a copy of the information if requested by the customer. In other cases, the retailer or distributor may choose to either refer the customer to the retailer's or distributor's website or give the information to the customer.

**to the extent that they explain how information must be provided to customers**

What information must be provided under the new clauses is discussed in the analyses for clauses 10.3, 10.4, 10.6, 10.8, 10.10 and 12.1.

**but do not adopt the words "but information requested more than once in any 12 month period may be provided subject to a reasonable charge" (in rules 56(4) and 80(4))**

The information specified in Part 10 must currently be provided free of charge.[54] There are no compelling reasons for removing this protection for customers.

[54] The Code does provide that retailers and distributors may charge for the provision of historical billing and consumption data. However, provision of historical billing and consumption data is not proposed to be included in any new, general information provision clauses.

| BACKGROUND – Full extract of legislative provisions | |
|---|---|
| **Code** | **NECF** |
| No equivalent provision. | ***NERR***<br>**Division 9 Other retailer obligations**<br>**56 Provision of information to customers**<br>(1) A retailer must publish on its website a summary of the rights, entitlements and obligations of small customers, including:<br>(a) the retailer's standard complaints and dispute resolution procedure;<br>(b) the contact details for the relevant energy ombudsman; and<br>(c) in the case of electricity, details of applicable energisation and reenergisation timeframes.<br>(2) If a small customer requests information of the kind referred to in subrule (1), the retailer must either:<br>(a) refer the customer to the retailer's website; or<br>(b) provide the information to the customer.<br>(3) The retailer must provide a copy of any information of that kind to the customer if the customer requests a copy.<br>(4) The information or a copy of the information requested under this rule must be provided without charge, but information requested more than once in any 12 month period may be provided subject to a reasonable charge.<br><br>**Division 2 Customer connection services**<br>**86A Provision of information to customers**<br>(1) A distributor must publish the following information on its website:<br>(a) a description of the distributor's customer connection contracts and how copies of the contracts may be obtained;<br>(b) details of distributor service standards and any associated GSL schemes;<br>(c) details of applicable energisation and re-energisation timeframes;<br>(d) notice of a customer's rights in respect of the negotiation of different terms;<br>(e) details of charges for customer connection services;<br>(f) information relating to new connections or connection alterations; |

(g) a description of the distributor's and customer's respective rights and obligations concerning the provision of customer connection services under the energy laws;

(h) a summary of the rights, entitlements and obligations of small customers, including:

(i) the distributor's standard complaints and dispute resolution procedure; and

(ii) the contact details for the energy ombudsman.

(2) If a customer requests information of the kind referred to in subrule (1), the distributor must either:

(a) refer the customer to the distributor's website; or

(b) provide the information to the customer.

(3) However, the distributor must provide a copy of any information of that kind to the customer if the customer requests a copy.

(4) The information or a copy of the information requested under this rule must be provided without charge, but information requested more than once in any 12 month period may be provided subject to a reasonable charge.

# Tariff information

[Clause 10.1 of the Code]

*Recommendation 83*

## Comparative review of Code and NECF

### Summary of legislation

*Changes to tariffs*

Both the Code and the NECF require retailers to notify customers when tariffs are changed. The NECF has different notice requirements for market retail contracts and standard retail contracts.

Notable differences:

| | Code | NECF |
|---|---|---|
| **Content of notice** | Not specified | *Market and standard retail contracts*: Specify that the customer's tariffs are being varied; when the variation will commence; the customer's existing and the varied tariffs; that tariffs include GST; and that the customer can request historical billing and energy consumption data. |
| **Timing of notice** | No later than next bill | – *Market retail contracts*: At least 5 business days before change applies.[55]<br>– *Standard retail contracts*:<br>  – At least 10 business days before change applies: publication in a newspaper and on the retailer's website.<br>  – At least 5 business days before change applies: to the customer. |
| **Delivery of notice** | Not specified | *Market and standard retail contracts:* by the customer's preferred form of communication, or otherwise by the same method as that used for delivery of the bill. |
| **Exceptions** | None | – *Market and standard retail contracts*:<br>  – Where customer has entered into a new contract and has already been informed.<br>  – Where variation is a result of change in government concessions or rebates<br>  – Where variation is a result of changes in bank fees, credit card fees or payment processing charges.<br>– *Market retail contracts*:<br>  – Where variation is a result of benefit change for which notice has already been given.<br>  – Where the tariff varies continuously based on the prevailing spot price of electricity.<br>– *Standard retail contracts*:<br>  – Where prices are regulated. |

[55] If the variation is due to changes in network charges, notices must be given as soon as practicable, and in any event no later than the customer's next bill.

*General tariff information*

The Code requires retailers to provide information to customers, upon request, about tariffs and alternative tariffs, within 8 business days and in writing if the customer requests a written response.

The NECF does not include an equivalent provision.[56]

### Advantages / disadvantages of adopting NECF

**Advantages**

*Changes to tariffs*

- Customers would generally be given advance notice of tariff variations, rather than potentially not receiving notice until they get their next bill.
- Customers would have more certainty about the type of information the retailer must provide and the form it must be provided in.

*General tariff information*

- Retailers would no longer be required to respond to requests for information about tariffs and alternative tariffs, which could reduce compliance costs for retailers.

**Disadvantages**

*Changes to tariffs*

- The more prescriptive requirements could increase compliance costs for retailers.
- Some of the provisions are unnecessary in a non-contestable retail market.
- More complex drafting.

*General tariff information*

- Customers would no longer be entitled to information about tariffs and alternative tariffs.

### Recommendation[57]

a) Adopt rules 46(3), (4)(a), (4A) (except for (4A)(e)), (4B)(a), (c), (d) and (e) of the NERR for customers whose tariffs are not regulated, but:
   - amend rule 46(4A)(f) by deleting the words "and, if they are being sold electricity, energy consumption data".
   - amend rule 46(4B)(a) by deleting the words "pursuant to rule 46A and section 39(1)(a) of the Law".
   - amend rule 46(4B)(d) by replacing the words "government funded energy charge rebate, concession or relief scheme" with "concession".

b) Amend clause 10.1(1) of the Code so it only applies to customers whose tariffs are regulated.

[56] The NERR does require retailers to set out in market retail contracts all tariffs and charges payable by the customer. The model terms for standard retail contracts also deal with tariffs and charges. In Western Australia, the *Electricity Industry (Customer Contracts) Regulations 2005* include similar requirements for electricity contracts.

[57] Recommendation 84 in the main body of the report propose an additional amendment to clause 10.1 for reasons not related to the NECF.

Reasons

**a) Adopt rules 46(3), (4)(a), (4A) (except for (4A)(e)), (4B)(a), (c), (d) and (e) of the NERR for customers whose tariffs are not regulated**[58]

Customers whose tariffs are not regulated should receive prior notice of tariff variations so they can make an informed choice about whether to stay with their retailer or switch.

The notice requirements under the NERR also only apply to customers that are on non-regulated tariffs. [59]

**but:**

- **amend rule 46(4A)(f) by deleting the words "and, if they are being sold electricity, energy consumption data"**

  Under the Code, retailers are not required to provide historical consumption data to customers.

- **amend rule 46(4B)(a) by deleting the words "pursuant to rule 46A and section 39(1)(a) of the Law"**

  The Code does not include an equivalent clause.

- **amend rule 46(4B)(d) by replacing the words "government funded energy charge rebate, concession or relief scheme" with "concession"**

  The Code defines concession as "means a concession, rebate, subsidy or grant related to the supply of electricity available to residential customers only".

**b) Amend clause 10.1(1) of the Code so it only applies to customers whose tariffs are regulated**

To ensure customers on regulated tariffs continue to receive notice if their tariffs change.

[58] It is not proposed to adopt rules 46(1), (2), (4)(b), (4A)(e), (4B)(b), (4C) and (5) of the NERR because:

- Rule 46(1): This subrule provides that the notice requirements of rule 46 only apply to market retail contracts. The subrule would not be adopted as the notice requirements in the Code will apply to any customer whose tariffs are not regulated, regardless of the type of contract the customer is supplied under.
- Rules 46(2) and (5): These subrules prescribe the matters a retailer must address in a market retail contract. Under the WA legislative framework, the contents of customer contracts must be prescribed in the *Electricity Industry (Customer Contracts) Regulations 2005*, not the Code.
- Rule 46(4)(b): This subrule prescribes how retailers must notify customers of tariff changes ('delivered by the customer's preferred form of communication where this has been communicated to the retailer, or otherwise by the same method as that used for delivery of the customer's bill'). It is not proposed to adopt this subrule to ensure retailers retain flexibility as to how they advise customers of tariff changes.
- Rule 46(4A)(e): This subrule requires a notice to specify that the tariffs and charges are inclusive of GST. However, subrules (4A)(c) and (d) already require the retailer to identify the tariffs and charges inclusive of GST.
- Rule 46(4B)(b): This subrule provides an exception for tariff variations due to benefit changes. Energy Policy WA is considering incorporating regulations about benefit changes in the *Electricity Industry (Customer Contracts) Regulations 2005*. As the Code will not address benefits at this stage, it is not proposed to adopt rule 46(4b)(b) in the Code. For more information, see Department of Treasury, Public Utilities Office (now: Energy Policy WA), 2019, *Review of energy customer contract regulations*, p 16-17
- Rule 46(4C): This subrule relates to matters set out in the National Energy Rules (as opposed to the NERR).

[59] Rule 46 only applies to market retail contracts, which are all based on non-regulated tariffs. Schedule 1, clause 8.2(3a)(ii) specifically excludes standard retail contracts with regulated tariffs from the notice requirements.

# Tariff information

[Clause 10.1 of the Code]

**BACKGROUND – Full extract of legislative provisions**

| Code | NECF |
|---|---|
| **10.1 Tariff information**<br>(1) A retailer must give notice to each of its customers affected by a variation in its tariffs, fees and charges, no later than the next bill in a customer's billing cycle.<br>(2) A retailer must give or make available to a customer on request, at no charge, reasonable information on the retailer's tariffs, fees and charges, including any alternative tariffs that may be available to that customer.<br>(3) A retailer must give or make available to a customer the information referred to under subclause (2) within 8 business days of the date of receipt. If requested by the customer, the retailer must give the information in writing. | ***NERR***<br>**Division 7 Market retail contracts**<br>**46 Tariffs and charges**<br>(1) This rule sets out some minimum requirements that are to apply in relation to the terms and conditions of market retail contracts (other than a prepayment meter market retail contract).<br>(2) A retailer must set out in a market retail contract with a small customer all tariffs and charges payable by the customer.<br>(3) The retailer must give notice to the customer of any variation to the tariffs and charges that affects the customer.<br>(4) The notice must:<br>(a) be given at least five business days before the variation in the tariffs and charges are to apply to the customer; and<br>(b) be delivered by the customer's preferred form of communication where this has been communicated to the retailer, or otherwise by the same method as that used for delivery of the customer's bill.<br>*Note: This subrule is a civil penalty provision for the purposes of the Law. (See the National Regulations, clause 6 and Schedule 1.)*<br>(4A) The notice must:<br>(a) specify that the customer's tariffs and charges are being varied;<br>(b) specify the date on which the variation will come into effect;<br>(c) identify the customer's existing tariffs and charges inclusive of GST;<br>(d) identify the customer's tariffs and charges as varied inclusive of GST;<br>(e) specify that the tariffs and charges identified in subrules (4A)(c) and (d) are inclusive of GST; and<br>(f) specify that the customer can request historical billing data and, if they are being sold electricity, energy consumption data, from the retailer.<br>*Note: Rules 28 and 56A make provision for customers to request historical billing information and energy consumption data.*<br>*Note: This subrule is a civil penalty provision for the purposes of the Law. (See the National Regulations, clause 6 and Schedule 1.)* |

(4B) Despite this rule 46, a retailer is not required to provide a notice under subrule (3):

(a) where the customer has entered into a market retail contract with the retailer within 10 business days before the date on which the variation referred to in subrule (3) is to take effect, and the retailer has informed the customer of such variation pursuant to rule 46A and section 39(1)(a) of the Law;

(b) where the variations to the tariffs and charges are a direct result of a benefit change and the retailer has provided the customer with a notice under rule 48A;

(c) with respect to a tariff or charge that continually varies in relation to the prevailing spot price of energy. For the avoidance of doubt, this exemption does not apply (and the retailer must provide notice under subrule (3)) with respect to variations to any remaining tariffs and charges that form part of the same market retail contract;

(d) where the variations to the tariffs and charges are a direct result of a change to, or withdrawal or expiry of, a government funded energy charge rebate, concession or relief scheme; or

(e) where the variations to the tariffs and charges are a direct result of a change to any bank charges or fees, credit card charges or fees, or payment processing charges or fees applicable to the customer.

(4C) Despite subrule (4)(a), a retailer must provide the notice under subrule (3) as soon as practicable, and in any event no later than the customer's next bill, where the variations to the tariffs and charges are a direct result of a tariff reassignment by the distributor pursuant to clause 6B.A3.2 of the NER. For the purposes of providing a notice under this subrule (4C), the reference to:

(a) “are being varied" in subrule (4A)(a) is taken to be "are being varied or have been varied (whichever is applicable)"; and

(b) "will come into effect" in subrule (4A)(b) is taken to be "will come into effect or has come into effect (whichever is applicable)".

(5) The retailer must set out in the market retail contract the obligations with regard to notice that the retailer must comply with where the tariffs and charges are to be varied.

**Schedule 1 Model terms and conditions for standard retail contracts**

**Price for energy and other services**

**8.2 Changes to tariffs and charges**

(a) If we vary our standing offer prices, we will publish the variation in a newspaper and on our website at least 10 business days before it starts.

(a1) We will also:

(i) notify you at least five business days before the variation in the tariffs and charges are to apply to you; and

(ii) deliver the notice by your preferred form of communication where you have communicated this to us, or otherwise by the same method as that used for delivery of your bill.

(a2) The notice must:

(i) specify that your tariffs and charges are being varied;

(ii) specify the date on which the variation will come into effect;

(iii) identify your existing tariffs and charges inclusive of GST;

(iv) identify your tariffs and charges as varied inclusive of GST;

(v) specify that the tariffs and charges identified in paragraphs (a2)(iii) and (iv) are inclusive of GST; and

(vi) specify that you can request historical billing data and, if you are being sold electricity, energy consumption data, from us.

(a3) Despite clause 8.2 of this contract, we are not required to provide a notice under paragraph (a1):

(i) where you have entered into a standard retail contract with us within 10 business days before the date on which the variation referred to in clause 8.2(a) is to take effect, and we have informed you of such variation;

(ii) where your standing offer prices are regulated, or are otherwise set by legislation, a government agency or regulatory authority;

(iii) where the variations to the tariffs and charges are a direct result of a change to, or withdrawal or expiry of, a government funded energy charge rebate, concession or relief scheme; or

(iv) where the variations to the tariffs and charges are a direct result of a change to any bank charges or fees, credit card charges or fees, or payment processing charges or fees applicable to you.

(a4) Despite paragraph (a1)(i), we will provide you with the notice under paragraph (a1) as soon as practicable, and in any event no later than your next bill, where the variations to your tariffs and charges are a direct result of a tariff reassignment by the distributor pursuant to clause 6B.A3.2 of

| | |
|---|---|
| | the NER. For the purpose of providing a notice under this paragraph (a4), the reference to:<br>(i) "are being varied" in paragraph (a2)(i) is taken to be "are being varied or have been varied (whichever is applicable)"; and<br>(ii) "will come into effect" in paragraph (a2)(ii) is taken to be "will come into effect or has come into effect (whichever is applicable)". |

# Historical billing data

[Clause 10.2 of the Code]

## Comparative review of Code and NECF

### Summary of legislation

Both the Code and the NECF require retailers to provide historical billing data to customers on request.

Notable differences:

| | Code | NECF |
|---|---|---|
| **Customers entitled to data** | Non-contestable customers only | All customers |
| **Timeframe for providing data** | Within 10 business days of:<br>– customer request; or<br>– payment of any applicable charge | Promptly |
| **Charges for providing data** | No charge if data:<br>– is for period less than 2 years and not provided within last 12 months.<br>– relates to a dispute with the retailer. | No charge, unless data:<br>– is for period of more than 2 years<br>– has been requested more than four times in any 12-month period. |
| **Amount of time data must be kept by retailer** | 7 years | Not specified. |

### Advantages / disadvantages of adopting NECF

**Advantages**

- All customers would be entitled to historical billing data.
- Customers would be able to request billing data up to four times a year, free of charge (instead of once).
- Reduction in compliance costs as retailers would not be required to keep billing data for 7 years.

**Disadvantages**

- Customers may have to wait longer for data to be provided after they have made a request.
- Increased costs to retailers of providing data more often free of charge.

## Recommendation

No amendments recommended.[60]

Reasons

There are no compelling reasons to adopt the NECF framework.

[60] Recommendations 85 and 86 in the main body of the report propose amendments to clause 10.2 for reasons not related to the NECF.

# Historical billing data

[Clause 10.2 of the Code]

| BACKGROUND – Full extract of legislative provisions | |
|---|---|
| **Code** | **NECF** |
| **10.2 Historical billing data**<br>(1) A retailer must give a non-contestable customer on request the non-contestable customer's billing data.<br>(2) If a non-contestable customer requests billing data under subclause (1)—<br>(a) for a period less than the previous 2 years and no more than once a year; or<br>(b) in relation to a dispute with a retailer,<br>the retailer must give the billing data at no charge.<br>(3) A retailer must give a non-contestable customer the billing data requested under subclause (1) within 10 business days of the date of receipt of—<br>(a) the request; or<br>(b) payment for the retailer's reasonable charge for providing the billing data (if requested by the retailer).<br>(4) A retailer must keep a non-contestable customer's billing data for 7 years. | ***NERR***<br>**28 Historical billing information (SRC and MRC)**<br>(1) A retailer must promptly provide a small customer with historical billing data for that customer for the previous 2 years on request.<br>*Note: This subrule is a civil penalty provision for the purposes of the Law. (See the National Regulations, clause 6 and Schedule 1.)*<br>(2) Historical billing data provided to the small customer for the previous 2 years must be provided without charge, but may be provided subject to a reasonable charge where the data requested is for an earlier period or has been requested more than:<br>(a) four times in any 12 month period, in the case of the supply of electricity; or<br>(b) once in any 12 month period, in the case of the supply of gas.<br>*Note: This subrule is a civil penalty provision for the purposes of the Law. (See the National Regulations, clause 6 and Schedule 1.)*<br>(3) **Application of this rule to standard retail contracts**<br>This rule applies in relation to standard retail contracts.<br>(4) **Application of this rule to market retail contracts**<br>This rule applies in relation to market retail contracts (other than prepayment meter market retail contracts). |

# Concessions

[Clause 10.3 of the Code]

## Comparative review of Code and NECF

### Summary of legislation

The Code requires retailers to provide information to customers about concessions on request at no charge, including the name and contact details of the organisation responsible for administering the concessions (if the retailer is not responsible).

The NECF does not include an equivalent provision.

### Advantages / disadvantages of adopting NECF

**Advantages**

- Removing the requirement would reduce compliance costs for retailers and shift the onus for and costs of informing consumers to the government agencies responsible for administering the concessions.

**Disadvantages**

- Removing the requirement removes an additional layer of protection for consumers.

## Recommendation

No amendments recommended.[61]

Reasons

The NECF provides less protections for customers than the Code.

[61] Recommendation 87 proposes an amendment to clause 10.3 for reasons not related to the NECF.

# Concessions

[Clause 10.3 of the Code]

| BACKGROUND – Full extract of legislative provisions | |
|---|---|
| **Code** | **NECF** |
| **10.3 Concessions**<br>A retailer must give a residential customer on request at no charge—<br>(a) information on the types of concessions available to the residential customer; and<br>(b) the name and contact details of the organisation responsible for administering those concessions (if the retailer is not responsible). | No equivalent provision. |

# Service standard payments

[Clause 10.3A of the Code]

## Comparative review of Code and NECF

### Summary of legislation

Both the Code and the NECF require that customers have access to information about service standard payments.

Notable differences:

| | Code | NECF |
|---|---|---|
| **Person responsible for providing information about service standard payments** | Retailer (on behalf of distributor)[62] | Distributor |
| **Method of publication** | In writing to customer, at least once a year | On website |
| **Information to be provided** | • Amount of the payment<br>• Eligibility criteria for payment | Details of distributor service standard and any associated guaranteed service level schemes |

### Advantages / disadvantages of adopting NECF

**Advantages**

- Requiring distributors to publish the information on their website would reduce compliance costs for retailers but may increase compliance costs for distributors. The cost of publishing the information on a website would be lower than providing written details to customers annually.

**Disadvantages**

- Customers may be less aware of their rights because they are less likely to access the information of their own accord, compared to if it is provided directly to them.
- The information may not include the amount of the payment and the eligibility criteria.

## Recommendation

No amendments recommended.

Reasons

Retaining clause 10.3A increases the likelihood that customers are aware of their rights to service standard payments.

[62] Under the WA legislative framework, the distributor does not have a direct contractual relationship with the customer.

# Service standard payments

[Clause 10.3A of the Code]

| BACKGROUND – Full extract of legislative provisions | |
|---|---|
| **Code** | **NECF** |
| **10.3A Service Standard Payments**<br>A retailer must give a customer at least once a year written details of the retailer's and distributor's obligations to make payments to the customer under Part 14 of this Code and under any other legislation (including subsidiary legislation) in Western Australia including the amount of the payment and the eligibility criteria for the payment. | ***NERR***<br>**80 Provision of information to customers**<br>(1) A distributor must publish the following information on its website:<br>…<br>(b) details of distributor service standards and any associated GSL [Guaranteed Service Level] schemes; |

# Energy efficiency advice

[Clause 10.4 of the Code]

## Comparative review of Code and NECF

### Summary of legislation

The Code requires retailers to give, or make available, on request general information to consumers on cost effective and efficient ways to utilise electricity, and the typical running costs of major domestic appliances.

The NECF does not include an equivalent provision.

### Advantages / disadvantages of adopting NECF

**Advantages**

- Reduce compliance costs for retailers.

**Disadvantages**

- Customers will no longer be able to seek energy efficiency advice from the retailer.

## Recommendation

No amendments recommended.[63]

Reasons

The NECF provides less protections for customers than the Code.

[63] Recommendation 88 proposes an amendment to clause 10.4 for reasons not related to the NECF.

# Energy efficiency advice

[Clause 10.4 of the Code]

| BACKGROUND – Full extract of legislative provisions | |
|---|---|
| **Code** | **NECF** |
| **10.4 Energy Efficiency Advice**<br>A retailer must give, or make available to a customer on request, at no charge, general information on—<br>(a) cost effective and efficient ways to utilise electricity (including referring the customer to a relevant information source); and<br>(b) the typical running costs of major domestic appliances. | No equivalent provision. |

# Distribution matters

[Clause 10.5 of the Code]

## Comparative review of Code and NECF

### Summary of legislation

Both the Code and the NECF require retailers to respond to customer enquiries about distribution matters. The NECF is more prescriptive than the Code. The NECF prescribes:

- Different steps retailers must take if the enquiry is made over the phone or by other means.
- Timeframes in which the retailer must take these steps.
- Certain information that must be provided (e.g. which telephone numbers).

The NECF also includes requirements about how retailers and distributors must share information with each other to respond to customer enquiries expeditiously.

### Advantages / disadvantages of adopting NECF

**Advantages**

- More regulatory certainty about the process retailers must comply with when responding to distribution matters.

**Disadvantages**

- Greater regulatory burden and compliance costs for retailers
- More complex drafting.

## Recommendation

No amendments recommended.

Reasons

See NECF disadvantages listed above.

**BACKGROUND – Full extract of legislative provisions**

| Code | NECF |
|---|---|
| **10.5 Distribution matters**<br>If a customer asks a retailer for information relating to the distribution of electricity, the retailer must—<br>(a) give the information to the customer; or<br>(b) refer the customer to the relevant distributor for a response. | ***NERR***<br>**102 Enquiries or complaints relating to the distributor**<br>(1) If a person makes an enquiry or complaint to a retailer about an issue relating to a distribution system or customer connection services (other than a fault, an emergency, a distributor planned interruption or an unplanned interruption), the retailer must:<br>(a) if the enquiry or complaint is made by telephone—refer the person to the relevant distributor's enquiry or complaints telephone number where practicable; or<br>(b) otherwise, as soon as practicable, but no later than the next business day after receiving the enquiry or complaint, provide the relevant distributor with the details of the enquiry or the complaint, including contact details of both the person making the enquiry or complaint and the person who received the enquiry or complaint.<br>(2) If a retailer requests a distributor to provide information about a shared customer's energy consumption, the distributor must use its best endeavours to provide the information to the retailer at no cost and in a timely manner to allow the retailer to carry out its obligations to provide information to its customer.<br>(3) The distributor must respond to an enquiry expeditiously.<br>…<br>(5) The retailer must provide to the distributor on request copies of any documents or written records (including in electronic format) relating to an enquiry or complaint and provide any other assistance reasonably requested by the distributor for the purpose of responding to an enquiry or resolving a complaint. |

# Obligations particular to distributors – general information

*Recommendation 89*

[Clause 10.6 of the Code]

## Comparative review of Code and NECF

### Summary of legislation

*General information*

Both the Code and the NECF require distributors to provide certain information to customers.

Notable differences:

| | Code | NECF |
|---|---|---|
| *Information to be provided* [64] | | |
| **Customer's electrical installation** | Information on the distributor's requirements in relation to the customer's proposed new electrical installation, or changes to the customer's existing electrical installation, including advice about supply extensions. | Information relating to new connections and connection alterations. |
| **Distribution services** | • Advice on facilities required to protect the distributor's equipment.<br>• Advice on how to obtain information on protecting the customer's equipment.<br>• Advice on the customer's electricity usage so that it does not interfere with the operation of a distribution system or with supply to any other electrical installation.<br>• General information on safe use of electricity<br>• General information on quality of supply.<br>• General information on reliability of supply. | A description of the distributor's and customer's respective rights and obligations concerning the provision of customer connection services under the energy laws. |
| **Unplanned interruptions** | Explanation for any unplanned interruptions to the customer's supply address | Information on the nature of the interruption[65] |
| **Connection charges** | No equivalent provision. | Details of charges for connection services. |

64 This table does not include rule 80(1)(b) of the NERR as this subrule is already discussed under clause 10.3A.

65 *National Energy Retail Rules* rule 91(a)

| | | |
|---|---|---|
| **Connection timeframes** | No equivalent provision. | Details of applicable connection and reconnection timeframes. |
| **Connection contracts** | No equivalent provision<br>*(not applicable as customers do not have a direct contractual relationship with their distributor)* | • A description of the distributor's connection contract and how to obtain a copy.<br>• Notice of a customer's rights to negotiate different terms. |

*Information about quality of supply*

Both the Code and the NECF oblige distributors to explain any quality of supply that is not consistent with the law if a customer requests an explanation.

Notable differences:

- The NECF requires a best endeavours explanation, whereas the Code requires 'an explanation'.
- The NECF sets out timeframes in which the distributor must respond to a customer's request for a written response. The Code does not set out timeframes for information to be provided.

### Advantages / disadvantages of adopting NECF

**Advantages**

- The drafting to describe the information that must be provided is simpler.
- All the information must be included on the distributor's website.
- Customers have the right to ask about a broader range of information.
- Customers have more certainty over the timeframes in which explanations will be provided about unlawful quality of supply and unplanned supply interruptions.

**Disadvantages**

- Customers would lose the right to ask for general information about safe use, and quality and reliability of supply.
- Compliance costs might increase due to the requirement to publish the information on the distributor's website.
- Compliance costs might increase if a timeframe is introduced for providing customers with an explanation for changes in quality of supply.

### Recommendation

a) Replace clauses 10.6(a), (d), (e) and (f) of the Code[66] with rule 80(1)(g) of the NERR but:
   - incorporate the clauses into the new, general information provision.
   - amend rule 80(1)(g) by replacing the term "customer connection services" with a description of those services.[67]

[66] Clauses 10.6(a), (d), (e) and (f) of the Code require distributors to provide:
(a) information on the distributor's requirements in relation to the customer's proposed new electrical installation, or changes to the customer's existing electrical installation, including advice about supply extensions.
(d) advice on facilities required to protect the distributor's equipment.
(e) advice on how to obtain information on protecting the customer's equipment.
(f) advice on the customer's electricity usage so that it does not interfere with the operation of a distribution system or with supply to any other electrical installation.

[67] Rule 80(1)(g) of the NERR requires distributors to provide a description of the distributor's and customer's respective rights and obligations concerning the provision of customer connection services under the energy laws.

b) Adopt rules 80(1)(c), (e) and (f) of the NERR[68] and incorporate the clauses into the new, general information provision.

c) Retain clauses 10.6(g), (h) and (i) of the Code[69] but incorporate the clauses into the new, general information provision.

d) Retain clauses 10.6(b) and (c) of the Code.[70]

Reasons

**a) Replace clauses 10.6(a), (d), (e) and (f) of the Code with rule 80(1)(g) of the NERR**

To simplify the drafting of the Code, these requirements could be replaced with a new, general obligation to provide information on the distributor's and customer's rights and obligations concerning the connection and supply of electricity.

**but:**

- **incorporate the clauses into the new, general information provision**

  To simplify the drafting of the Code.

  To ensure the information is available on the distributor's website.

- **amend rule 80(1)(g) by replacing the term "customer connection services" with a description of those services**

  The term customer connection services is not a defined term in the Code.

**b) Adopt rules 80(1)(c), (e) and (f) of the NERR**

See NECF advantages listed above (bullet points 1 to 3).

**and incorporate into the new, general information provision.**

To simplify the drafting of the Code.

To ensure the information is available on the distributor's website.

**c) Retain clauses 10.6(g), (h) and (i) of the Code**

To ensure customers continue to have access to general information on the safe use of electricity, and quality and reliability of supply. There are no compelling reasons for removing these protections for customers.

**but incorporate the clauses into the new, general information provision**

To simplify the drafting of the Code.

To ensure the information is available on the distributor's website.

**d) Retain clause 10.6(b) and (c) of the Code**

These clauses cannot be incorporated into the new, general information provision clause as the information that must be provided is specific to the customer's supply address.

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68 Rules 80(1)(c), (e) and (f) of the NERR require distributors to provide:
- details of applicable connection and reconnection timeframes.
- details of charges for connection services.
- information relating to new connections and connection alterations.

69 Clause 10.6(g), (h) and (i) of the Code deal with:
(d) general information on the safe use of electricity.
(e) general information on quality of supply.
(f) general information on reliability of supply.

70 Clauses 10.6(b) and (c) of the Code deal with:
(b) an explanation for any unplanned or approved change in the quality of supply of electricity outside of the limits prescribed by law.
(c) an explanation for any unplanned interruptions of supply to the customer's supply address.

# Obligations particular to distributors – general information

[Clause 10.6 of the Code]

**BACKGROUND – Full extract of legislative provisions**

| Code | NECF |
|---|---|
| *General information*<br>**10.6 General information**<br>A distributor must give a customer on request, at no charge, the following information—<br>(a) information on the distributor's requirements in relation to the customer's proposed new electrical installation, or changes to the customer's existing electrical installation, including advice about supply extensions;<br>(b) […]<br>(c) an explanation for any unplanned interruption of supply to the customer's supply address;<br>(d) advice on facilities required to protect the distributor's equipment;<br>(e) advice on how to obtain information on protecting the customer's equipment;<br>(f) advice on the customer's electricity usage so that it does not interfere with the operation of a distribution system or with supply to any other electrical installation;<br>(g) general information on safe use of electricity;<br>(h) general information on quality of supply; and<br>(i) general information on reliability of supply. | ***NERR***<br>*General information*<br>**80 Provision of information to customers**<br>(1) A distributor must publish the following information on its website:<br>(a) a description of the distributor's customer connection contracts and how copies of the contracts may be obtained;<br>(b) details of distributor service standards and any associated GSL schemes;<br>(c) details of applicable energisation and re-energisation timeframes;<br>(d) notice of a customer's rights in respect of the negotiation of different terms;<br>(e) details of charges for customer connection services;<br>(f) information relating to new connections or connection alterations;<br>(g) a description of the distributor's and customer's respective rights and obligations concerning the provision of customer connection services under the energy laws;<br>(h) a summary of the rights, entitlements and obligations of small customers, including:<br>(i) the distributor's standard complaints and dispute resolution procedure; and<br>(ii) the contact details for the energy ombudsman.<br>(2) If a customer requests information of the kind referred to in subrule (1), the distributor must either:<br>(a) refer the customer to the distributor's website; or<br>(b) provide the information to the customer.<br>(3) However, the distributor must provide a copy of any information of that kind to the customer if the customer requests a copy.<br>(4) The information or a copy of the information requested under this rule must be provided without charge, but information requested more than once in any 12-month period may be provided subject to a reasonable charge.<br>*Note: This rule is a civil penalty provision for the purposes of the Law. (See the National Regulations, clause 6 and Schedule 1.)* |

*Information about quality of supply*

**10.6 General information**

A distributor must give a customer on request, at no charge, the following information—

(a) [···]

(b) an explanation for any unplanned or approved change in the quality of supply of electricity outside of the limits prescribed by law;

[···]

*Information about quality of supply*

**Schedule 2 – Model terms and conditions for standard retail contracts**

**10.4 Your right to information about interruptions**

(a) If you request us to do so, we will use our best endeavours to explain:

(i) [···]

(ii) a supply of energy to the premises of a quality in breach of any relevant standards under the energy laws..

(b) If you request an explanation be in writing we must, within 10 business days of receiving the request, give you either:

(i) the written explanation; or

(ii) an estimate of the time it will take to provide a more detailed explanation if a longer period is reasonably needed.

# Historical consumption data

[Clause 10.7 of the Code]

## Comparative review of Code and NECF

### Summary of legislation

Both the Code and the NECF require the provision of historical consumption data to customers on request.

Under the NECF, distributors must not only provide historical consumption data but also information about the distributor's charges.

Notable differences:

| | Code | NECF |
|---|---|---|
| **Data may be sought from** | Distributor | • Retailer<br>• Distributor<br>• Previous retailer |
| **Charges** | Free of charge if:<br>– for period less than previous 2 years and no more than twice a year<br>– in relation to a dispute with the distributor | Free of charge unless requested:<br>– more than 4 times in 12 months<br>– in different manner or form than specified in metering data procedures<br>– by customer authorised representative as part of request for several customers.<br>– from previous retailer |
| **Timeframe for providing the data** | 10 business days | Not specified |
| **Number of years data must be kept** | 7 years | Not specified |

### Advantages / disadvantages of adopting NECF

**Advantages**

- Customers are able to request consumption data up to four times a year, free of charge.
- Both retailers and distributors have to provide the data.
- Customers have the right to request historical billing and consumption data from their previous retailer.

**Disadvantages**

- Increased costs to retailers as they have to provide the data as well.
- Customers may not be able to access data, needed to resolve disputes with the retailer, free of charge.
- No legislated, maximum timeframe for keeping data.
- No legislated, maximum timeframe for providing the data. Customers may have to wait longer for data after they have made a request.

| Recommendation |
| --- |
| No amendments recommended.[71] |
| Reasons |
| There are no compelling reasons to adopt the NECF. |

[71] Recommendations 90, 91 and 92 propose amendments to clause 10.7 for reasons not related to the NECF.

# Historical consumption data

[Clause 10.7 of the Code]

**BACKGROUND – Full extract of legislative provisions**

| Code | NECF |
|---|---|
| **10.7 Historical consumption data**<br>(1) A distributor must give a customer on request the customer's consumption data.<br>(2) If a customer requests consumption data under subclause (1)—<br>(a) for a period less than the previous 2 years, provided the customer has not been given consumption data pursuant to a request under subclause (1) more than twice within the 12 months immediately preceding the request; or<br>(b) in relation to a dispute with a distributor, the distributor must give the consumption data at no charge.<br>(3) A distributor must give a customer the consumption data requested under subclause (1) within 10 business days of the date of receipt of—<br>(a) the request; or<br>(b) if payment is required (and is requested by the distributor within 2 business days of the request) payment for the distributor's reasonable charge for providing the data.<br>(4) A distributor must keep a customer's consumption data for 7 years. | ***NERR***<br>**56A Energy consumption information - supply of electricity only**<br>(1) A retailer must, on a request by a small customer or a customer authorized representative, provide information about that customer's energy consumption for the previous 2 years in the manner and form required by the metering data provision procedures.<br>(2) Subject to paragraph (3), information referred to in paragraph (1) must be provided without charge.<br>(3) Information under paragraph (1) may be provided subject to a reasonable charge where it has been requested:<br>(a) more than four times in any 12 month period;<br>(b) in a different manner or form than that specified in the metering data provision procedures; or<br>(c) by a customer authorised representative as part of a request for information about more than one small customer.<br>(4) **Application of this rule to standard retail contracts**<br>This rule applies in relation to standard retail contracts.<br>(5) **Application of this rule to market retail contracts**<br>This rule applies in relation to market retail contracts (other than prepayment meter market retail contracts).<br>**56B Historical billing and energy consumption information – supply of electricity only**<br>(1) A reference to a retailer in rules 28 and 56A is a reference to a small customer's current retailer.<br>(2) If a small customer or customer authorised representative requests from the small customer's previous retailer historical billing or energy consumption information for a period within two years prior to the date of the request then, even though the small customer's contract with the previous retailer may otherwise have terminated, the previous retailer must provide the person that made the request with any of the information requested that is then retained by, or otherwise |

available to, the previous retailer, to the extent that information relates to the period in which the small customer was a customer of the previous retailer. The previous retailer may provide this information subject to a reasonable charge.

(3) **Application of this rule to standard retail contracts**

This rule applies in relation to standard retail contracts.

(4) **Application of this rule to market retail contracts**

This rule applies in relation to market retail contracts (other than prepayment meter market retail contracts).

**86A Provision of information - supply of electricity**

(1) In the case of supply of electricity, a distributor must, on request by a customer, customer authorised representative or a customer's retailer, provide information about the;

(a) customer's energy consumption for the previous 2 years in the manner and form required by the metering data provision procedures; or

(b) distributor's charges.

(2) Subject to paragraph (3), information referred to in paragraph (1) must be provided without charge.

(3) Information under paragraph (1) may be provided subject to a reasonable charge where it has been requested:

(a) directly by a customer more than 4 times in any 12 month period;

(b) in a different manner or form than that specified in the metering data provision procedures; or

(c) by a customer authorised representative as part of a request for information about more than one customer.

# Distribution standards

[Clause 10.8 of the Code]

## Comparative review of Code and NECF

### Summary of legislation

The Code requires a distributor to:

- Tell a customer, on request, how to obtain certain information on distribution standards and metering arrangements.
- Publish that information on its website.

The NECF does not include an equivalent provision.

### Advantages / disadvantages of adopting NECF

| Advantages | Disadvantages |
|---|---|
| • Less regulatory burden for distributors | • Less protection for customers. |

## Recommendation

No amendments recommended.[72]

Reasons

The NECF provides less protections for customers than the Code.

[72] Recommendation 93 proposes an amendment to clause 10.8 for reasons not related to the NECF.

# Distribution standards

[Clause 10.8 of the Code]

| BACKGROUND – Full extract of legislative provisions | |
|---|---|
| **Code** | **NECF** |
| **10.8 Distribution standards**<br>(1) A distributor must tell a customer on request how the customer can obtain information on distribution standards and metering arrangements—<br>(a) prescribed under the Act or the *Electricity Act 1945*; or<br>(b) adopted by the distributor, that are relevant to the customer.<br>(2) A distributor must publish on its website the information specified in subclause (1). | No equivalent provision |

# Written information must be easy to understand

[Clause 10.9 of the Code]

## Comparative review of Code and NECF

### Summary of legislation

The Code requires retailers and distributors to provide written information to customers that is clear, simple, concise and easy to understand.

The NECF requires information to be in clear, simple and concise language in a few specific circumstances under different rules.

### Advantages / disadvantages of adopting NECF

**Advantages**

**Disadvantages**

- Removes broad requirement for easy to understand information to be provided in all circumstances under the Code.

## Recommendation

No amendments recommended.

Reasons

Clause 10.9 requires provision of easy to understand information to customers in all circumstances. This provides better protection for customers.

# Written information must be easy to understand

[Clause 10.9 of the Code]

**BACKGROUND – Full extract of legislative provisions**

| Code | NECF |
|---|---|
| **10.9 Written information must be easy to understand**<br>To the extent practicable, a retailer and distributor must ensure that any written information that must be given to a customer by the retailer or distributor or its electricity marketing agent under the Code is expressed in clear, simple and concise language and is in a format that makes it easy to understand. | ***NERR***<br>**21 Estimation as basis for bills**<br>(3C) A retailer must make available to small customers at no charge and in clear, simple and concise language for the purposes of subrule (3A):<br>(a) guidance on how to read the customer's meter; and<br>(b) the types of information the customer is required to provide when lodging the customer read estimate; and<br>(c) instructions on the methods by which the customer can lodge the customer read estimate.<br>**131 Operating instructions to be provided**<br>(1) A retailer must, at no charge, provide the following information on the use of the prepayment meter system to a small customer who enters into a prepayment meter market retail contract:<br>(a) instructions on how to operate the prepayment meter system that are:<br>(i) expressed in clear, simple and concise language; and<br>(ii) in a format that makes it easy for a person not familiar with the operation of a prepayment meter system to understand⋯<br>**170 Retailer obligations—electricity consumption benchmarks**<br>(1) Without limiting any requirement under rule 25, a retailer must provide the following particulars in a bill for a residential customer:<br>(a) a comparison of the customer's electricity consumption against the electricity consumption benchmarks under rule 169;<br>(b) a statement indicating the purpose of the information provided with respect to those benchmarks;<br>(c) a reference to an energy efficiency website.<br>(2) A retailer is required to present the information in subrule (1) in a graphical or tabular form, as appropriate, but may do so in a location on the bill that is convenient for the retailer. |

| | |
|---|---|
| | (3) A retailer must present the information in subrule (1) in a manner which is easy for the customer to understand. |

# Code of Conduct

[Clause 10.10 of the Code]

## Comparative review of Code and NECF

### Summary of legislation

The Code requires retailers and distributors to:

- on request, inform a customer how to obtain a copy of the code.
- make electronic copies of the Code available on their websites at no cost.

The NECF does not include an equivalent provision.

### Advantages / disadvantages of adopting NECF

**Advantages**

- Less regulatory burden for retailers and distributors.

**Disadvantages**

- Customers may no longer be able to access the Code from their retailer's or distributor's website.

## Recommendation

No amendments recommended.[73]

Reasons

The NECF provides less protections for customers than the Code.

[73] Recommendation 94 in the main body of the report propose an amendment to clause 10.10 for reasons not related to the NECF.

# Code of Conduct

[Clause 10.10 of the Code]

| BACKGROUND – Full extract of legislative provisions | |
|---|---|
| **Code** | **NECF** |
| **10.10 Code of Conduct**<br>(1) A retailer and a distributor must tell a customer on request how the customer can obtain a copy of the Code.<br>(2) A retailer and a distributor must make electronic copies of the Code available, at no charge, on the retailer's or distributor's website.<br>(3) Not Used | No equivalent provision. |

# Special information needs

[Clause 10.11 of the Code]

## Comparative review of Code and NECF

### Summary of legislation

The Code requires retailers and distributors to provide services that assist customers interpret information, such as multi-lingual interpreter services, TTY services and large print copies. The NECF only deals with interpreter services.

The obligations in the Code and NECF are structured very differently.

The Code includes a general obligation on retailers and distributors to make available, free of charge, services that assist the customer in interpreting information provided by the retailer or distributor. The services only have to be made available to residential customers and on request.

The Code also requires retailers and distributors to include telephone numbers for TTY and interpreter services on their bills, bill related information, reminder notices and disconnection warnings.

The NECF only requires retailers to refer residential customers to interpreter services if necessary, and to include contact details of interpreter services (in community languages) on the bill and on notices for meter replacements.

### Advantages / disadvantages of adopting NECF

**Advantages**

- Less regulatory burden for retailers and distributors.

**Disadvantages**

- NECF does not require the services to be provided free of charge.
- NECF only refers to interpreter services, not TTY services.
- Information about the services does not have to be included on reminder notices and disconnection warnings.
- There is no obligation to include the National Interpreter Symbol on bills, reminder notices and disconnection warnings.
- Information about interpreter services must be included in community languages, which will take up valuable space on, for example, bills.

## Recommendation

No amendments recommended.[74]

Reasons

The NECF provides less protections for customers than the Code.

[74] Recommendations 95 and 96 in the main body of the report propose amendments to clause 10.11 for reasons not related to the NECF.

**BACKGROUND – Full extract of legislative provisions**

| Code | NECF |
|---|---|
| **10.11 Special Information Needs**<br>(1) A retailer and a distributor must make available to a residential customer on request, at no charge, services that assist the residential customer in interpreting information provided by the retailer or distributor to the residential customer (including independent multi-lingual and TTY services, and large print copies).<br>(2) A retailer and, if appropriate, a distributor must include in relation to residential customers—<br>(a) the telephone number for its TTY services;<br>(b) the telephone number for independent multi-lingual services; and<br>(c) the telephone number for interpreter services together with the National Interpreter Symbol and the words "Interpreter Services", on the—<br>(d) bill and bill related information (including, for example, the notice referred to in clause 4.2(3) and statements relating to an instalment plan);<br>(e) reminder notice; and<br>(f) disconnection warning. | ***NERR***<br>**Division 3 Customer retail contracts—pre-contractual procedures**<br>**19 Responsibilities of designated retailer in response to request for sale of energy (SRC)**<br>(1) A designated retailer must, as soon as practicable, provide a small customer requesting the sale of energy under the retailer's standing offer with the following information: […]<br>(d) information in community languages about the availability of interpreter services for the languages concerned and telephone numbers for the services.<br>**Division 4 Customer retail contracts–billing**<br>**25 Contents of bills (SRC and MRC)**<br>(1) A retailer must prepare a bill so that a small customer can easily verify that the bill conforms to their customer retail contract and must include the following particulars in a bill for a small customer: […]<br>(w) contact details of interpreter services in community languages;<br>**Division 9 Other retailer obligations**<br>**55 Referral to interpreter services**<br>A retailer must refer a residential customer to a relevant interpreter service if a referral is necessary or appropriate to meet the reasonable needs of the customer.<br>*Note: This rule is a civil penalty provision for the purposes of the Law. (See the National Regulations, clause 6 and Schedule 1.)*<br>**59A Notice to small customers on deployment of new electricity meters (SRC and MRC)**<br>(2) If a retailer proposes to undertake a new meter deployment, the retailer must give to the small customer:<br>(a) a notice […]; and<br>(b) a second notice […].<br>(3) A notice under subrule (2)(a) and (b) must state: […]<br>(f) contact details of interpreter services in community languages. |

*Note: This subrule is a civil penalty provision for the purposes of the Law. (See the National Regulations, clause 6 and Schedule 1.)*

**Division 5 Distributor obligations to customers**

**87 Referral to interpreter services**

A distributor must refer a residential customer to a relevant interpreter service if a referral is necessary or appropriate to meet the reasonable needs of the customer.

# Metering

[Clause 10.12 of the Code]

## Comparative review of Code and NECF

### Summary of legislation

The Code requires distributors to advise customers, on request and at no charge, about the different types of meters available. This includes information about the suitability of different types of meters for customers, purpose, costs, installation, operation and maintenance procedures.

The NECF does not include an equivalent provision.

### Advantages / disadvantages of adopting NECF

**Advantages**

- Less regulatory burden for distributors.

**Disadvantages**

- Less protection for customers.
- Customers would not be entitled to information about the different types of meters that are available to them.

## Recommendation

No amendments recommended.

Reasons

Clause 10.12 provides information to customers about the different types of meters available. It is important that this information is available to customers.

It is not proposed to incorporate clause 10.12 in the new, general information provision as some of the information that must be provided is specific to the customer's circumstances.

| BACKGROUND – Full extract of legislative provisions | |
|---|---|
| **Code** | **NECF** |
| **10.12 Metering**<br>(1) A distributor must advise a customer on request, at no charge, of the availability of different types of meters and their –<br>(a) suitability to the customer's supply address;<br>(b) purpose;<br>(c) costs; and<br>(d) installation, operation and maintenance procedures.<br>(2) If a customer asks a retailer for information relating to the availability of different types of meters, the retailer must—<br>(a) give the information to the customer; or<br>(b) refer the customer to the relevant distributor for a response. | No equivalent provision. |

# Obligation to establish complaints handling process

*Recommendations 97 and 100*

[Clause 12.1 of the Code]

## Comparative review of Code and NECF

### Summary of legislation

Both the Code and the NECF require retailers and distributors to have complaints handling processes.

The NECF sets out what matters a customer can make a complaint about. These are defined as 'relevant matters' in the NERL.

Notable differences:

| | Code | NECF |
|---|---|---|
| **AS/NZS 10002:2014**[75] | 'comply with' | 'be substantially consistent with' |
| **Timeframe for handling complaints** | • 10 business days to acknowledge complaint<br>• 20 business days to respond to complaint | As set out in the retailer's or distributor's complaints handling process |
| **Information to be given when responding to a complaint** | That the customer has the right to have the complaint considered by a senior employee | |
| **Information to be given to customer at conclusion of complaints process** | When the complaint has not been resolved in a manner acceptable to the customer:<br>• The reasons for the outcome<br>• That the customer has the right to raise the complaint with the electricity ombudsman or another relevant external dispute resolution body and provide the Freecall telephone number of the electricity ombudsman | • The outcome of the complaint process<br>• That, if the customer is not satisfied with the outcome, the customer may make a complaint or take a dispute to the energy ombudsman<br>• The telephone number and other contact details of the energy ombudsman |
| **Review of complaints handling process** | - | Must be regularly reviewed and kept up to date |

### Advantages / disadvantages of adopting NECF

**Advantages**

- Information about the complaints process must be published on the retailer's and distributor's websites.

**Disadvantages**

- No timeframes for acknowledging and responding to customer complaints.

[75] Standards Australia and Standards New Zealand, 2014, *AS/NZS 10002:2014 Guidelines for complaint management in organizations*

- Customers must be informed of the outcome of the complaint process and the reasons for the decision regarding the outcome. The Code only requires this for complaints not resolved internally in a manner acceptable to the customer.
- Less complex drafting

- Customer does not have to be informed that they have the right to have the complaint considered by a senior employee.

**Recommendation**[76]

a) Insert the words "including the obligations set out in [clause···]" in clause 12.1(2)(b)(ii)(B) of the Code.

b) Delete clause 12.1(3) of the Code and include a new clause that requires retailers and distributors, when they respond to a complaint, to inform the customer of the information set out in:
   - Section 82(4) of the NERL, but:
     - do not adopt the words "as soon as reasonably possible but, in any event, within any time limits applicable under the retailer's or distributor's standard complaints and dispute resolution procedures".
     - provide that a retailer or distributor does not have to inform the customer of the reasons for the decision regarding the outcome if the customer has advised the retailer or distributor that the complaint has been resolved in a manner acceptable to the customer.
   - Section 82(5) of the NERL but do not include the words "may make a complaint or" and "if the customer is not satisfied with the outcome" and provide instead that the information does not have to be provided if the customer has advised the retailer or distributor that the complaint has been resolved in a manner acceptable to the customer.

c) Add the following subclauses to the new, general information provision:
   - a summary of the customer's rights, entitlements and obligations under the retailer's or distributor's standard complaints and dispute resolution procedures.
   - the contact details for the electricity ombudsman.

Reasons

**a) Insert the words "including the obligations set out in [clause···]" in clause 12.1(2)(b)(ii)(B)**

Consequential amendment of deleting 'for the purposes of subclause (2)(b)(ii)(B)' in subclause (3).

**b) Delete clause 12.1(3) and include a new clause that requires retailers and distributors, when they respond to a complaint, to inform the customer of the information set out in:**

- **Section 82(4) of the NERL, but:**

  To ensure that customers will be advised of the outcome of a decision following every complaint, not only when the complaint has not been resolved internally in a manner acceptable to the customer.

  - **do not include the words "as soon as reasonably possible but, in any event, within any time limits applicable under the retailer's or distributor's standard complaints and dispute resolution procedures"**

[76] Recommendations 98 and 99 in the main body of the report propose additional amendments to clause 12.1 for reasons not related to the NECF.

The reference to time limits is not necessary as clause 12.1(4) already prescribes time limits for acknowledging and responding to complaints.

- **provide that a retailer or distributor does not have to inform the customer of the reasons for the decision regarding the outcome if the customer has advised the retailer or distributor that the complaint has been resolved in a manner acceptable to the customer**

  In some cases it will be unnecessary for the retailer or distributor to advise the customer of the reasons for the decision. For example, where the customer has called to question something and the retailer or distributor acknowledges the mistake.

- **Section 82(5) of the NERL**

  To improve consistency with the NECF.

  Adoption of section 82(5) would also ensure that retailers and distributors no longer have to inform customers of the existence of a 'relevant external dispute resolution body' in addition to the electricity ombudsman. It should be sufficient for retailers and distributors to advise customers of the existence of electricity ombudsman, without also having to advise them of other external dispute resolution bodies.

  **other than the words:**

  - **"may make a complaint or"**

    A retailer or distributor should not have to inform a customer that they may make a complaint *after* the customer has made a complaint.

  - **"if the customer is not satisfied with the outcome" and provide instead that the information does not have to be provided if the customer has advised the retailer or distributor that the complaint has been resolved in a manner acceptable to the customer**

    To ensure that call centre operators do not have to advise customers about the availability of the electricity ombudsman when the customer has already advised that they consider the complaint resolved.

    To rely on the exception, retailers will have to confirm with the customer that the complaint has been resolved. If the retailer fails to obtain confirmation and the customer does not indicate on their own accord that they consider the complaint resolved, the retailer must provide the information.

    A similar provision is currently included in clause 12.1(3)(b)(ii) of the Code. However, the wording of this clause is less clear as it does not explicitly provide that the customer must have advised the retailer that the complaint has been resolved in a manner acceptable to the customer.

**c) Add the following subclauses to the new general, information provisions:**

- **a summary of the customer's rights, entitlements and obligations under the retailer's or distributor's standard complaints and dispute resolution procedures**
- **the contact details for the electricity ombudsman**

To improve the provision of information to customers by requiring retailers and distributors to publish a summary of their complaints handling processes and the electricity ombudsman's contact details on their website, and provide a copy of the information to customers on request.

# Obligation to establish complaints handling process

[Clause 12.1 of the Code]

**BACKGROUND – Full extract of legislative provisions**

| Code | NECF |
|---|---|
| **12.1 Obligation to establish complaints handling process**<br>(1) A retailer and distributor must develop, maintain and implement an internal process for handling complaints and resolving disputes.<br>(2) The complaints handling process under subclause (1) must—<br>(a) comply with Australian Standard AS/NZS 10002:2014;<br>(b) address at least—<br>(i) how complaints must be lodged by customers;<br>(ii) how complaints will be handled by a retailer or distributor, including—<br>(A) a right of a customer to have its complaint considered by a senior employee within each organisation of the retailer or distributor if the customer is not satisfied with the manner in which the complaint is being handled;<br>(B) the information that will be provided to a customer;<br>(iii) response times for complaints; and<br>(iv) method of response;<br>(c) detail how a retailer will handle complaints about the retailer, electricity marketing agents or marketing; and<br>(d) be available at no cost to customers.<br>(3) For the purposes of subclause (2)(b)(ii)(B), a retailer or distributor must at least—<br>(a) when responding to a complaint, advise the customer that the customer has the right to have the complaint considered by a senior employee within the retailer or distributor (in accordance with its complaints handling process); and<br>(b) when a complaint has not been resolved internally in a manner acceptable to a customer, advise the customer—<br>(i) of the reasons for the outcome (on request, the retailer or distributor must supply such reasons in writing); and<br>(ii) that the customer has the right to raise the complaint with the electricity ombudsman | ***NERL***<br>**79 Definitions**<br>[⋯]<br>*relevant matter* means a matter arising between a small customer and a retailer or distributor—<br>(a) under or in connection with this Law, the National Regulations or the Rules, including but not limited to a matter concerning any of the following:<br>(i) the carrying out of an energy marketing activity by a person;<br>(ii) a retailer's obligations before a customer retail contract is formed (whether or not the contract is eventually formed);<br>(iii) a customer retail contract between a small customer and a retailer;<br>(iv) a deemed standard connection contract between a small customer and a distributor;<br>(v) a negotiated connection contract between a small customer and a distributor;<br>(vi) a decision of a distributor under Division 3 of Part 7 in relation to a customer's claim for compensation; or<br>(b) under or in connection with the NER or NGR concerning a new connection or a connection alteration, but does not include matters concerning the setting of tariffs and charges of distributors or retailers.<br><br>**81 Standard complaints and dispute resolution procedures**<br>(1) Every retailer and every distributor must develop, make and publish on its website a set of procedures detailing the retailer's or distributor's procedures for handling small customer complaints and disputes, to be known as its standard complaints and dispute resolution procedures.<br>(2) The procedures must be regularly reviewed and kept up to date.<br>(3) The procedures must be substantially consistent with the Australian Standard AS ISO 10002-2006 (Customer satisfaction—Guidelines for complaints handling in organizations) as amended and updated from time to time. |

or another relevant external dispute resolution body and provide the Freecall telephone number of the electricity ombudsman.

(4) For the purpose of subclause (2)(b)(iii), a retailer or distributor must, on receipt of a written complaint by a customer—

(a) acknowledge the complaint within 10 business days; and

(b) respond to the complaint by addressing the matters in the complaint within 20 business days.

**82—Complaints made to retailer or distributor for internal resolution**

(1) A small customer may make a complaint to a retailer or distributor about a relevant matter, or any aspect of a relevant matter, concerning the customer and the retailer or distributor.

(2) The retailer or distributor must deal with the complaint if it is made in accordance with the retailer's or distributor's standard complaints and dispute resolution procedures, including any time limits applicable under those procedures for making a complaint.

(3) The complaint must be handled in accordance with the retailer's or distributor's standard complaints and dispute resolution procedures, including any time limits applicable under those procedures for handling a complaint.

(4) The retailer or distributor must inform the small customer of the outcome of the complaint process, and of the retailer's or distributor's reasons for the decision regarding the outcome, as soon as reasonably possible but, in any event, within any time limits applicable under the retailer's or distributor's standard complaints and dispute resolution procedures.

(5) A retailer or distributor must inform a small customer—

(a) that, if the customer is not satisfied with the outcome, the customer may make a complaint or take a dispute to the energy ombudsman; and

(b) of the telephone number and other contact details of the energy ombudsman.

***NERR***

**50 Small customer complaints and dispute resolution information**

(1) A retailer must include, as a minimum requirement in relation to the terms and conditions of a market retail contract, provisions to the effect of the following:

(a) the small customer may, if they have a query, complaint or dispute, contact the retailer;

(b) the retailer is obliged to handle a complaint made by a small customer in accordance with the retailer's standard complaints and dispute resolution procedures, which can be found on the retailer's website or provided to the customer on request;

(c) the retailer must inform the small customer of the outcome of the customer's complaint;

(d) if the small customer is not satisfied with the retailer's response to the customer's complaint, the customer has a right to refer

the complaint or dispute to the energy ombudsman.

(2) The provisions required to be included in the market retail contract must provide the retailer's contact details for the small customer to contact the retailer in connection with a query, complaint or dispute.

*Note: This rule is a civil penalty provision for the purposes of the Law. (See the National Regulations, clause 6 and Schedule 1.)*

**56 Provision of information to customers**

(1) A retailer must publish on its website a summary of the rights, entitlements and obligations of small customers, including:

(a) the retailer's standard complaints and dispute resolution procedure;

(b) the contact details for the relevant energy ombudsman; and

(c) in the case of electricity, details of applicable energisation and re-energisation timeframes.

(2) If a small customer requests information of the kind referred to in subrule (1), the retailer must either:

(a) refer the customer to the retailer's website; or

(b) provide the information to the customer.

(3) The retailer must provide a copy of any information of that kind to the customer if the customer requests a copy.

(4) The information or a copy of the information requested under this rule must be provided without charge, but information requested more than once in any 12 month period may be provided subject to a reasonable charge.

*Note: This rule is a civil penalty provision for the purposes of the Law. (See the National Regulations, clause 6 and Schedule 1.)*

**80 Provision of information to customers**

(1) A distributor must publish the following information on its website:

(a)-(g) [···]

(h) a summary of the rights, entitlements and obligations of small customers, including:

(i) the distributor's standard complaints and dispute resolution procedure;

and

(ii) the contact details for the energy ombudsman.

(2) If a customer requests information of the kind referred to in subrule (1), the distributor must either:

| | |
|---|---|
| | (a) refer the customer to the distributor's website; or<br>(b) provide the information to the customer.<br>(3) However, the distributor must provide a copy of any information of that kind to the customer if the customer requests a copy.<br>(4) The information or a copy of the information requested under this rule must be provided without charge, but information requested more than once in any 12 month period may be provided subject to a reasonable charge.<br>*Note: This rule is a civil penalty provision for the purposes of the Law. (See the National Regulations, clause 6 and Schedule 1.)* |

# Obligation to comply with a guideline that distinguishes customer queries from complaints

[Clause 12.2 of the Code]

## Comparative review of Code and NECF

### Summary of legislation

The Code requires retailers to comply with any ERA guideline about distinguishing customer queries from complaints.

The NECF does not include an equivalent provision.

### Advantages / disadvantages of adopting NECF

**Advantages**

- Reduce regulatory burden and compliance costs for retailers.

**Disadvantages**

- The ERA would lose the ability to require retailers to comply with guidelines about this issue.

## Recommendation

No amendments recommended.

Reasons

Recommendation 101 in the main body of the report is to delete clause 12.2, but for reasons not directly related to the NECF.

## Obligation to comply with a guideline that distinguishes customer queries from complaints

[Clause 12.2 of the Code]

| BACKGROUND – Full extract of legislative provisions | |
|---|---|
| **Code** | **NECF** |
| **12.2 Obligation to comply with a guideline that distinguishes customer queries from complaints**<br>A retailer must comply with any guideline developed by the Authority relating to distinguishing customer queries from complaints. | No equivalent provision. |

# Information provision

[Clause 12.3 of the Code]

## Comparative review of Code and NECF

### Summary of legislation

The Code requires retailers, distributors and electricity marketing agents to give customers on request, at no charge, information that will assist them in using complaints handling processes.

The NECF does not include an equivalent provision.

### Advantages / disadvantages of adopting NECF

**Advantages**

- Less regulatory burden for retailers, distributors and electricity marketing agents.

**Disadvantages**

- Removes additional protection for customers.

## Recommendation

No amendments recommended.

Reasons

Recommendation 102 in the main body of the report is to delete clause 12.3, but for reasons not directly related to the NECF.

# Information provision

[Clause 12.3 of the Code]

| BACKGROUND – Full extract of legislative provisions | |
|---|---|
| **Code** | **NECF** |
| **12.3 Information provision**<br>A retailer, distributor and electricity marketing agent must give a customer on request, at no charge, information that will assist the customer in utilising the respective complaints handling processes. | No equivalent provision. |

# Obligation to refer complaint

[Clause 12.4 of the Code]

## Comparative review of Code and NECF

### Summary of legislation

The Code requires retailers, distributors and electricity marketing agents that receive a customer complaint that does not relate to their functions, to inform the customer of the entity they reasonably consider to be appropriate to deal with the complaint.

The NECF does not include an equivalent provision.

### Advantages / disadvantages of adopting NERR

**Advantages**

- Less regulatory burden for retailers, distributors and electricity marketing agents.

**Disadvantages**

- Less protection for customers.

## Recommendation

No amendments recommended.

Reasons

- The NECF provides less protections for customers than the Code.
- Retaining clause 12.4 of the Code ensures customers continue to be redirected to the appropriate entity.
- The requirement is not particularly onerous for retailers, distributors or electricity marketing agents. The information is only required to be provided if the appropriate entity is known.

# Obligation to refer complaint

[Clause 12.4 of the Code]

| BACKGROUND – Full extract of legislative provisions | |
|---|---|
| **Code** | **NECF** |
| **12.4 Obligation to refer complaint**<br>When a retailer, distributor or electricity marketing agent receives a complaint that does not relate to its functions, it must advise the customer of the entity that the retailer, distributor or electricity marketing agent reasonably considers to be the appropriate entity to deal with the complaint (if known). | No equivalent provision. |

# Appendix 5 Submissions received in response to Draft Review Report

# Alinta Energy submission

29 January 2021

Paul Kelly
Chairman GMCCC
Economic Regulation Authority
PO Box 8469
Perth BC WA 6849

publicsubmissions@erawa.com.au

Dear Paul

**Draft Review Report – 2019-22 Review of the *Code of Conduct for the Supply of Electricity to Small Use Customers***

Alinta Sales Pty Ltd (**Alinta Energy**) is pleased to provide comment on the matters discussed in the *Draft Review Report – 2019-22 Review of the Code of Conduct for the Supply of Electricity to Small Use Customers* (**Draft Review Report**) prepared by the Electricity Code Consultative Committee (**ECCC**).

Alinta Energy notes the three main areas for improvement identified in the Draft Review Report by the ECCC:

1. To improve alignment with the National Energy Customer Framework (**NECF**);
2. To improve access to payment assistance for residential customers; and
3. To better protect customers affected by family and domestic violence.

We accept the 104 Draft Recommendations that advocate changes to the *Code of Conduct for the Supply of Electricity to Small Use Customers 2018* (**Code**) to support these three key improvement areas. We would also like to propose two further amendments concerning the provision of historical data.

Our further comments are limited to responding to the supplementary questions posed by the ECCC.

If you have any questions concerning this submission, please contact me on 9486 3191 or catherine.rousch@alintaenergy.com.au .

Yours sincerely

**Catherine Rousch**
Manager Regulatory Compliance
Alinta Energy

**Further proposed amendments**

Clause 10.2 Historical billing data

Alinta Energy proposes that clause 10.2 of the Code be extended to explicitly allow a retailer to provide historical billing data to a contestable customer. Currently, the Code addresses the provision of historical billing data to non-contestable customers only.

We also consider that a retailer should be able to provide historical billing data, where directed by a customer and with the customer's verifiable consent, to the customer's nominated recipient.

This would ensure consistency with clause 5.17A of the *Electricity Industry (Metering) Code 2012* (**Metering Code**), which enables a customer[1], with verifiable consent, to direct the network operator to provide energy data or standing data to a nominated recipient.

Clause 10.7 Historical consumption data

Some of the obligations under clause 10.7 of the Code may already be captured in clause 5.17A of the Metering Code.

Subclause 10.7(1) of the Code requires that a distributor must give a customer, on request, the customer's "consumption data". However, clause 5.17A of the Metering Code directs that the network operator must provide, on request, "energy data" to a customer or their nominated recipient.

It would appear that "consumption data", whilst not specifically defined in the Code[2], could be considered "energy data" under the Metering Code.

If provision of consumption data is sufficiently covered in the Metering Code, we would recommend the deletion of clause 10.7.

[1] "Customer" has the meaning given to it in section 3 of the *Electricity Industry Act 2004* and means "a person to whom electricity is sold for the purpose of consumption".

[2] Whilst "consumption" is a defined term in the Code, "consumption data" is not.

**Question 1 – Contracting out of the Code**

a) Should any of the clauses listed in clause 1.10 be removed from clause 1.10? If so, should any of those clauses instead include the words 'unless otherwise agreed'?

b) Should the words 'unless otherwise agreed' be removed from any clauses that currently include those words? If so, should any of those clauses be added to clause 1.10?

Alinta Energy considers that the clauses listed in clause 1.10 (which can be amended in a non-standard contract) and the clauses that include the words "unless otherwise agreed" (or similar) should be retained in their current form.

We also consider, contrary to the ECCC's opinion, that clauses including the words "unless otherwise agreed" can also be listed in clause 1.10. This allows for clauses to be both amended as part of a non-standard contract (usually as part of the terms and conditions) and on a less frequent basis (usually agreed by telephone and at the request of the customer) under the standard form contract.

A good example is clause 5.4 where the minimum payment in advance amount a retailer must accept from a customer is set at $20. Currently, the retailer can amend this amount under the non-standard contract for the benefit of all customers on that particular contract (to say, $10) and can also agree a lower amount (which may be as little as $5 in some cases) with an individual customer on a standard form contract. In both cases, the amendment is to the customer's benefit.

Where permitted, retailers usually contract out of the Code with customers on the standard form contract at the request of the customer, such as in the payment in advance example above.

We would therefore strongly advocate for the retention of "unless otherwise agreed" in the relevant clauses, regardless of whether those clauses are included in clause 1.10 and can be contracted out of in a non-standard contract.

**Question 2 – Information to be given to customers who contract out of the Code**

Should the Code be amended to require that, if one or more Code clauses do not apply or apply differently in a customer's non-standard contract, the customer is informed of this before they enter into the contract?

The Code requires Synergy and Horizon Power to advise customers entering into a non-standard contract of the differences between the non-standard contract and the standard form contract, however there is no requirement for customers to be explicitly advised if they have contracted out of individual protections of the Code.

The *Gas Marketing Code of Conduct 2017* (**Gas Code**) includes a similar obligation for gas retailers; again, there is no requirement for customers to be explicitly advised if they have contracted out of any individual protections.

Competition in the gas market is robust and, to our knowledge, there is no evidence of market failure concerning the provision of information by retailers to customers. Customers, in giving their explicit informed consent to entering a non-standard contract, acknowledge they understand there are differences between the non-standard contract and the standard form contract. They understand that, for the retailer to offer them a unique product, they may not be afforded the same protections under the non-standard contract as under the standard form contract.

We therefore do not consider there is a need for electricity retailers to explicitly advise customers before they enter a contract of each separate protection they are contracting out of.

**Question 3 – Notice about end of fixed term contract**

The ECCC considers that retailers should have to notify customers with a fixed term contract that their contract is about to end. The ECCC seeks feedback as to whether:

a) This matter should be addressed in the Code or in the Electricity Industry (Customer Contracts) Regulations 2005.

b) If the matter is addressed in the Code, should the new provision follow rule 48 of the NERR?

Alinta Energy agrees that retailers should be required to notify customers when a fixed term contract that provides a temporary benefit or incentive, such as a price discount on consumption charges for a set period, is about to come to an end. Timely communication encourages customers to actively engage in the market so they can seek product offers that best meet their individual circumstances.

We consider any new provisions addressing the above should be included in the Code rather than in the *Electricity Industry (Customer Contracts) Regulations 2005*. Processes for amending the Code are far less onerous than those for amending regulations and, as this is a new provision, we need to ensure any further modifications can be made without delay and with the appropriate level of consultation as provided by the ECCC.

For consistency with NECF, we would support provisions similar to rule 48 of the National Energy Retail Rules (**NERR**). We note, however, that Introducing an obligation to issue benefit change notices to customers may require retailers to modify billing systems and other internal processes and therefore sufficient time should be allowed to make changes as required.

**Question 4 – Bill content**

a) Is the amount of information that must currently be included on a bill appropriate? Could some of the minimum bill items be removed from clause 4.5, or should additional information be included on the bill?

b) Should clause 4.5 be amended to allow retailers to provide (some of) the information in different formats for customers who have agreed to receive their bill electronically?

In our view, the primary objectives of the energy bill are:

- For the customer to understand their energy usage, including how their usage patterns affect their energy costs; and
- For the customer to be advised of the total amount owing for that energy usage, the due date for payment and how to make a payment.

This information is consistent with what appears on a typical tax invoice for good and services supplied in any industry. Along with information on how customers can access financial assistance programs, this is the key information that should be included on a bill.

Other information which does not meet the key objectives of the bill could be provided to customers in another format, such as, for customers who receive electronic bills, via website links to the relevant information.

Alinta Energy cannot understate the complexity and financial costs associated with making changes to the content and/or form of customer bills, nor the time required for implementation. The more information required, the more costly the exercise. To this end, we would urge the ECCC to closely consider which of the minimum bill particulars listed in clause 4.5 of the Code actually meet the primary objectives of the bill and which could be provided to customers via a different format.

**Question 5 – Assistance to be available to all customers (payment extensions and instalment plans)**

Should the Code be amended to require retailers to offer a payment extension and an instalment plan to all residential customers?

Alinta Energy agrees that retailers should be required to offer payment extensions and instalment plans to all residential customers. However, we consider, similar to Draft Recommendation 50 for customers experiencing payment difficulties or financial hardship, that customers may choose which option they prefer and that retailers should not be expected to apply both a payment extension and instalment plan concurrently.

Additionally, should customers on an instalment plan default on payment, retailers should be permitted to remove them from the plan and return them to a regular payment cycle.

**Question 6 – Assistance to be available to all customers (bill smoothing)**

Should the Code be amended to require retailers to offer bill smoothing to all residential customers as a form of assistance?

We note clause 76 of Victoria's *Energy Retail Code* (**Victorian Code**) requires that standard assistance to residential customers must include "at least 3" from a list of four assistance options, including "making payments of an equal amount over a specified period".

Rather than requiring all retailer to offer bill smoothing as a form of assistance, we would support, similar to the requirement in the Victorian Code, retailers being required to offer "at least" some from a number of assistance options. This will give retailers flexibility to determine which options they will make available.

It should be noted it is in a retailer's best interest to assist customers pay their bills in full and in a timely manner and therefore a retailer is likely to offer many and varied payment arrangements to its customers. Indeed, the payment terms offered by a retailer may be used as a point of distinction when attracting new customers.

**Question 7 – Identification by retailer**

Should the Code be amended to require retailers to offer a payment extension and an instalment plan to customers who the retailer otherwise believes are experiencing repeated difficulties in paying their bill or require payment assistance?

Alinta Energy agrees that payment arrangements should be offered to customers the retailer believes are experiencing repeated difficulties in paying their bill. However, we caution against being too prescriptive about how customers are determined to be experiencing repeated difficulties as complicated automatic debt triggers that identify missed payments and outstanding debts of certain amounts can be unreliable measures of identifying customers requiring support.

Instead, we would encourage a more pragmatic approach whereby customers experiencing difficulties are identified using current methodologies, such as by contact centre staff trained to recognise issues during conversations with customers, the customer's bill payment history, etc.

**Question 8 – Amending an instalment plan**

a) Should retailers continue to be able to amend a customer's instalment plan without the customer's consent? or

b) Should clauses 6.4(2) and (3) of the Code be amended to clarify that a retailer cannot amend an instalment plan without:

(i) consulting the customer? or

(ii) obtaining the customer's consent?

Alinta Energy agrees that, ideally, a retailer should gain a customer's consent prior to implementing any changes to the customer's instalment plan. However, consideration needs to be given to the (not uncommon) circumstances whereby a retailer has made a considerable attempt to contact the customer and the customer has failed to engage with the retailer.

We therefore consider it more appropriate to require retailers, in accordance with clause 6.4(3)(b) of the Code, to give customers five business days' notice that a change to the customer's instalment plan will come into effect, along with information clearly explaining the changes. The customer can then decide whether they are happy with the changes as advised by the retailer, or whether they need to contact the retailer to discuss the proposed change before it is implemented.

**Question 9 – Additional assistance**

Should the Code be amended to include one or more of the assistance measures that Victorian retailers must offer to their customers under clauses 77 to 83 of the Victorian Energy Retail Code?

We have concerns regarding some of the tailored assistance measures in the Victorian Code, such as the obligations under clause 79(1)(f) whereby the customer is able to put payment of arrears on hold and pay less than the full cost of their on-going energy use for 6 months or more, which has the potential to increase the customer's debt. A better approach is that proposed in Draft Recommendation 51, whereby a retailer determining an instalment plan must have regard to a customer's capacity to pay, any arrears owing and the customer's expected ongoing consumption.

In general, Alinta Energy considers the assistance measures in the Victorian Code to be unnecessarily prescriptive. As noted earlier in this submission, it is in a retailer's best interest to assist customers pay their bills and hence the retailer is likely to offer a broad range of payment arrangements, including those suitable for customers experiencing payment difficulties and financial hardship. Prescriptive customer assistance measures can add to a retailer's systems and operating costs, which are eventually passed on to customers, including to those customers the assistance measures seek to assist.

Whilst we consider it appropriate for retailers to offer additional assistance to customers in financial hardship, we consider the current provisions in Part 6 of the Code to be an appropriate balance of assisting customers in need and allowing retailers to develop assistance programs that best fit their customer base.

**Question 10 – Revision of alternative payment arrangements**

Should clause 6.7 be amended:

a) by providing that a retailer must give reasonable consideration to offering a (revised) instalment plan if the customer informs a retailer that they cannot meet the conditions of their payment extension or instalment plan? or

b) by providing that a retailer must offer a (revised) instalment plan if the customer reasonably demonstrates to a retailer that the customer cannot meet the conditions of their payment extension or instalment plan? or

c) consistent with clause 30(4)(b) of the Water Code?

We would support an amendment to clause 6.7 as per option a) to provide that a retailer "give reasonable consideration" to offering an instalment plan, or a revised instalment plan, if the customer informs the retailer they cannot meet their current payment obligations.

We do not consider it appropriate that retailers "must offer" to revise a customer's instalment plan at the customer's request as per options b) and c), as this can lead to the customer repeatedly requesting a revision, with no ability for the retailer to break the cycle in the event it becomes obvious the customer has no intention of making payments and is simply "playing the system".

**Question 11 – Prohibition on disconnection**

a) Should the Code prohibit disconnection of an affected customer's supply address?

b) If so, what period should disconnection action be prohibited for?

Alinta Energy notes the request by the Minister for Energy in November 2019 for the ERA to consider introducing obligations in the Code for retailers to assist customers affected by family violence and we fully support the ECCC's proposal as part of this Code review to introduce the necessary customer protections.

We also support the ECCC's approach to, rather than prescribe detailed obligations in the Code, provide the retailer with flexibility to tailor a family violence policy that best suits the needs of their customers.

Additionally, we support including in the Code definitions for "family violence" and "affected customer" which will provide clarity to retailers as they seek to provide assistance to customers genuinely impacted by family violence.

Reminder notices and disconnection warnings play an important role in a customer's billing and payment cycle. Very often these notifications act as a prompt for customers to get in touch with their retailer to discuss payment options such as payment extensions and instalment plans.

Disconnection is an absolute last resort and every attempt is made to contact a customer before disconnecting supply. Often a retailer will not be aware of a family violence situation until the affected customer identifies themselves after receiving a disconnection warning.

We would suggest that these (highly automated) notification processes be permitted to continue, however if an affected customer engages with their retailer after receiving such notification, the retailer should then be prohibited from disconnecting the affected customer.

# Anonymous submission

**From:** cms@erawa.com.au
**Sent:** Monday, 1 February 2021 12:38 AM
**To:** ERA Info
**Subject:** Form Submitted From ERA Home [Footer Feedback Form]

A 'Footer Feedback Form' form has been submitted from the **ERA Home** website.

The supplied details are specified below:

| | |
|---|---|
| **Please enter your comments here:** | Re: Code of conduct for the supply of electricity to small use customers review.<br><br>Does that apply to renters who are billed through their landlords? My electricity bills don't have that much information on them, just the basics on what I owe, the time period it's for, tariffs, units used, when it's due etc.<br><br>And as scant as it is, I do prefer to get my bill on paper for my records, and also so I don't have to give my landlord my email address. Little close for comfort, you know? I would hope you still allow paper bills with as much information as customers want, and with the choice being the customer's, not the energy provider's, or the landlord's in a rental situation.<br><br>Thankyou. Sorry for late submission. |
| **Enter your email if you require a response:** | |

Originating URL: https://www.erawa.com.au/eccc

# Australian Energy Council submission

AUSTRALIAN ENERGY COUNCIL

Economic Regulation Authority
PO Box 8469
Perth BC WA 6849

Submitted via email by graham.pearson@energycouncil.com.au to publicsubmissions@erawa.com.au

3 February 2021

**2019-22 Review of the Code of Conduct for the Supply of Electricity to Small Use Customers**

The Australian Energy Council welcomes the opportunity to make a submission to Western Australia's Electricity Code Consultative Committee's ('ECCC') consultation paper on *2019-2022 Review of the Code of Conduct for the Supply of Electricity to Small Use Customers* ('Retail Code Review').

The Australian Energy Council ('AEC') is the industry body representing 22 electricity and downstream natural gas businesses operating in the competitive wholesale and retail energy markets. These businesses collectively generate the overwhelming majority of electricity in Australia and sell gas and electricity to over 10 million homes and businesses.

The past twelve months have seen retailers take significant and unprecedented steps to protect their customers as they navigate the ongoing impacts of COVID-19. Retailers have been at the forefront in administering Western Australia's billion-dollar financial support package, supported and adhered to the moratorium on disconnections, and expanded their own hardship programs to accommodate the increasing number of customers experiencing financial difficulties.

This Retail Code Review comes on the back of these efforts and should further strengthen customer protections in Western Australia, if implemented correctly. The AEC supports the approach the ECCC has taken to perform this review, comparing the Code against the National Energy Consumer Framework ('NECF'), but is concerned that some of the changes being proposed appear to be solutions in search of a problem. Noting that the Western Australian energy market operates under a different system and set of rules to the National Electricity Market ('NEM'), seeking alignment with the NECF should be pursued only after there is clear evidence of a market failure and that the benefits of making the regulatory change outweigh the costs. Unless there is an intent for Western Australia to become part of the NEM, alignment for the sake of alignment is neither necessary nor best practice.

In line with this view, the AEC considers that the need for change has, in many instances, not been adequately evidenced or substantiated other than being proposed for "national consistency". While seeking best practice is useful, this should not occur without full consideration of the cost of regulatory intervention, particularly when there is no market failure to address. The intent of the Retail Code is to support customers and increase their protections by specifying minimum service standards *where required*. A higher or different standard in one jurisdiction in itself is not sufficient justification for regulatory

Level 14, 50 Market Street
Melbourne 3000
GPO Box 1823 Melbourne Victoria 3001

P +61 3 9205 3100
E info@energycouncil.com.au
W energycouncil.com.au

ABN 926 084 953 07

change in another jurisdiction. Regulatory intervention comes at a financial cost and diverts scarce resources that could otherwise be allocated in providing services that customers value. The imposition of further regulation without demonstrable benefit will, in the short and long term, result in increased costs to retailers which are inevitably passed to customers.

It is well accepted that outcomes-based and risk-based regulation is more efficient and effective than highly prescriptive regulation for both regulators and regulated entities. Risk-based approaches can reduce regulatory burden for compliant entities and should lead to efficient resource allocation by the regulator.[1] The main justifications for the regulation of utilities is to reduce or manage the risk associated with market failure – in Western Australia's electricity context, that might entail unjustifiably high pricing, poor service, outdated and slow technology offerings affecting operations, particularly in the case of monopoly service provision, where in these circumstances regulation can benefit the community by reproducing benefits provided elsewhere by competition and choice, provided that the cost of regulation does not outweigh its benefits.[2]

Introducing prescriptive rules-based regulation (rather than industry standards and best practice guidance with a principle-based approach) will lead to inflexibility, which, in some settings, may unnecessarily increase compliance costs and stifle innovation. In the current electricity market, which is undergoing significant and constant change as part of the transition to cleaner energy, prescriptive rules can quickly become obsolete and require constant adaptation or supplementation that ultimately limit flexibility. In addition, the need to develop rules to cover every possible action or contingency can result in an over-abundance of prescriptive rules resulting in a lengthy and unwieldy Retail Code, where rules that address the most significant risks are obscured/swamped by the extent of coverage/detail. There can also be considerable challenges associated with drafting precise *ex ante* rules.[3]

There are a number of proposals made in the Review that seek to codify a retailer's existing practices (e.g. disconnection moratoriums). Retailers should be encouraged to provide services above mandated standards and not be penalised by having existing services codified. Each new regulatory requirement can involve significant cost in terms of system changes, procedural changes, education, training and communication, control establishment, monitoring and reporting and external audits. In some instances, customer protection will not increase but a retailer's cost impost will definitely increase.

The AEC notes that the ECCC's 104 recommendations do not contain any quantitative assessment of the benefits and costs of the recommendations. The AEC recognises the ECCC is a consultative forum and it is not sufficiently resourced or funded to perform this function. As the Economic Regulation Authority ('ERA') is the decision-maker in relation to the Code's changes it should perform this function, as well as being required to take into account the matters specified in section 26 of the *Economic Regulation Authority Act 2003* (WA). It is not reasonable for retailers to have to substantiate their costs and other imposts when responding to regulatory proposals for change when regulatory agencies face no similar discipline in having to substantiate the case for the

[1] Productivity Commission. 2016. Digital Disruption: What do governments need to do? Australian Government. Canberra, Australia. p123.
[2] Best Practice Utility Regulation. July 1999. Utility Regulators Forum Discussion Paper. P2.
[3] Australian Energy Market Commission. Dr Christopher Decker. March 2020. Consumer protection frameworks for new energy products and services and the traditional sale of energy in Australia. P47

Level 14, 50 Market Street
Melbourne 3000
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P +61 3 9205 3100
E info@energycouncil.com.au
W energycouncil.com.au

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change. It also means retailers are often required to "prove a negative" (i.e. why the changes should *not* occur) rather than regulators making a positive case (i.e. why the changes should occur). This goes against ordinary and best practice.
The AEC therefore asks for the ERA's final decision on the Code's amendments to include a publication of the costs and benefits of the proposed changes as well as an assessment in accordance with the Act's requirements.

Noting this, the AEC provides the following comments in response to the ECCC's questions:

| **Question** | | **AEC's Response** |
|---|---|---|
| 1 | Contracting out of the Code<br><br>a) Should any of the clauses listed in clause 1.10 be removed from clause 1.10? If so, should any of those clauses instead include the words 'unless otherwise agreed'?<br><br>b) Should the words 'unless otherwise agreed' be removed from any clauses that currently include those words? If so, should any of those clauses be added to clause 1.10? | Unless a market failure has been identified, which from the AEC's reading of the report there has not been, the AEC does not support this change because it will unnecessarily limit the amount of flexibility customers have when entering into a contract. Providing customers with flexibility as to the content and nature of their retail contract enables retailers to customise a contract according to the customer's wants and interests. It is an important feature of the capacity of retailers to differentiate their services from one another.<br><br>This obligation, and the obligations considered in question 2, will become increasingly important for customers as technology allows for more innovative energy products and modes of service delivery. Enabling retailers and customers to agree on more beneficial terms is a critical enabler for a future retail market. |
| 2 | Should the Code be amended to require that, if one or more Code clauses do not apply or apply differently in a customer's non-standard contract, the customer is informed of this before they enter into the contract? | The AEC supports retailers providing clear and accurate information to their customers, particularly in instances where customers are signing up to non-standard contracts.<br><br>However, the delivery method and form of that information should not be covered by regulation, and instead, retailers should be encouraged to deliver positive experiences to each customer, based on their unique needs. Regulation will necessarily result in a lowest common denominator approach being taken, to the detriment of customers overall. |

Level 14, 50 Market Street
Melbourne 3000
GPO Box 1823 Melbourne Victoria 3001

P +61 3 9205 3100
E info@energycouncil.com.au
W energycouncil.com.au

ABN 926 084 953 07

| Question | | AEC's Response |
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| 3 | The ECCC considers that retailers should have to notify customers with a fixed term contract that their contract is about to end. The ECCC seeks feedback as to whether:<br><br>a) This matter should be addressed in the Code or in the Electricity Industry (Customer Contracts) Regulations 2005.<br><br>b) If the matter is addressed in the Code, should the new provision follow rule 48 of the NERR? | The AEC does not have a view on this. |
| 4 | a) Is the amount of information that must currently be included on a bill appropriate? Could some of the minimum bill items be removed from clause 4.5, or should additional information be included on the bill?<br><br>b) Should clause 4.5 be amended to allow retailers to provide (some of) the information in different formats for customers who have agreed to receive their bill electronically? | The AEC recently undertook some internal research among its members as part of a response to an Australian Energy Market Commission ('AEMC') consultation about bills in the NEM. The purpose of the research was to better understand how customers retrieve information and what role the bill plays in this.<br><br>Our research suggests it is antiquated for regulation to presuppose that customers only obtain information via their electricity bill. The bill has instead become one of multiple information sources that customers rely on, alongside digital services like a retailer's website and mobile app. The bill is most commonly used by customers as a tax invoice to obtain primary billing information, namely: the amount owed, when payment is due, and available payment options, including financial assistance. While it is still useful for some other primary information to remain on the bill (e.g. contact details for faults, emergencies or interpretation services), there should be options for non-primary information to be provided through other means, so long as there is agreement between the retailer and customer.<br><br>The AEC supports leveraging the growing customer uptake of digital services and allowing customers who prefer electronic bills to receive customised information from their retailers. |

Level 14, 50 Market Street
Melbourne 3000
GPO Box 1823 Melbourne Victoria 3001

P +61 3 9205 3100
E info@energycouncil.com.au
W energycouncil.com.au

ABN 926 084 953 07

| Question | | AEC's Response |
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| | | The AEC's full submission can be found here: https://www.energycouncil.com.au/media/690781/20201022-aec-submission-to-better-bills-consultation-paper.pdf. |
| 5 | Should the Code be amended to require retailers to offer a payment extension and an instalment plan to all residential customers? | The AEC supports steps to require retailers to offer payment extensions and instalment plans to all customers who advise they are experiencing payment difficulty. However, the drafting of this question suggests retailers should *offer* this plan proactively, rather than awaiting a request.<br><br>This is problematic and would significantly increase costs for little customer benefit. The AEC encourages the ERA to amend the wording of this obligation if it intends to proceed, instead requiring retailers to provide support to all customers experiencing payment difficulty who seek assistance.<br><br>It should also be clarified that retailers are not expected to apply a payment extension and instalment plan concurrently. |
| 6 | Should the Code be amended to require retailers to offer bill smoothing to all residential customers as a form of assistance? | The AEC supports retailers developing alternative payment methods for their customers. In the NEM, retailers have developed a range of approaches that encourages customers to pay their bill in instalments prior to it falling due, in a manner that aligns with their own income cycles.<br><br>However, regulating bill smoothing as a concept (as is required in the NECF for Standard Retail Contracts), decreases the ability for retailers to tailor payment options that align with their systems and processes – ultimately diminishing their value and increasing costs. Bill smoothing products in the NEM are limited due to the drafting of the regulations.<br><br>In future reviews, the AEC encourages the ERA to monitor the continuing development of flexible payment options, and identify if a principle based requirement might be beneficial in WA at that time. |

Level 14, 50 Market Street
Melbourne 3000
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E info@energycouncil.com.au
W energycouncil.com.au

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| Question | | AEC's Response |
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| 7 | Should the Code be amended to require retailers to offer an instalment plan to customers who the retailer otherwise considers are experiencing repeated difficulties in paying their bill or require payment assistance? | Proactive steps to offer assistance have been considered in both the NECF and Victoria, with little consensus as to their customer benefits. The costs of enforcing prescriptive proactive assistance are high, and while customers who seek assistance should be able to do so as easily as possible, there is limited evidence to suggest that customers who need assistance would be benefited by more information from their retailer.<br><br>Retailers are already required to provide customers with a number of pieces of information prior to undertaking a disconnection, including sending reminder and disconnection warning notices. These notices provide information for customers about their bill, as well as the availability of support.<br><br>The AEC considers that this information remains valuable and encourages the ERA to continue to seek to develop regulations that support engagement between retailers and customers, in a way that is beneficial to both parties. |
| 8 | a) Should retailers continue to be able to amend a customer's instalment plan without the customer's consent?<br><br>or<br><br>b) Should clauses 6.4(2) and (3) of the Code be amended to clarify that a retailer cannot amend an instalment plan without:<br><br>(i) consulting the customer?<br><br>or<br><br>(ii) obtaining the customer's consent? | The AEC considers that allowing retailers to unilaterally amend instalment plans is in a customer's best interest. In conjunction with the issues raised in Q10, a customer who consumes more energy than is expected, or fails to repay an instalment plan before a new bill is issued, is likely to need an amended plan. If this amended plan does not suit the customer, they are able to seek a revision.<br><br>Absent this clause, a retailer who is unable to contact a customer would be required to cancel a plan – potentially increasing the risk of disconnection. |

Level 14, 50 Market Street
Melbourne 3000
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P +61 3 9205 3100
E info@energycouncil.com.au
W energycouncil.com.au

ABN 926 084 953 07

| Question | | AEC's Response |
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| 9 | Should the Code be amended to include one or more of the assistance measures that Victorian retailers must offer to their customers under clauses 77 to 83 of the Victorian Energy Retail Code? | The AEC opposes the suggestion to include these sections of the Energy Retail Code in the Retail Code. These provisions capture the tailored assistance obligation in the Victorian payment difficulties framework. The PDF is designed as an end to end entitlement for customers experiencing difficulty, intended to carefully balance the needs of customers to remain connected, with their obligations to pay for energy consumed.<br><br>The proposal to regulate only the tailored assistance component of the PDF in WA is likely to have unintended consequences and should not be implemented without careful consideration of the broader impacts on both retailers and customers. |
| 10 | Should clause 6.7 be amended:<br><br>a) by providing that a retailer must give reasonable consideration to offering a (revised) instalment plan if the customer informs a retailer that they cannot meet the conditions of their payment extension or instalment plan?<br><br>or<br><br>b) by providing that a retailer must offer a (revised) instalment plan if the customer<br><br>reasonably demonstrates to a retailer that the customer cannot meet the conditions of their payment extension or instalment plan?<br><br>or<br><br>c) consistent with clause 30(4)(b) of the Water Code? | The AEC considers that the water code provides a useful starting point in identifying the appropriate balance to ensure flexibility for customers, while retaining the ability of retailers to collect unpaid energy debts.<br><br>Customers who are experiencing difficulty meeting their agreed instalment plan should be required to contact their retailer and request a revised plan, and a retailer should be required to give reasonable consideration to that request.<br><br>However, the AEC does not consider it appropriate that a retailer "must offer" a revised plan. This risks the retailer being required to provide unlimited revisions to a customer, in particular in circumstances where the level of debt is increasing. The AEC encourages the ERA to consider providing retailers with the ability to refuse to revise a plan if the customer has previously broken two instalment plans, as is allowed in the NECF. |

Level 14, 50 Market Street
Melbourne 3000
GPO Box 1823 Melbourne Victoria 3001

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E info@energycouncil.com.au
W energycouncil.com.au

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| Question | | AEC's Response |
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| 11 | Should the Code prohibit disconnection of an affected customer's supply address?<br><br>If so, what period should disconnection action be prohibited for? | The AEC supports the ERA's proposed changes to increase protections for customers experiencing family violence. It is critical that tailored support is provided to customers based on their own specific needs, that ensures their ongoing safety.<br><br>However, the AEC does not see the need for an overarching disconnection prohibition for all customers experiencing family violence. Whilst this might be a necessary protection for one customer, it may not be for another. The AEC encourages the ERA to take a more principled position, requiring retailers to consider the individual needs of a particular customer, which may include protection from disconnection. |

With respect to the ECCC's recommendations, the AEC notes:

- **Draft recommendation 26 – Obligation to replace estimated bill:** For this requirement to be practical, a corresponding obligation needs to be placed on the distributor to provide an actual reading to the retailer. Without the distributor having such an obligation, the retailer faces regulatory uncertainty as to whether it has done enough to comply.
- **Draft recommendation 47 – Retailer assessment of whether customer is experiencing financial hardship:** Requiring retailers to perform their own assessment of whether a customer is experiencing payment difficulty or financial hardship is unreasonably burdensome, especially for smaller retailers. It will mean each staff member must be properly trained to handle what is quite often a very sensitive matter for the customer; most retailer workers do not have a background that provides the skills for handling such matters meaning this training will likely be expensive and time-consuming. It will also likely be inefficient given the everyday operations of a business: retail workers take leave, sick days, turnover of staff, etc. Noting the challenges financial counsellors are facing, the AEC believes a more appropriate solution would be for there to be a central entity of professional staff with the capabilities to perform these assessments that each retailer can refer to.
- **Draft recommendation 59 – Minimum disconnection amount:** Noting that the $300 threshold has been proposed to align with the NECF, the AEC believes the amount should be adjusted to $200 to reflect the different billing cycles in Western Australia (2 months) compared to the NEM (3 months).

Level 14, 50 Market Street
Melbourne 3000
GPO Box 1823 Melbourne Victoria 3001

P +61 3 9205 3100
E info@energycouncil.com.au
W energycouncil.com.au

ABN 926 084 953 07

Any questions about our submission should be addressed to Graham Pearson, Western Australia Policy Adviser by email to graham.pearson@energycouncil.com.au or by telephone on 0466 631 776.

Yours sincerely,

**Graham Pearson**
Policy Advisor, Western Australia
Australian Energy Council

Level 14, 50 Market Street
Melbourne 3000
GPO Box 1823 Melbourne Victoria 3001

P +61 3 9205 3100
E info@energycouncil.com.au
W energycouncil.com.au

ABN 926 084 953 07

# Horizon Power submission

# ECCC Draft Review Report

## QUESTIONS AND RESPONSES

| Question | | ERA's Rationale | Horizon Power Response |
|---|---|---|---|
| 1 | Contracting out of the Code<br><br>a) Should any of the clauses listed in clause 1.10 be removed from clause 1.10? If so, should any of those clauses instead include the words 'unless otherwise agreed'?<br><br>b) Should the words 'unless otherwise agreed' be removed from any clauses that currently include those words? If so, should any of those clauses be added to clause 1.10? | ERA states that clauses that use the words 'unless otherwise agreed' provide the retailer and customer with more flexibility to contract out of the Code than clauses that are listed in clause 1.10. However, they also reduce the Code's ability to provide a minimum safety net for customers – as retailers and customers can easily agree that one or more protections will not apply. There are currently two ways in which a retailer and customer can agree to contract out of the Code:<br>• Clause 1.10 allows a retailer and customer to agree that certain clauses do not apply, or apply differently, in a non-standard contract.<br>• Some clauses state that a retailer and customer may agree otherwise irrespective of whether the contract is standard or non-standard<br>. For example, clause 5.2 provides:<br>Unless otherwise agreed with a customer, a retailer must offer the customer at least the following payment methods—<br>There is a difference between clauses listed in clause 1.10 and clauses that include the words 'unless otherwise agreed': | The ability for customers and retailers to agree provides flexibility for both. The constraints of the Code have seen both good and poor customer outcomes, for example the inability to meet Code requirements for Equalised Payment Plans.<br><br>By providing flexibility, opportunity is created for retailers to create product and services that are desirable for various customer groups who are willing to forego some codified right for value such as reduced price, smoother bills or just a simplified experience.<br><br>Customers are already well protected under Consumer Law and from the fact that small use retailers in WA are government owned. We are not aware of any situation where this has been abused or even where customers have felt disadvantaged through the application of contracting 'out'.<br><br>In short customers benefit from having flexibility in their ability to contract with retailers through either non standard contract or through agreements to vary elements of the Code. |

| Question | | ERA's Rationale | Horizon Power Response |
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| | | • For a clause that is listed in clause 1.10, a retailer and customer may agree in their nonstandard contract that the clause does not apply. Although not explicitly stated, it is likely that agreement must be in writing as the matter must be addressed 'in' the contract.<br>• For a clause that includes the words 'unless otherwise agreed', a retailer and customer can agree in writing or verbally that the clause does not apply. This can be done if on a standard or non-standard contract.<br><br>Unless otherwise agreed in the Code governs: Due dates for payment, minimum payment methods, minimum amount accepted for payment in advance, terms regarding bill smoothing, terms regarding notification times for amendment to instalment plans, terms regarding pre-payment meter recharge facilities | A number of products being developed (based on customer feedback) that will be impacted by the removal of flexibility. As an example a flat rate billing product is under consideration. This will address the single biggest issue for our customers – high summer bills. To achieve this flexibility in frequency of the bill, nature of the bill and quite likely options for payment will be required.<br>Another product, Pay As You Go (or prepayment) would not be feasible unless low cost payment channels are mandatory such as via the App.<br><br>The issue with change here is the unintended consequence, limiting retailers ability to cost effectively offer solutions customers desire. |
| 2 | Should the Code be amended to require that, if one or more Code clauses do not apply or apply differently in a customer's non-standard contract, the customer is informed of this before they enter into the contract? | Customers who, under clause 1.10, enter into a non-standard contract for which one or more Code clauses do not apply, or apply differently, currently do not have to be advised of this before they enter into the contract. Customers who enter into a non-standard contract with Synergy or Horizon Power will generally, indirectly, be advised if one or more Code protections do not apply under the contract. This is because Synergy and Horizon Power must advise customers of the difference between their standard form contract and a non-standard contract before the customer enters | From a customer perspective, customers simply want to understand what they are signing up to. For example, a customer may be advised that a condition of the product is they only pay by direct debit. As long as the customer is reasonably advised, the intent is met. Codifying an obligation then brings with it interpretation – are retailers expected to advise that Clause 3.2.a.ii of a Code no longer applies?<br>These obligations create cost for retailers and confusion for customers. Comparisons with the current offer (standard contract) and the new meet the desired intent of protections and are less confusing for customers. |

| Question | | ERA's Rationale | Horizon Power Response |
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| | | into the contract. Although a customer would be advised what protections they are giving up, they would not know if those protections are prescribed in the Code or are only provided for under the standard form contract. The obligation to advise customers of the difference between a standard form contract and non-standard contract does not apply to retailers other than Synergy and Horizon Power. Therefore, customers of other retailers do not have to be advised, directly or indirectly, if they have contracted out of one or more protections of the Code. | The issue with change here is the unintended consequence, limiting retailers ability to cost effectively offer solutions customers desire. |
| 3 | The ECCC considers that retailers should have to notify customers with a fixed term contract that their contract is about to end. The ECCC seeks feedback as to whether:<br>a) This matter should be addressed in the Code or in the Electricity Industry (Customer Contracts) Regulations 2005.<br>b) If the matter is addressed in the Code, should the new provision follow rule 48 | Clause 4.3(2)(f) provides that, if a customer's bill smoothing arrangement is for a defined period or has a specific end date, a retailer must notify the customer in writing at least one month before the end date of the arrangement that the arrangement is about to end and the options available to the customer. If clause 4.3 is deleted from the Code, retailers would no longer have to advise customers that their bill smoothing arrangement is about to end.<br>The end of a bill smoothing arrangement will generally coincide with the end of the customer's contract. Currently, there is no general requirement for retailers to advise customers with a fixed term contract that their contract is about to end. The ECCC considers that customers should be made aware that their fixed term contract is about to end but seeks feedback on whether this matter should be addressed in the Code or | Horizon Power recommends that if there is evidence of any issue here it should be dealt with in the Contract Regulations rather than the Code. |

| Question | | ERA's Rationale | Horizon Power Response |
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| | of the NERR? [1] | whether it would be better placed in the Electricity Industry (Customer Contracts) Regulations 2005. These regulations set out the matters that must be addressed in a contract. | |
| 4 | a) Is the amount of information that must currently be included on a bill appropriate? Could some of the minimum bill items be removed from clause 4.5, or should additional information be included on the bill?<br>b) Should clause 4.5 be amended to allow retailers to provide (some of) the information in different formats for customers who have agreed to receive their bill electronically? | The bill fulfils many different purposes: it provides information about payment, helps customers understand their consumption and how the amount due was calculated, explains how to seek help, and includes administrative matters (such as the account number). To fulfil these different purposes, the Code requires retailers to include around 30 items on their bills. Bills that include too much (complex) information may cause information overload and frustrate customers. However, bills that include too little information can also lead to frustration. For example, if there is not enough information on the bill for the customer to understand how the amount due was calculated or if concessions have been applied correctly.<br>Also, sometimes information overload is not caused by the amount of information on the bill, | Horizon Power receives regular feedback that the bill is difficult to understand. Horizon Power supports any change to reduce the amount of information required on the bill. Again allowing retailers flexibility can be expected to improve customer outcomes.<br><br>Separation of information required for billing, ie bill calculation and payment from that of secondary importance is desirable. Where information is likely to be sought through digital means, such as average energy use, phone numbers, concession types, then this information should be moved off the bill onto digital sources. |

[1] 48 Retailer notice of end of fixed term retail contract (1) This rule applies to a fixed term retail contract. (2) A retailer must, in accordance with this rule, notify a small customer with a fixed term retail contract that the contract is due to end. (3) The notice must be given no earlier than 40 business days and no later than 20 business days before the end date of the contract. (4) The notice must state:
(a) the date on which the contract will end; and (b) details of the prices, terms and conditions applicable to the sale of energy to the premises concerned under a deemed customer retail arrangement; and (c) the customer's options for establishing a customer retail contract (including the availability of a standing offer); and (d) the consequences for the customer if the customer does not enter into a customer retail contract (whether with that or another retailer), including the entitlement of the retailer to arrange for the de-energisation of the premises and details of the process for de-energisation. (5) The retailer is not required to give the notice where the customer has already entered into a new contract with the retailer, or has given instructions to the retailer as to what actions the retailer must take at the end of the contract.(6) A retailer must, for a fixed term retail contract, include a term or condition to the effect that the retailer will:(a) notify the customer that the contract is due to end; and (b) give such notice no earlier than 40 business days and no later than 20 business days before the end of the contract.

| Question | | ERA's Rationale | Horizon Power Response |
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| | | but by the way the information is presented or by the terminology that is used. Increasing digitalisation could address some of these issues. For example, for electronic bills, retailers could provide detailed or complex information by including a link on the bill to the information instead of including the information on the bill itself. Although digitalisation offers many new opportunities, not all customers are, or will be, digitally enabled. Customers who do not have, or have only limited, access to digital technology should not miss out on important information because the information is only available in a digital format. The ECCC seeks comment as to whether the amount of information that must currently be included on a bill is appropriate. Could some of the bill items be removed from clause 4.5, or should additional information be included on the bill?<br>The ECCC also invites comment on whether clause 4.5 should be amended to allow retailers to provide (some of) the information in different formats for customers who have agreed to receive their bill electronically | |
| 5 | Should the Code be amended to require retailers to offer a payment extension and an instalment plan to all residential customers? | The Code currently requires retailers to offer a payment extension and an instalment plan to residential customers who have been assessed by the retailer as experiencing payment difficulties or financial hardship. Customers can choose which payment arrangement they prefer. Under the Victorian Energy Retail Code, all residential customers are entitled to at least three | Horizon Power had previously provided feedback on this issue, whereby this regulation actually leads to a poorer customer engagement. The key point being credit officers understand a customers situation and are confusing and annoying customers when having to offer both options when it is clear only one is suitable. There appears to be no evidence or requirement for additional regulation. |

| Question | | ERA's Rationale | Horizon Power Response |
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| | | of the following four payment options: making payments of an equal amount over a specified period<br>• options for making payments at different intervals<br>• extending by a specified period the pay-by date for a bill for at least one billing cycle in any 12 month period<br>• paying for energy use in advance<br>The retailer may choose which three of the four options they offer. Customers can access the assistance simply by asking for it; they do not need to be in debt.<br><br>An advantage of the Victorian framework is that, by establishing an entitlement to assistance, it may be clearer for customers what their rights are. This may encourage them to take early action to avoid getting (further) into debt.<br>A disadvantage of the Victorian framework is that retailers may choose which three of the four payment options they offer to their customers. Retailers could, for example, choose to only offer bill smoothing, a payment extension and payment in advance. If the Code is amended consistent with the Victorian framework, some customers could receive less assistance than they are currently entitled to under the Code.<br>The ECCC does not propose any changes to the payment assistance that customers currently are entitled to under the Code. However, the ECCC seeks comment on whether retailers should | Additional regulation will have unintended and undesirable consequences for customers. |

| Question | | ERA's Rationale | Horizon Power Response |
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| | | have to offer this assistance to all residential customers, not only those that have been assessed as experiencing payment difficulties or financial hardship.<br><br>Offering the assistance to all residential customers would ensure no customers are denied assistance. It would also remove the need for retailers to assess, under clause 6.1(1), if the customer is experiencing payment difficulties. | |
| 6 | Should the Code be amended to require retailers to offer bill smoothing to all residential customers as a form of assistance? | Bill smoothing is one of the payment options retailers may offer under the Victorian Energy Retail Code.<br><br>Bill smoothing involves a retailer spreading, or 'smoothing', a customer's estimated electricity costs throughout the year with smaller, regular payments. It is similar to an instalment plan but, while an instalment plan is generally entered into for a defined period and usually includes repayment of outstanding debt, a bill smoothing arrangement is generally for an undefined period and does not involve repayment of debt. | Attempt to regulate retailers offering of bill smoothing has led to the unintended consequence of no retailer offering bill smoothing as it is simply too costly and difficult to comply.<br><br>Horizon Power offers a number of different types of direct debit by instalments which provides for the same outcome.<br><br>There appears little point in increasing regulatory burden when the desired outcome is in place. |
| 7 | Should the Code be amended to require retailers to offer an instalment plan to customers who the retailer otherwise considers are | Retailers currently only have to offer a payment extension and an instalment plan to customers who have been assessed by their retailer as experiencing payment difficulties or financial hardship. A retailer only has to undertake an assessment if the customer informs the retailer that the customer is experiencing payment problems. | |

| Question | | ERA's Rationale | Horizon Power Response |
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| | experiencing repeated difficulties in paying their bill or require payment assistance? | The NECF requires retailers to offer an instalment plan not only to customers who are hardship customers or who have informed their retailer that they are experiencing payment difficulties, but also if 'the retailer otherwise believes the customer is experiencing repeated difficulties in paying the customer's bill or requires payment assistance'.<br><br>NECF retailers must therefore take a more proactive approach in identifying customers who may be experiencing payment difficulties or financial hardship. Such a proactive approach may help prevent customers from getting into severe hardship. Proactive identification could, for example, consist of automated account monitoring or the use of debt triggers | |
| 8 | a) Should retailers continue to be able to amend a customer's instalment plan without the customer's consent?<br>or<br>b) Should clauses 6.4(2) and (3) of the Code be amended to clarify that a retailer cannot amend an instalment plan without:<br>(i) consulting the customer? | The current drafting of clauses 6.4(2) and (3)(b) implies that a retailer can amend a customer's instalment plan without the customer's consent. Amendments to an instalment plan can benefit a customer. For example, if a retailer adds a future bill to the instalment plan without the customer having to ask for this. The customer will not have to pay the bill in full by the due date but can spread payment as part of their instalment plan.<br>Amendments without a customer's consent can, however, also leave a customer worse off. For example, if the instalment amount increases as a result of the amendment, the customer would | Horizon Power does not amend instalment plans without customer consent. The current Code appears to cover this requirement in clause 6.4 (2) … a customer accepts … |

| Question | | ERA's Rationale | Horizon Power Response |
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| | or<br>(ii) obtaining the customer's consent? | have to pay more than agreed. If the customer does not have sufficient funds in their account, the customer could incur additional costs, such as dishonour fees.<br><br>Although retailers must inform customers of an amendment at least five business days before the amendment takes effect, there is no requirement to consult with, or seek a customer's consent, before the amendment takes effect. A requirement to consult with, or seek a customer's consent of an amendment, would more likely result in an instalment plan that is fair and reasonable' and takes account of the 'customer's capacity to pay and consumption history | |
| 9 | Should the Code be amended to include one or more of the assistance measures that Victorian retailers must offer to their customers under clauses 77 to 83 of the Victorian Energy Retail Code? | Retailers must make additional assistance available to customers who are experiencing financial hardship, including:<br>• Giving reasonable consideration to a request by a customer to reduce fees, charges or debt.<br>• Giving reasonable consideration to a request by a customer for a change to their payment arrangement. This includes a request for an instalment plan (if the customer previously requested a payment extension) or an amendment to their existing instalment plan.<br>• Giving a customer relevant information, including information about concessions, financial counselling services and payment methods | As a GTE, Horizon Power provides additional assistance in accordance with the Hardship Policy endorsed by the ERA.<br><br>There appears little point in increasing regulatory burden when the desired outcome is in place with the Hardship Policy and as required government direction. |

| Question | | ERA's Rationale | Horizon Power Response |
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| | | The Victorian Energy Retail Code also requires retailers to provide additional assistance to customers who are struggling to pay their bill. The assistance must be provided to any customer who is in arrears.<br>Assistance available under the Victorian Energy Retail Code includes:<br>• Instalment plans that allow the customer to repay arrears over (up to) two years. The customer may nominate the terms of the plan.<br>• Advice about different payment options that may help lower the customer's arrears.<br>• Advice about the likely costs of the customer's future electricity use and how this cost may be lowered.<br>• Advice about concessions.<br>• Practical assistance to help the customer lower their electricity costs, such as alternative tariffs or energy audits.<br>• Putting repayment of arrears on hold, and paying less than the full cost, for 6 months or more.<br>• The retailer proactively proposing an amendment to an instalment plan if the customer has missed a payment under their current plan. | |
| 10 | Should clause 6.7 be amended:<br>a) by providing that a retailer must give reasonable consideration to offering a | Customers who are experiencing financial hardship and who cannot meet the conditions of their payment extension or instalment plan may request a change to their payment arrangement. A retailer does not have to offer to change the arrangement; a retailer only has | Horizon Power attempts to be fair and reasonable taking into account customer circumstances.<br><br>The intent of this regulation needs to be clear before a solution can be found. When is it appropriate to disconnect for non-payment? Can a customer continue to |

| Question | | ERA's Rationale | Horizon Power Response |
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| | (revised) instalment plan if the customer informs a retailer that they cannot meet the conditions of their payment extension or instalment plan?<br>or<br>b) by providing that a retailer must offer a (revised) instalment plan if the customer reasonably demonstrates to a retailer that the customer cannot meet the conditions of their payment extension or instalment plan?<br>or<br>c) consistent with clause 30(4)(b) of the Water Code? | to 'give reasonable consideration to' making an offer if the customer 'reasonably demonstrates' to the retailer that the customer is unable to meet their obligations. It could be argued that the words 'give reasonable consideration to' and 'reasonably demonstrates' unnecessarily limit customers' access to this protection. Even if a customer reasonably demonstrates that they cannot meet the conditions of their arrangement, a retailer does not have to offer to change the arrangement.<br>To improve access to the protection, the ECCC seeks feedback on whether the Code should be amended so:<br>• Retailers must continue to give reasonable consideration to a change in the arrangement, but customers no longer have to reasonably demonstrate that they cannot meet the conditions of their arrangement.<br>or<br>• Retailers must offer to change the arrangement if the customer reasonably demonstrates that they cannot meet the conditions of their arrangement.<br>Another option is to amend the Code consistent with clause 30(4)(b) of the Water Services Code of Conduct (Customer Service Standards) 2018, which provides:<br>[…] the licensee must […] at the customer's request, review how the customer is paying the bill under a payment plan or other arrangement entered into under subclause (2) and, if the review | break payment arrangements and increase their debt without end?<br><br>A clear statement of when disconnection for customers in hardship can occur will be most effective. |

| Question | | ERA's Rationale | Horizon Power Response |
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| | | indicates that the customer is unable to meet obligations under the plan or arrangement, revise it; and<br>An advantage of the Water Code is that it creates a clear entitlement for customers. A disadvantage is that it would require retailers to always revise an instalment plan if the customer is unable to meet their obligations, even if the customer has already been offered multiple plans previously | |
| 11 | Should the Code prohibit disconnection of an affected customer's supply address?<br>b) If so, what period should disconnection action be prohibited for? | Draft recommendation 104 is that, as a minimum, a retailer's family violence policy must require the retailer to take an affected customer's circumstances into account before disconnection. The ECCC is considering whether further protections are needed, in particular whether a retailer should be temporarily prevented from disconnecting an affected customer.<br>For an affected customer, their electricity supply can be essential for the operation of important safety measures such as home security systems. Prohibiting retailers from disconnecting an affected customer would also provide the customer additional time to pay their bill and may assist the customer by providing time to seek help and support from external support services.<br><br>There may be disadvantages to prohibiting retailers from disconnecting an affected customer.<br>A disconnection warning can serve as a prompt for a customer to contact their retailer, at | Similar to the above, disconnection is a last resort but is often required to force a customer to contact us for support. A clear statement of when disconnection for customers in hardship can occur will be most effective. |

| Question | | ERA's Rationale | Horizon Power Response |
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| | | which point a retailer can advise the customer of the assistance available. A prohibition on disconnection may mean customers delay contact with their retailer, and subsequently, do not have this crucial conversation with their retailer. If the Code were to prohibit a retailer from disconnecting an affected customer, the ECCC would also need to consider how long the prohibition should stay in place. An extended prohibition, without a prompt to contact the customer's retailer, may lead to an affected customer's debt rising to a level that is unmanageable. | |

# 2019/22 review of the Code of Conduct for the Supply of Electricity to Small Use Customers 2018 (Code): Horizon Power response

| DRAFT RECOMMENDATION | RESPONSE TO ECCC |
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| **Draft recommendation 1 – Parliamentary Counsel's Office (PCO)**<br>Request the PCO to review the drafting of the Code to improve clarity. | Supported |
| **Draft recommendation 2 – Provision of information**<br>Provide that a retailer, distributor or electricity marketing agent has to give information on request to a customer:<br>• May either give the information to the customer or, if the information is available on its website, refer the customer to its website.<br>• Must give the information, if the customer requests the information is given. | Supported |
| **Draft recommendation 3 – Provision of information by electronic means**<br>Delete the words 'or by electronic means' in clauses 6.4(3)(a), 6.4(3)(b), 9.3(5) and 9.4(1)(a) of the Code. | Supported |
| **Draft recommendation 4 – TTY Services**<br>Replace 'TTY services', in clauses 2.2(2)(g)(ii), 2.3(2)(h)(ii), 4.5(1)(cc), 6.10(2)(h)(iii), 9.3(2)(m), 10.11(1) and 10.11(2)(a) of the Code, with a reference to services that assist customers with a speech or hearing impairment . | Supported |
| **Draft recommendation 5 – when information is given**<br>Amend clause 2.2(2) of the Code to be consistent with clause 2.2(2) of the Gas Marketing Code. | Supported |
| **Draft recommendation 6 - Concessions**<br>Amend clauses 2.2(2)(e) and 2.3(2)(f) of the Code to be consistent with clauses 2.2(2)(e) and 2.3(2A)(e) of the Gas Marketing Code, respectively. | Supported |
| **Draft recommendation 7 – Interpreter Information**<br>Amend clauses 2.2(2)(g) and 2.3(2)(h) of the Code to be consistent with clauses 2.2(2)(g) and 2.3(2A)(g) of the Gas Marketing Code, respectively. | Supported |
| **Draft recommendation 8 – consent to enter into a non-standard contract** | Supported |

| DRAFT RECOMMENDATION | RESPONSE TO ECCC |
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| Consent to enter into a non-standard contract.<br>Amend clause 2.3(1)(a) of the Code to be consistent with clause 2.3(1)(a) of the Gas Marketing Code. | |
| **Draft Recommendation 9 – Information to be given before entering into a non-standard contact**<br>Amend clauses 2.3(2)(b) to (e) and (g) to (j) of the Code to be consistent with clause 2.3(2A) of the Gas Marketing Code. | Supported |
| **Draft recommendation 10 – Verifiable confirmation**<br>a) Amend clause 2.3(5) of the Code to be consistent with clause 2.3(4) of the Gas Marketing Code<br>b) Amend clause 1.5 of the Code to insert a definition of verifiable confirmation, consistent with the definition of verifiable confirmation in the Gas Marketing Code. | Supported |
| **Draft recommendation 11 - Wearing an identity card**<br>Amend clause 2.5(2)(a) of the Code by replacing 'wear' with 'display'. | Supported |
| **Draft recommendation 12 – Obligation to forward connection application (definition of customer including customer's representative)**<br>Delete clause 3.1(3) of the Code. | Supported |
| **Draft recommendation 13 – billing cycle**<br>a) Replace clauses 4.1(a) and (b)(i) of the Code with rules 24(1) and (2) of the NERR but replace:<br>– 'retailer's usual recurrent period' with 'customer's standard billing cycle' in rule 24(2).<br>– 'explicit informed consent' with 'verifiable consent' in rule 24(2).56<br>b) Retain clause 4.1(b)(ii) of the Code but replace 'metering data' with 'energy data'.<br>c) Retain clause 4.1(b)(iii) of the Code | Agreed – Horizon Power also believes customers should retain the option to agree to extend billing periods within a standard form contract. |
| **Draft recommendation 14 – Shortened billing cycle**<br>a) Replace clauses 4.2(1) and (2) of the Code with rule 34(2) of the NERR:<br>– except for sub-rules (2)(c)(i) to (v); instead insert clauses 4.2(1)(a) to (d) of the Code and amend clause 4.2(1)(a) by inserting 'or disconnection warning' after 'reminder notice'.<br>– but retain the requirement that customers may only be placed on a shortened billing cycle without their verifiable consent after 3 reminder notices (instead of 2).<br>– but clarify that the information in rule 34(2)(c) must have been given before the retailer gives the customer a reminder notice or disconnection warning for the third consecutive bill. | Supported |

| DRAFT RECOMMENDATION | RESPONSE TO ECCC |
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| b) Replace clause 4.2(3) of the Code with rule 34(3) of the NERR but remove 'without a further reminder notice' from sub-rule (c).<br>c) Retain clauses 4.2(4), (5) and (6) of the Code. | |
| **Draft recommendation 15 – Bill Smoothing**<br>- Delete clause 4.3.<br>- Insert a new clause that requires retailers to inform customers who have supported to be billed "on any other method", in writing of the method they have supported to. The information must be provided before the arrangement commences. | Supported to delete clause 4.3.<br>Not supported to advise in writing as this is typically agreed over the phone. Additional administration for little customer value is a barrier to offering desirable new products. If a customer request the information in writing it should of course be provided |
| **Draft recommendation 16 – Payment methods**<br>Amend clause 4.5(1)(r) of the Code to be consistent with clause 4.5(1)(p) of the Compendium of Gas Customer Licence Obligations. | Supported |
| **Draft recommendation 17 – Interpreter services**<br>Amend clause 4.5(1)(bb) of the Code to be consistent with clause 4.5(1)(z) of the Compendium of Gas Customer Licence Obligations | Supported |
| **Draft recommendation 18 – Customer's name**<br>Insert a new subclause, in clause 4.5 of the Code, consistent with clause 4.5(4)(a) of the Compendium of Gas Customer Licence Obligations | Supported |
| **Draft recommendation 19 – TTY services**<br>Amend clause 4.5(1)(cc) of the Code so the telephone number for TTY services only has to be included on residential customer bills. | Supported |
| **Draft recommendation 20 – Basis of bill** | Supported |

| DRAFT RECOMMENDATION | RESPONSE TO ECCC |
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| a) Replace clause 4.6(a) of the Code with rule 20(1)(a)(i) of the NERR but:<br>- replace "metering data" with "energy data".<br>- replace "metering coordinator" with "distributor or metering data agent".<br>- remove "and determined in accordance with the metering rules".<br>b) Delete clause 4.6(b) of the Code<br>c) Replace clause 4.6(c) of the Code with rule 20(3) of the NERR but replace 'applicable energy laws' with 'the metrology procedure, the Metering Code or any other applicable law'.<br>d) Adopt rule 20(1)(a)(iii) of the NERR. | |
| **Draft recommendation 21** – **Frequency of meter readings**<br>Retain clause 4.7 but incorporate in clause 4.6 of the Code. | Supported |
| **Draft recommendations 22 – Metering data**<br>Replace 'metering data' with 'actual value' in clause 4.7 of the Code; and define actual value by reference to the Electricity Industry Metering Code 2012. | Supported |
| **Draft recommendation 23 – agreement between retailer and customer on billing method**<br>Clarify that clause 4.7 does not apply if the bill is based on a method supported between the customer and the retailer. | Supported |
| **Draft recommendation 24** – **Estimations**<br>Delete clause 4.8(1) of the Code. | Supported |
| **Draft recommendation 25 - Adjustments to subsequent bills**<br>Delete clause 4.9 of the Code. | Supported |
| **Draft recommendation 26 – Obligation to replace estimated bill**<br>a) Replace the requirement, in clause 4.10 of the Code, for a retailer to use best endeavours with an absolute obligation to replace an estimated bill with a bill based on an actual meter reading. | Not supported. Horizon do not see the value of this change |
| **Draft recommendation 27 – Actual reading of customer's meter**<br>Replace 'an actual reading of the customer's meter', in clause 4.10(1) of the Code, with 'an actual value | Supported |
| **Draft recommendation 28 - Customer requests testing of meters or metering data** | Supported |

| DRAFT RECOMMENDATION | RESPONSE TO ECCC |
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| **a)** Replace clause 4.11(1) of the Code with rule 29(5)(a) of the NERR but:<br>- replace "meter reading or metering data" with "energy data".<br>- retain clause 4.11(1)(b) and add the words "checking the energy data".<br>- replace 'responsible person or metering coordinator (as applicable)' with 'distributor or metering data agent' in sub-rule (5)(a)(ii)<br>b) Amend clause 4.11(2) of the Code to take account of the fact that customers may also request a check of the energy data.<br>(c) Incorporate amended clause 4.11 into clause 4.15 of the Code (Review of bill). | |
| **Draft recommendation 29 – customer applications for changed tariff**<br>b) Replace clause 4.12 of the Code with rules 37(1) and (2) of the NERR but clarify that transfer refers to a transfer in sub-rule 1. | Supported |
| **Draft recommendation 30 – Written notification of a change to an alternative tariff – change in electricity use**<br>a) Delete clause 4.13(a) of the Code.<br>b) Delete the words 'more beneficial' from clause 4.13(b) of the Code.<br>c) Delete reference to a customer's use of electricity at the supply address from clause 4.13 of the Code | Supported |
| **Draft recommendation 31 - Written notice**<br>Delete the requirement that notice must be written from clause 4.13 of the Code | Supported |
| **Draft recommendation 32 – request for final bill**<br>Replace clause 4.14(1) of the Code with rule 35(1) of the NERR. | Not Supported. There may be situations where the customer's request for a final bill is unreasonable. |
| **Draft recommendation 33 – Written notice**<br>Delete the requirement that notice must be 'written' from clause 4.14(3) of the Code. | Supported |
| **Draft recommendation 34 – payment for outstanding amounts**<br>a) Adopt rule 29(6)(b)(ii) of the NERR.<br>b) Amalgamate clauses 4.15 and 4.16 of the Code. | Supported |

| DRAFT RECOMMENDATION | RESPONSE TO ECCC |
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| **Draft recommendation 35 - Electricity Ombudsman (bill review)**<br>Replace "any applicable external complaints handling processes", in clause 4.16(1)(a)(iii) of the Code, with "the electricity ombudsman". | Supported |
| **Draft recommendation 36 - Undercharging**<br>a) Delete clause 4.17(1) of the Code.<br>b) Replace clauses 4.17(2) and (4) of the Code with rules 30(1) to (3) of the NERR but:<br>- replace '9 months' with '12 months' in rule 30(2)(a) of the NERR.<br>- except for rule 30(2)(b) of the NERR; instead insert clause 4.17(2)(d) of the Code<br>- amend rule 30(2)(d) of the NERR to provide that instalment plans only have to be offered to residential customers and must meet the requirements of<br>- clause 6.4(2) of the Code. | Review drafting before final comments |
| **Draft recommendation 37 – Overcharging**<br>- Delete clause 4.18(1) of the Code.<br>- Replace clause 4.18(2) of the Code with rule 31(1) of the NERR but retain the requirement that retailers must ask customers for instructions if the credit is more than the threshold amount.<br>- Replace clauses 4.18(3) and (4) of the Code with rule 31(2) of the NERR but retain the timeframes for:<br>- retailers refunding the amount in accordance with the customer's instructions.<br>- customers responding to retailer's request for instructions.<br>- Replace clause 4.18(5) of the Code with rule 31(4) of the NERR.<br>- Replace clause 4.18(6) of the Code with rule 31(3) of the NERR but retain the option for retailers to ask customers for instructions if the credit is less than the threshold amount.<br>- Adopt rule 31(5) of the NERR.<br>- Adopt rule 31(6) of the NERR but:<br>- retain the threshold amount at $100.<br>- do not adopt the words "or such other amount as the AER determines under sub-rule (7)".<br>Clarify that clause 4.18 applies from the time a retailer becomes aware of an overcharge or, if the overcharge is the result of an estimation carried out in accordance with the Electricity Industry Metering Code 2012, from the time the retailer receives an actual value from the distributor. The actual value must be based on a meter reading undertaken in accordance with clause 5.4(1A)(b) of the Metering Code | Review drafting before final comments |
| **Draft recommendation 38 – written notice** | Supported |

| DRAFT RECOMMENDATION | RESPONSE TO ECCC |
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| Delete the requirement that notice must be 'written' from clause 4.18(7) of the Code. | |
| **Draft recommendation 39 – Adjustments**<br>a) Delete clause 4.19 of the Code.<br>Consequential amendments<br>b) Delete the definition of "adjustment" in clause 1.5 of the Code.<br>c) Amend the definition of "overcharging", in clause 1.5 of the Code, to provide that an overcharge is the amount charged that is more than the amount that would have been charged if the bill had been based on an actual value.<br>d) Amend the definition of 'undercharging', in clause 1.5 of the Code, to provide that an undercharge is the amount charged that is less than the amount that would have been charged if the bill had been based on an actual value determined in accordance with clause 5.4(1A)(b) of the Electricity Industry Metering Code 2012 | Supported |
| **Draft recommendation 40 – due dates for payment**<br>a) Replace clause 5.1(1) of the Code with rule 26 of the NERR but retain the right of customers to agree to a different minimum due date.<br>b) Delete clause 5.1(2) of the Code.<br>Consequential amendments<br>c) Amend clause 1.5 of the Code to insert a definition of 'bill issue date' consistent with the definition of bill issue date in rule 3 of the NERR.<br>Insert a new paragraph, in clause 4.5(1) of the Code, consistent with rule 25(1)(e) of the NERR. | Review drafting before final comments |
| **Draft recommendation 41 – Minimum payment methods**<br>Replace clause 5.2 of the Code with rule 32(1) of the NERR but:<br>- do not adopt rule 32(1)(e) of the NERR.137<br>- retain the requirement that the customer must be able to pay in person at one<br>- or more payment outlets within the customer's Local Government District<br>- (clause 5.2(a) of the Code).138<br>- retain Centrepay as a minimum payment method for all residential customers<br>- (clause 5.2(c) of the Code).139<br>- – retain the ability for retailers and customers to agree otherwise. | Supported |
| **Draft recommendation 42 – Direct debit**<br>Delete clause 5.3 of the Code. | Supported |

| DRAFT RECOMMENDATION | RESPONSE TO ECCC |
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| **Draft recommendation 43 – Payment in Advance**<br>a) Amend clause 5.4 of the Code to be consistent with clause 5.4 of the Compendium of Gas Customer Licence Obligations.<br>Consequential amendment<br>b) Amend clause 1.5 of the Code to insert a definition of 'maximum credit amount' consistent with the definition of maximum credit amount in clause 1.3 of the Compendium of Gas Customer Licence Obligations. | Supported |
| **Draft recommendation 44 – Absence or Illness**<br>Retain clause 5.5 of the Code but:<br>- remove the words "if a residential customer is unable to pay by way of the methods described in clause 5.2, due to illness or absence"<br>- replace the requirement to offer redirection of the bill, with a requirement to redirect the bill.<br>- Replace the words 'third person' with 'different address'. | Supported |
| **Draft recommendation 45 - Vacating a Supply Address**<br>Delete clause 5.7(4)(c) of the Code. | Supported |
| **Draft recommendation 46 - definitions of payment difficulties and financial hardship**<br>a) Amend the definition of 'financial hardship', in clause 1.5 of the Code, by replacing 'more than immediate' with 'long term'.<br>b) Amend the definition of 'payment difficulties', in clause 1.5 of the Code, by replacing 'immediate' with 'short term'. | Supported |
| **Draft recommendation 47 – Referral to relevant consumer representatives**<br>a) Delete clause 6.1(1)(b) of the Code.<br>b) Delete clause 6.2 of the Code. | Supported |
| **Draft recommendation 48 – Assessment to remain valid** | Supported |

| DRAFT RECOMMENDATION | RESPONSE TO ECCC |
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| **Draft recommendation 49 – available assistance: concession information** | Review drafting before final comments |
| **Draft recommendation 50 – offering a payment extension and instalment plan**<br>Amend clause 6.4(1) of the Code to clarify that retailers must offer customers additional time to pay their bill and an instalment plan; where the customer may choose with option they prefer. | Support use of 'AND/OR' rather than 'AND' as this requires customers to be offered both options when clearly they have asked for one or the other. |
| **Draft recommendation 51 – Minimum requirements for instalment plans**<br>Replace clause 6.4(2)(a) of the Code with a requirement that retailers must ensure that an instalment plan is fair and reasonable and has regard to:<br>– the customer's capacity to pay;<br>– any arrears owing by the customer; and<br>– the customer's expected electricity consumption needs over the duration of the instalment plan | Supported |
| **Draft recommendation 52 – In writing**<br>a) Amend clause 6.4(3)(a) of the Code to provide that the information must be provided in writing, unless the information has already been provided in the previous 12 months.<br>b) Delete the requirement that information must be provided 'in writing or by electronic means' from clause 6.4(3)(b) of the Code. | Supported |

| DRAFT RECOMMENDATION | RESPONSE TO ECCC |
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| **Draft recommendation 53 – Provision of information: different types of meters**<br>Amend clause 6.8(d) of the Code by deleting reference to meters. | Supported |
| **Draft recommendation 54 - Minimum payment in advance amount for customers experiencing payment difficulties or financial hardship**<br>Delete clause 6.9 of the Code. | Supported |
| **Draft recommendation 55 - Hardship policy and hardship procedures - hard print copies**<br>Amend clause 6.10(2)(j) of the Code so only hard-copies of the hardship policy have to be made available in large print. | Supported |
| **Draft recommendation 56 - Review of Hardship policy**<br>Amend clause 6.10(6) of the Code by deleting the words 'within 5 business days after it is completed'. | Supported |
| **Draft recommendation 57 – Amendment of Hardship policy**<br>Amend clause 6.10(8) of the Code by deleting the words 'within 5 business days of the amendment'. | Supported |
| **Draft recommendation 58 – Instalment plans and concessions**<br>a) Replace clause 7.2(1)(b) of the Code with rule 116(1)(d) of the NERR but do not adopt the words 'is a hardship customer or residential customer and'.<br>b) Replace clause 7.2(1)(d) of the Code with rule 116(1)(e) of the NERR but replace the words 'a rebate, concession or relief available under any government funded energy rebate, concession or relief scheme' with 'a concession' | Supported |
| **Draft recommendation 59 – minimum disconnection amount**<br>a) Replace 'an amount approved and published by the Authority in accordance with subclause (2)' with '$300' in clause 7.2(1)(c) of the Code.<br>b) Delete clause 7.2(2) of the Code. | Supported |
| **Draft recommendation 60- Access for reasons other than a meter reading** | Supported |

| DRAFT RECOMMENDATION | RESPONSE TO ECCC |
|---|---|
| Adopt rule 113(2) of the NERR but:<br>– do not adopt the words 'in accordance with any requirement under the energy laws or otherwise'.<br>– extend the application of the clause to distributors | |
| **Draft recommendation 61 – Clarification**<br>Clarify that the protections of clauses 7.4(1)(c) to (e) of the Code must be met before a disconnection warning may be issued. | Supported |
| **Draft Recommendation 62 – General limitations on disconnection**<br><u>Retailers</u><br>a) Adopt rule 116(1)(a) of the NERR.<br><u>Distributors</u><br>b) Adopt rule 120(1)(a) of the NERR.<br>c) Replace clause 7.6(2)(b) of the Code with rule 120(1)(e) of the NERR but retain the ability for distributors to disconnect business customers during the protected period if the business's trading hours are only during that period and it is not practicable to disconnect at any other time.179<br>d)Retailers and distributors d) Replace clause 7.6(3) of the Code with rules 116(3), 120(2) and 120(3)(a) and (b) of the NERR.<br>Consequential amendment<br>e) Amend clause 1.5 of the Code to insert a definition of 'protected period', consistent with the definition of protected period in rule 108 of the NERR. | Supported |
| **Draft Recommendation 63 – Provision of information after registering**<br>a) Adopt rules 124(1)(b)(iv), (v) and (vi) of the NERR but:<br>– specify that the information has to be provided within 5 business days of the retailer registering the customer's supply address as a life support equipment address, rather than of 'receipt of advice from the customer'.<br>– amend rule 124(1)(b)(v) so retailers have to recommend customers to prepare a plan of action to deal with an unplanned interruption.<br>– specify that the telephone service does not have to be available to mobile phones at the cost of a local call.<br>b) Delete clause 7.7(4)(a) of the Code. | Supported |
| **Draft recommendation 64** | Not Supported as this is too open to abuse |

| DRAFT RECOMMENDATION | RESPONSE TO ECCC |
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| **Moving into a supply address -** Amend clause 7.7(1) of the Code by allowing customers to register a supply address as a life support equipment address before they move in. | |
| **Draft recommendation 65**<br>**Timeframes for registering customer details**<br>Amend clause 7.7(1) and (2) of the Code by providing that the timeframes for acting on information also apply to the registration requirements. | Supported |
| **Draft recommendation 66 – Information from relevant government agency**<br>a) Amend clause 7.7(3) of the Code by removing the words 'or by a relevant government agency'.<br>b) b) Delete clause 7.7(3)(b) of the Code. | Supported |
| **Draft recommendation 67 – Information to be provided when seeking re-certification or confirmation**<br>Amend clause 7.7(7)(b) of the Code by specifying that the following information must be included in the written correspondence to the customer:<br>– the date by which the customer must provide re-certification or confirm that a person residing at the supply address still requires life support equipment;<br>– that the retailer will deregister the customer's supply address if the customer does not provide the required information or informs the retailer that the person at the supply address no longer requires life support equipment; and<br>– that the customer will no longer receive the protections under the Code when the supply address is deregistered. | Supported |
| **Draft recommendation 68 – Retailer to advise distributor of de-registration**<br>Amend clauses 7.7(7)(a) and (c) of the Code to provide that:<br>if a customer informs a retailer that:<br>- a person who requires life support equipment has vacated the supply aa person who required life support equipment, no longer requires the life support equipment; or<br>- has failed to provide the information requested by a retailer under clause 7.7(6)(a)(i) or re-certification under clause 7.7(6)(a)(ii), within the time period specified by the retailer, the retailer must:<br>- remove the customer's supply address from its life support equipment address register within the timeframes set out in clauses 7.7(7)(a)(iv) and<br>- notify the customer's distributor within the timeframes set out in clause 7.7(7)(c). | N/A |

| DRAFT RECOMMENDATION | RESPONSE TO ECCC |
|---|---|
| - upon notification by the retailer, the distributor must remove the customer's supply address from its life support equipment address register within the timeframes set out in clauses 7.7(7)(a)(iv) and (v).<br>- the retailer's and distributor's obligations under clauses 7.7(1) to (6), and clause 7.6 (to the extent that it provides a retailer or distributor must not disconnect a life support equipment address), terminate from the time the retailer or distributor has removed the customer's supply address from their life support equipment address register. | |
| **Draft recommendation 69 – reconnection by retailer**<br>a) Replace clause 8.1(1) of the Code with rule 121(1) of the NERR but:<br>– do not adopt the requirement that a customer must rectify the issue and request reconnection within 10 business days.<br>– retain clause 8.1(1)(e)(ii) of the Code.<br>– do not adopt the words 'in accordance with any requirements under the energy laws' and 'or arrange to re-energise the customer's premises remotely if permitted under energy laws'.<br>b) Retain clauses 8.1(2)200 and (3)201 of the Code. | Supported |
| **Draft recommendation 70 -reconnection by distributor**<br>a) Replace clause 8.2(1) of the Code with rule 122(1) of the NERR except for the words 'in accordance with the distributor service standards'.<br>b) Adopt rule 122(2) of the NERR except for:<br>- the requirement that a customer must rectify the issue and request reconnection within 10 business days.<br>– the words 'in accordance with the distributor service standards'.<br>c) Retain clauses 8.2(2) and (3) of the Code. | NA |
| **Draft recommendation 71 - Reversion**<br>Delete clause 9.4(1)(a) from the Code. | Supported |
| **Draft recommendation 72 – requirements for pre-payment meters**<br>Amend clause 9.6(a) of the Code to provide that:<br>– A retailer must ensure that a pre-payment meter customer has access to emergency credit of $20 outside normal business hours.<br>– A retailer may only de-energise a pre-payment meter:<br>• during normal business hours, if the customer has no more credit available (regardless of whether the customer still has emergency credit available); or | Supported |

| DRAFT RECOMMENDATION | RESPONSE TO ECCC |
|---|---|
| • at any time, if the customer has no more emergency credit available.<br>– If a retailer has de-energised a pre-payment meter during normal business hours, a retailer does not have to re-energise the meter after business hours if the customer has not made a payment to the account, even if the customer still has all or some emergency credit available. | |
| **Draft recommendation 73 – recharge facilities**<br>Amend clause 9.7(a) of the Code to clarify that retailers must ensure that at least 1 physical recharge facility is located as close as practicable to a pre-payment customer, and in any case no further than 40 kilometres away. | Not Supported. Horizon Power suggests that a physical recharge facility is highly desirable where prepayment is offered. However this will be a constraint in offering this to customers in some situations, particularly where only a handful of customer wish to adopt prepayment in a locality. |
| **Draft recommendation 74 – Information and communication**<br>Adopt rules 56 and 80 of the NERR to the extent that they explain how information must be provided to customers but do not adopt the words 'but information requested more than once in any 12 month period may be provided subject to a reasonable charge' (in rules 56(4) and 80(4)). | Supported. |
| **Draft recommendation 75 – advance notice of tariff changes**<br>a) Adopt rules 46(3), (4)(a), (4A) (except for (4A)(e)),215 (4B)(a), (c) and (e) of the NERR for customers whose tariffs are not regulated, but:<br>- amend rule 46(4A)(f) by deleting the words 'and, if they are being sold electricity, energy consumption data'.<br>- amend rule 46(4B)(a) by deleting the words 'pursuant to rule 46A and section 39(1)(a) of the Law'.<br>b) Amend clause 10.1(1) of the Code so it only applies to customers whose tariffs are regulated. | Review drafting before final comments |
| **Draft recommendation 76 – Maximum timeframe for providing tariff information.**<br>Delete clause 10.1(3) of the Code | Supported |
| **Draft recommendation 77 – Maximum timeframe for providing historical billing data**<br>Delete clause 10.2(3) of the Code. | Supported |
| **Draft recommendation 78 – Minimum timeframe for keeping historical billing data** | Supported |

| DRAFT RECOMMENDATION | RESPONSE TO ECCC |
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| Delete clause 10.2(4) of the Code. | |
| **Draft recommendation 79 – Concessions**<br>Retain clause 10.3 of the Code but:<br>- incorporate into the new, general information provision.<br>- delete the words 'to the residential customer'. | Supported |
| **Draft recommendation 80 – Energy efficiency advice**<br>Retain clause 10.4 of the Code, but incorporate into the new, general information provision (see recommendation 76).<br>insert 'electrical' before 'appliances' in paragraph (b) | Supported. |
| **Draft recommendation 81 - Obligations particular to distributors – general information** | Supported |
| **Draft recommendation 82 – Maximum timeframe for providing historical consumption data**<br>Delete clause 10.7(3) of the Code. | Supported |
| **Draft recommendation 83 – Minimum timeframe for providing historical consumption data**<br>Delete clause 10.7(4) of the Code. | Supported |
| **Draft recommendation 84 – Distribution standards**<br>Retain clause 10.8 of the Code but incorporate into the new, general information provision. | Supported |
| **Draft recommendation 85 – Code of Conduct**<br>Retain clause 10.10 of the Code but incorporate into the new, general information Provision (see draft rec. 74) | Supported |
| **Draft recommendation 86 – Special information needs**<br>Delete clause 10.11(2)(b) of the Code.<br>b) Delete the words 'and the words "Interpreter Services"' from clause 10.11(2)(c) of the Code. | Supported |
| **Draft recommendation 87 – Obligation to establish complaints handling process – responding to complaints**<br>a) Insert the words 'including the obligations set out in [clause …]' in clause 12.1(2)(b)(ii)(B) of the Code.<br>b) Delete clause 12.1(3) of the Code and include a new clause that requires retailers and distributors, when they respond to a complaint, to inform the customer of the information set out in: | Supported |

| DRAFT RECOMMENDATION | RESPONSE TO ECCC |
|---|---|
| - Section 82(4) of the NERL, other than the words 'as soon as reasonably possible but, in any event, within any time limits applicable under the retailer's or distributor's standard complaints and dispute resolution procedures'.<br>- Section 82(5) of the NERL, other than the words 'may make a complaint or' and 'if the customer is not satisfied with the outcome' and provide instead that the information does not have to be provided if the customer has advised the retailer or distributor that the complaint has been resolved in a manner acceptable to the customer. | |
| **Draft recommendation 88 – Removing duplication**<br>Delete clause 12.1(2)(c) of the Code | Supported |
| **Draft recommendation 89 – Compliance with response times for complaints**<br>Move clause 12.1(4) of the Code to a new clause and delete the words 'for the purposes of subclause (2)(b)(iii)' | Supported |
| **Draft recommendation 90 – summary of complaints procedure online**<br>Add the following subclauses to the new, general information provisions:<br>- a summary of the customer's rights, entitlements and obligations under the retailer's or distributor's standard complaints and dispute resolution procedure.<br>- the contact details for the electricity ombudsman. | Supported |
| **Draft recommendation 91 – obligation to comply with guideline that distinguishes customer queries from complaints**<br>Delete clause 12.2 of the Code. | Supported |
| **Draft recommendation 92 - Information Provision**<br>Delete clause 12.3 of the Code. | Supported |
| **Draft recommendation 93 – Performance reporting**<br>Delete Part 13 of the Code. | Supported |
| **Draft recommendation 94 – definition of family violence**<br>Insert a definition of 'family violence' in the Code, being the meaning given in section 5A of the Restraining Orders Act 1997. | Supported |

| DRAFT RECOMMENDATION | RESPONSE TO ECCC |
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| | |
| **Draft recommendation 95 – definition of affected customer**<br>Insert a definition of 'affected customer' in the Code, meaning any residential customer, including a former residential customer, who may be affected by family violence. | Supported |
| **Draft recommendation 96 – Evidence of family violence**<br>A retailer must not request written evidence of family violence from an affected customer unless the evidence is reasonably necessary to enable the retailer to assess appropriate measures that it may take in relation to debt collection or disconnection. | Supported |
| **Draft recommendation 97 - Requirement to have a family violence policy**<br>A retailer must have a family violence policy.<br>b) A retailer must develop its family violence policy in consultation with relevant consumer representatives. | Supported |
| **Draft recommendation 98 – Minimum content of family violence policy**<br>A family violence policy must require a retailer to provide for training of staff about family violence. The training must be developed in consultation with, or delivered by, relevant consumer representatives. | Supported |
| **Draft recommendation 99 – Account security**<br>a) A family violence policy must require a retailer to protect an affected customer's information, including from a person that is or has been a joint account holder with the affected customer.<br>b) A family violence policy must require the retailer to take reasonable steps to establish a safe method of communication with an affected customer and, if that method is not practicable, offer alternative methods of communication.<br>c) A family violence policy must require the retailer to comply with an established safe method of communication, including when other parts of the Code direct how information must be given. | Supported |

| DRAFT RECOMMENDATION | RESPONSE TO ECCC |
|---|---|
| d) A family violence policy must require the retailer to keep a record of the established safe method of communication that has been supported with the affected customer. | |
| **Draft recommendation 100 – Customer service**<br>A family violence policy must require a retailer to have a process that avoids an affected customer needing to repeatedly disclose or refer to their experience of family violence. | Supported |
| **Draft recommendation 101 – Debt management**<br>a) A family violence policy must require the retailer to consider the potential impact of debt collection on the affected customer and whether another person is responsible for the electricity usage that resulted in the debt.<br>b) A family violence policy must require the retailer to consider reducing and/or waiving fees, charges and debt. | Supported |
| **Draft recommendation 102 – publication of family violence policy**<br>Include a requirement for a retailer to publish its family violence policy under the new, general information provision in the Code | Supported |
| **Draft recommendation – 103 – Review of family violence policy**<br>- A retailer must review its family violence policy if directed to do so by the ERA.<br>- The review must be conducted in consultation with relevant consumer representatives.<br>- The retailer must submit the results of its review to the ERA. | Supported |
| **Draft recommendation – 104 – Customer circumstances**<br>A family violence policy must require the retailer to take into account the circumstances of an affected customer before disconnecting the customer's supply address for failure to pay a bill. | Supported |

# Noel Schubert submission

**Noel Schubert**

**29 January 2021**

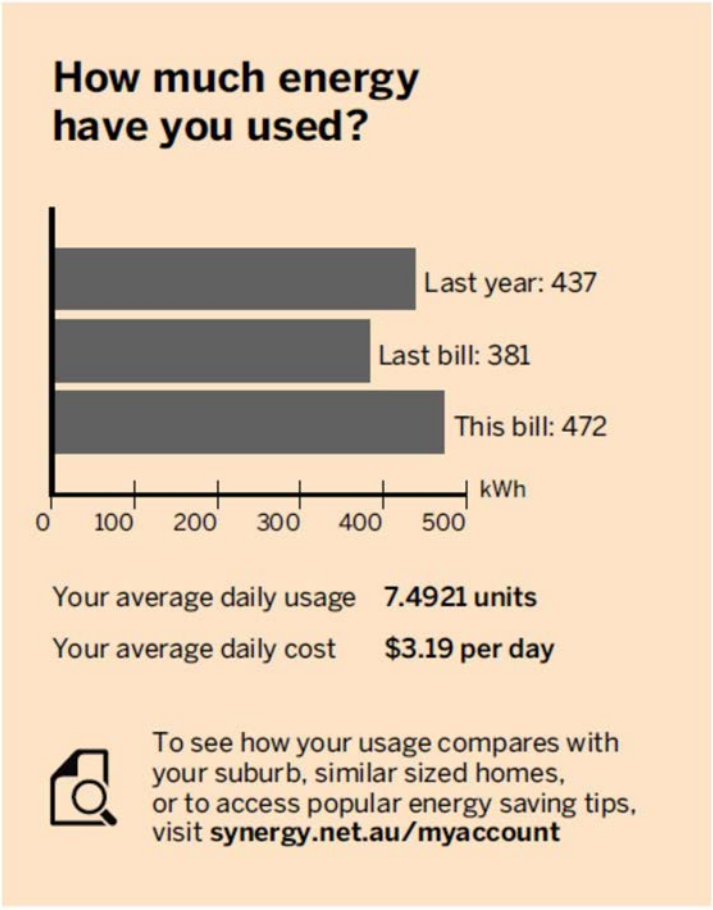
Mr Paul Kelly, Chairman ECCC
Economic Regulation Authority
4th Floor Albert Facey House
469 Wellington Street
Perth 6000

Dear Paul,

**Submission re: Small Use Code Review**

Thank you for the opportunity to comment in this review. I wish to recommend one improvement to Synergy electricity bills.

The following information (example from my last bill) currently displayed on Synergy electricity bills for residential customers is useful. I consider it to be necessary, to inform customers of their daily usage in both usage and cost terms as well as providing a comparison with past usage.



Synergy also provides the following (example) information on these bills.

**New charges**

| **Home Plan (A1) tariff**<br>**Charge period:** 13 Nov 2020 - 14 Jan 2021 | **Units** | **Unit of measure** | **Unit price (cents)** | **Amount** |
|---|---|---|---|---|
| **eConnect** | | | | |
| Residential Anytime consumption | 472.0000 | kWh | 26.2026 | $123.68 |
| Supply charge | 63 | days | 93.9330 | $59.18 |
| Plus GST @ 10.00% | | | | $18.29 |
| **Total new charges** | | | | **$201.15** |

In my view it is a deficiency that this is the only place on the bill that shows the prices per unit for the bill components and they are only shown as GST-exclusive prices and costs rather than the actual final price per unit and component ('Amount') cost (including GST) paid by the customer.

I have customers tell me how much they are saving by reducing their consumption from Synergy and they say that the price of their electricity is ~26c/kWh – not realising that the actual price they pay is 10% higher than that shown because GST is added on after the component amounts shown.

Customers calculate energy costs or payback periods for energy saving investments like rooftop PV systems or more efficient appliances, for example, inadvertently using the pre-GST price because that is all that is provided on the bill. They don't notice that the prices/costs shown are pre-GST.

As an electricity consumer, and one who advocates in the long-term interests of consumers, I recommend that Synergy and other retailer electricity bills explicitly show the GST-inclusive prices and total costs (Amounts) of each component of the bill to avoid confusion. I am under the impression that it is a legal requirement for retailers to show GST-inclusive prices.

I would be pleased to be able to elaborate on this submission. Thank you for the opportunity to comment.

Yours sincerely,

Noel Schubert

# Perth Energy submission

perthenergy

28 January 2021

Sent to: www.erawa.com.au/eccc

Good Afternoon

## Electricity Code Consultative Committee – Draft Report

Thank you for the opportunity to make comment on the draft report recently published by the Electricity Code Consultative Committee. This is an important document for small use customers, especially residential customers, and Perth Energy as a retailer is pleased to be able to contribute towards the current moves towards making improvements.

**Code clarity**

Perth Energy supports the proposed review and redrafting of the Code by the Parliamentary Counsel's Office to improve understandability and clarity. Any simplification of the Code's drafting would be of benefit for all those subject to the Code's provisions. We also support the position taken by the Economic Regulation Authority to align the energy regulatory instruments where possible and note that changes to the Code will signal potential changes to the Compendium of Gas Customer Licence Obligations when its next review commences.

**Consistency with the National Energy Retail Rules (NERR)**

Perth Energy is now part of AGL Energy, a retailer who operates in multiple markets and advocates for, and supports the continued alignment with the NERR and agrees with the reasons listed under section 3.2 of the Draft Report to such alignment. As a general comment, where the Committee is proposing to amend a current clause of the Code with a NERR clause, we strongly encourage the Committee to reconsider any changes or deviations from the NERR clause, however minor, as seemingly small changes can incur significant system costs to implement.

Whilst outside the scope of this review, AGL - Perth Energy recommends the future consideration and adoption of a single energy code for both gas and electricity in WA to ease the regulatory compliance, time and costs associated with the management of separate energy codes, though acknowledge the legislative implications that would need to be addressed.

**Family and Domestic Violence (FDV) provisions**

Perth Energy supports the inclusion of the family domestic violence provisions (FDV) proposed to the Electricity Code as set out in Draft Recommendations (**DR**) 94 – 104. AGL has implemented a national FDV policy (as published on AGL's website) in accordance with Victoria's Energy Retail

Code, which is available to all AGL's employees and customers across the markets we operate in. It is a priority of AGL to support our staff and customers impacted by FDV and we continue to focus on the development of new and improved processes to engage with those affected.

We agree with the Committee's position that any obligations should be flexible enough to ensure retailers can tailor their assistance to suit their customers' needs, whilst acknowledging the proposed DR provide a minimum regulatory requirement for protecting FDV customers, including a published FDV policy and appropriate training of relevant staff.

**Detailed Comments**

More detailed comments on the various proposed code changes, and answers to the questions posed in the report, are attached as an appendix. No comments have been made on draft recommendations that are fully agreed with.

I must highlight one issue, however, which is the suggestion that retailers should undertake all assessments of whether a customer is facing financial hardship or payment difficulties. Perth Energy most strongly opposes this proposal. It would be a very inefficient process as each retailer, regardless of size, would need to train up sufficient staff to be able to provide this service allowing for staff taking leave or being sick. We also consider that this would be an inappropriate burden to place on our retail staff as their background and training is not at all geared to the task of undertaking an effective financial analysis.

If there is a shortage of professional counsellors, we consider that it would be far more effective, and much less costly, for a central entity to employ staff with these capabilities such that customers using any retailer could use that service. This may be a function that the ERA itself could take on.

Should you have any questions in relation to this submission please contact me on 0437 209 972 or at p.peake@perthenergy.com.au.

Kind regards,

Patrick Peake

Senior Manager WA EMR

## Appendix - Detailed commentary

**Draft Recommendation 2**

We note that this DR (if supported) will be drafted by POC, however, we are unclear about the 'information on request' it refers to and recommend that drafting should clarify this. Also, does the second part of the clause override the first? Rule 56 of the NERR could be used as a guide to drafting. As a general comment we recommend that customers can be directed to a retailer's website as the primary source for any information which applies generally to all customers.

**Draft Recommendation 3**: We note that this change will require retailers to formally seek customer approval for these communications to be in electronic form.

**Question 1** – We do not consider that any of the clauses listed should be removed and are not aware of any issues with those listed currently. Can the ECCC advise if customers have been disadvantaged by these arrangements?

We refer to rule 14 of the NERR and recommend the POC in their review of the Code consider adopting the drafting of the NERR which clearly outlines for each applicable rule if it applies to a standard or non-standard contract, for example, rule 20 (4) and (5). This is clear and can be easily interpreted by retailers, distributors, and customers.

**Question 2** – While this may appear to be a reasonable approach, we are concerned that customers may be confused or concerned on being advised that certain protections are no longer available. Again, we would ask the ECCC whether this has been an issue for customers.

**Draft Recommendations 4 - 11**

We support draft recommendations 4 through to 11 which align the Code to those changes already made to the Gas Marketing Code of Conduct (**Gas Marketing Code**) or those changes contemplated under its current review.

In relation to DR 9 we support the change proposed. However, we question the continued inclusion of the electricity safety obligation contained in clause 2.3(2)(j). It is our view that this obligation sits with the distributor and is best advised by them. We note that a similar obligation relating to the retailer's gas safety awareness program was removed in the last review of the Compendium on the basis that this information should be provided by the distributor. Further, clause 10.6 of the Code sets out the distributor's requirement to provide information on safe use of electricity as amended by the proposed changes under DR 81.

**Draft Recommendation 13 –** We support the changes proposed to this clause 4.1 of the Code as it simplifies and improves the clarity of the clause, however, we recommend further consideration of and alignment with rule 20 and rule 21 of the NERR which allows for estimation of a customer's bill in certain circumstances to ensure that a customer is receiving a bill every 100 days. We note that this will also impact clause 4.10 of the Code and the proposed changes set out in DR 26.

**Draft Recommendation 14**

We support the changes made to the bill shortening provision, however, we recommend that time periods and process align to rule 34 of the NERR as changes may appear minor, such as referring to two or three payment plans being cancelled, but these can require significant system development changes and as a result, expense, for those retailers operating across markets.

**Draft Recommendation 15**

We support the removal of the bill smoothing clause 4.3, this clause is confusing and as set out in the Draft Report, its application is unclear as retailers regard payment arrangements, such as instalment plans, to fall outside a bill smoothing arrangement. In relation to the proposed new clause requiring retailers to provide written notification to customers who have agreed to be billed 'on any other method' to the standard pay-by-bill-date method, we request further consideration if 'in writing' contemplates if a customer elects to be communicated with by email and whether any proposed drafting aligns to business practice. For example, if a customer signs up online they can request to receive information by email and this information would be provided in that form. Likewise, retailers may have a 'my account' type portal for customers to handle their payment arrangements and vary arrangements online.

**Question 3**

We assume that there are no obstacles for this change to be implemented either under the Code or the relevant regulations and if so, we support this proposed change being set out in the Code as it is easier to update with any future amendments. We support the new provision following rule 48 of the NERR as this drafting is clear and easier for those operating in multiple markets to comply with.

**Part 8.4 Particulars on each bill and Question 4**

We support the Draft Recommendations set out in this part 8.4 of the Draft Report. We note the long list of requirements set out in clause 4.5 of the Code and recommend a review of each requirement by the POC in redrafting this clause. As a point of reference, we refer to rule 25 of the NERR and suggest that the Committee consider, where appropriate, aligning clause 4.5 of the Code to this provision as it is simpler and appears to work in a consequential order through the required elements of a bill's content, making it easier to check and comply with.

In consideration of Question 4, we refer to the NERR and suggest alignment between the two codes to the extent possible. We support the simplification and readability of bills and consideration of whether required content is necessary at this point of engagement with the customer, and if not, the requirement should be removed or framed as an option. We also support allowing energy retailer innovation and flexibility in presenting information to customers as proposed under part b) of this Question and would be keen to review further drafting on this proposal.

**Draft recommendation 22 and 27**

As a general query, do the changes proposed to the definition of 'metering data' to 'actual value' contemplate issues arising from faulty meters producing incorrect data which can be verified, or if a meter is lost or damaged, such as by a fire, if actual data can be provided.

**Question 5**

We do not support amendment to the Code to require retailers to offer a payment extension and an instalment plan to all residential customers on the basis this should be a business decision and not regulated. We do not consider this change necessary and could result in being both onerous to comply with and costly to businesses, whilst the focus of support should be centred on those customers who are experiencing payment difficulties or financial hardship.

**Question 6**

Perth Energy does not agree with offering bill smoothing to all residential customers as a mandatory form of assistance. Our experience is that there are downsides to bill smoothing such as the potential for significant bills for true-up if accounts have not been accurately estimated. Accordingly, we recommend it remains a business decision which can be adopted in appropriate circumstances rather than being offered in all situations.

**Question 7**

Perth Energy sees this as an unnecessary obligation for a retailer though, as a matter of good business practice, we do monitor customers who may appear to be having payment difficulties.

**Draft Recommendation 47**

This proposed change would have an immediate detrimental impact on retailers, especially small retailers or those with a small base of small use customers. To meet this obligation a retailer would need to have sufficiently trained staff in place to provide this service irrespective of staff leave or sickness. Small retailers would also need staff with appropriate people skills to handle what are likely to be very sensitive matters yet may only be required to fulfill this function on very limited occasions.

If a shortage of suitable counsellors is an issue then it would be far more efficient and effective for a central agency to recruit and train additional staff for this function. We suggest that this could be a role for the ERA if the focus is to be on energy matters. Alternatively, a Government agency that carries responsibility for consumer protection could take this on. These options would be far superior to requiring all retailers to have this capability.

**Question 8**

Perth Energy always negotiates any change in a customer's instalment plan with the customer. The proposed changes are not an issue for us.

**Question 9**

Perth Energy always looks at a range of options to assist customers who are facing difficulties. We do not consider that it is appropriate for the Code to define options that should be considered as this may inadvertently become restrictive to the detriment of customers.

**Question 10**

Perth Energy always seeks to secure a fair and equitable resolution of any payment difficulties so if clause 6.7 is to be amended, we support the requirement set out in a).

**Draft Recommendation 61**

As a general comment, we query whether the lengthy time period of 'at least 9 consecutive months' as set out in clause 7.4(1) of the Code and whether this would be more appropriately framed in terms of 'scheduled meter readings', for example Rule 113(1) of the NERR refers to three consecutive scheduled meter readings.

**Disconnection generally**

As a separate issue we refer to Rule 114 of the NERR which allows the immediate disconnection of electricity being illegally obtained without notice and if a similar provision could be inserted into the Code to clearly address this issue.

**Draft Recommendation 104 and Question 11**

As a result of some retailers operating in multiple Australian markets, we recommend that the Committee consider the introduction of any new or differing requirements specific to WA closely as this may impose additional regulatory burden with no significant impact. In this regard, we do not consider it necessary to have a specific statement relating to disconnection as set out in DR 104 as these obligations are already comprehensively addressed within the Code in Part 6, Payment Difficulties and Financial Hardship, and in Part 7, Disconnection and Interruption.

In relation to Question 11, AGL - Perth Energy does not consider that the Code should impose a general prohibition on disconnecting those customers impacted by FDV due to the following reasons:

- FDV obligations should focus on a retailer considering the individual circumstances of each customer in determining customer outcomes, rather than a general prohibition;
- the Code already sets out a list of comprehensive obligations in relation to customers experiencing payment difficulties or financial hardship which must be complied with, noting these obligations are subject to compliance and audit requirements;
- a customer signalling to a retailer that they are impacted by FDV may not be experiencing payment difficulties or financial hardship at that point in time, so any disconnection prohibition period may not achieve the objectives contemplated under section 17.7.2 of the Draft Report;
- if a customer subject to FDV, is also experiencing payment difficulties or financial hardship, the customer seeking financial support can initiate legitimate engagement with the retailer for this reason. Also as identified by the Committee (page 137) reminder notices or disconnection warnings may provide an opportunity for engagement with retailers, which otherwise would not be necessary if a blanket prohibition is in place;
- to ensure that customers who are experiencing FDV receive any assistance which can be provided by a retailer without additional validation requirements to establish evidence of FDV. If a customer is claiming they require life support at a premises, the customer must satisfy the requirements set out in the Code and if satisfied, the customer is afforded protection from

disconnection. These requirements ensure that those customers who genuinely require life support are protected and supported by retailers. If a general disconnection prohibition is regulated for FDV customers, there would need to be further checks on a customer's claim of FDV and this would be contrary to the intent of these changes.

# Simply Energy submission

Level 33, Rialto South Tower
525 Collins Street
Melbourne, Victoria 3000
Fax +61 3 8807 1199
simplyenergy.com.au

29 January 2021

Mr Paul Kelly
Chairman
Electricity Code Consultative Committee
PO Box 8469
Perth BC WA 6849

Lodged via the Economic Regulation Authority's website

Dear Mr Kelly,

**Re: 2019-22 Review of the Code of Conduct for the Supply of Electricity to Small Use Customers – Draft review report**

Simply Energy welcomes the opportunity to provide feedback on the Electricity Code Consultative Committee's (ECCC) draft report on the 2019-22 review of the Code of Conduct for the supply of electricity to small use customers (Code) in Western Australia.

Simply Energy is a leading energy retailer with over 730,000 customer accounts across Victoria, New South Wales, South Australia, Queensland and Western Australia. While Simply Energy currently only provides gas retail services in Western Australia, Simply Energy would have a keen interest in providing contestable electricity retail services to Western Australian customers at an appropriate time.

Simply Energy supports the ECCC's draft recommendations to improve alignment of the Code with the National Energy Customer Framework. Particularly, Simply Energy agrees with the ECCC that alignment between the national and Western Australian energy frameworks would reduce compliance costs for retailers operating in both markets. Simply Energy would likely find contestable Western Australian electricity retail services a more attractive future proposition if it could easily adapt the systems and processes that it already uses in other jurisdictions.

Simply Energy also supports the ECCC comparing the Code to the Victorian Energy Retail Code, particularly in relation to protections for customers affected by payment difficulties or family violence. Simply Energy actively participated in the Essential Services Commission of Victoria's consultation processes to introduce the recent changes to these frameworks and has successfully rolled these protections out to its Victorian energy retail customers.

Simply Energy welcomes further discussion in relation to this submission. To arrange a discussion or if you have any questions please contact Matthew Giampiccolo, Senior Regulatory Adviser, at matthew.giampiccolo@simplyenergy.com.au.

Yours sincerely

James Barton
General Manager, Regulation
Simply Energy

# Synergy submission

Enquiries: Simon Thackray
Telephone: (08) 6282 7622

29 January 2021

Mr Paul Kelly
Chair
Electricity Code Consultative Committee
C/- Economic Regulation Authority
Level 4, Albert Facey House
469 Wellington Street
PERTH WA 6000

Dear Paul

**2019-22 Review of the Code of Conduct for the Supply of Electricity to Small Use Customers**

Synergy welcomes the opportunity to make a submission to the Electricity Code Consultative Committee's (**ECCC**) consultation paper on the *2019-2022 Review of the Code of Conduct for the Supply of Electricity to Small Use Customers* (**Code Review**).

Synergy commends the ECCC secretariat on the thoroughness of its draft review report and is pleased to provide the attached submission to assist the ECCC to make informed decisions to enhance the Western Australian electricity customer protection framework.

Synergy supports the majority of the ECCC's recommendations. There are however a small number of recommendations Synergy does not consider appropriate or warranted at this point in time. These matters are detailed in the attached submission.

If you require any further information or have any questions regarding this submission, please contact me on (08) 6282 7622.

Yours sincerely

**SIMON THACKRAY**
**MANAGER, REGULATION AND COMPLIANCE**

# 2019/22 review of the Code of Conduct for the Supply of Electricity to Small Use Customers 2018 (Code): Synergy response to Electricity Code Consultative Committee recommendations and questions

## Context

The Electricity Code Consultative Committee (**ECCC**) is currently reviewing the standards of conduct applicable to electricity retailers, distributors and marketing agents who supply electricity to small use customers (residential and small business customers who consume < 160MWh/a across all sites) under the Code. The ECCC's draft recommendation report contains 104 draft recommendations for change and 9 questions for feedback. Many of the draft recommendations propose to adopt national electricity market customer protections under the National Energy Customer Framework (**NECF**) for consistency . NECF is effectively enshrined in the national electricity retail rules (**NERR**).

## ECCC recommendations

| DRAFT RECOMMENDATION | RESPONSE TO ECCC |
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| **Draft recommendation 1 – Parliamentary Counsel's Office (PCO)**<br>Request the PCO to review the drafting of the Code to improve clarity. | Supported. |
| **Draft recommendation 2 – Provision of information**<br>Provide that a retailer, distributor or electricity marketing agent has to give information on request to a customer:<br>• May either give the information to the customer or, if the information is available on its website, refer the customer to its website.<br>• Must give the information, if the customer requests the information is given. | Supported. |
| **Draft recommendation 3 – Provision of information by electronic means**<br>Delete the words 'or by electronic means' in clauses 6.4(3)(a), 6.4(3)(b), 9.3(5) and 9.4(1)(a) of the Code. | Supported. |

| DRAFT RECOMMENDATION | RESPONSE TO ECCC |
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| **Draft recommendation 4 – TTY Services**<br>Replace 'TTY services', in clauses 2.2(2)(g)(ii), 2.3(2)(h)(ii), 4.5(1)(cc), 6.10(2)(h)(iii), 9.3(2)(m), 10.11(1) and 10.11(2)(a) of the Code, with a reference to services that assist customers with a speech or hearing impairment. | Supported. |
| **Draft recommendation 5 – when information is given**<br>Amend clause 2.2(2) of the Code to be consistent with clause 2.2(2) of the Gas Marketing Code. | Supported. |
| **Draft recommendation 6 - Concessions**<br>Amend clauses 2.2(2)(e) and 2.3(2)(f) of the Code to be consistent with clauses 2.2(2)(e) and 2.3(2A)(e) of the Gas Marketing Code, respectively. | Supported. |
| **Draft recommendation 7 – Interpreter Information**<br>Amend clauses 2.2(2)(g) and 2.3(2)(h) of the Code to be consistent with clauses 2.2(2)(g) and 2.3(2A)(g) of the Gas Marketing Code, respectively. | Supported. |
| **Draft recommendation 8 – consent to enter into a non-standard contract**<br>Consent to enter into a non-standard contract.<br>Amend clause 2.3(1)(a) of the Code to be consistent with clause 2.3(1)(a) of the Gas Marketing Code. | Supported. |
| **Draft Recommendation 9 – Information to be given before entering into a non-standard contact**<br>Amend clauses 2.3(2)(b) to (e) and (g) to (j) of the Code to be consistent with clause 2.3(2A) of the Gas Marketing Code. | Supported. |
| **Draft recommendation 10 – Verifiable confirmation**<br>a) Amend clause 2.3(5) of the Code to be consistent with clause 2.3(4) of the Gas Marketing Code.<br>b) Amend clause 1.5 of the Code to insert a definition of verifiable confirmation, consistent with the definition of verifiable confirmation in the Gas Marketing Code. | Supported. |

| DRAFT RECOMMENDATION | RESPONSE TO ECCC |
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| **Draft recommendation 11 - Wearing an identity card**<br>Amend clause 2.5(2)(a) of the Code by replacing 'wear' with 'display'. | Supported. |
| **Draft recommendation 12 – Obligation to forward connection application (definition of customer including customer's representative)**<br>Delete clause 3.1(3) of the Code. | Supported. |
| **Draft recommendation 13 – billing cycle**<br>a) Replace clauses 4.1(a) and (b)(i) of the Code with rules 24(1) and (2) of the NERR but replace:<br>– 'retailer's usual recurrent period' with 'customer's standard billing cycle' in rule 24(2).<br>– 'explicit informed consent' with 'verifiable consent' in rule 24(2).56<br>b) Retain clause 4.1(b)(ii) of the Code but replace 'metering data' with 'energy data'.<br>c) Retain clause 4.1(b)(iii) of the Code | Supported. |
| **Draft recommendation 14 – Shortened billing cycle**<br>a) Replace clauses 4.2(1) and (2) of the Code with rule 34(2) of the NERR:<br>– except for sub-rules (2)(c)(i) to (v); instead insert clauses 4.2(1)(a) to (d) of the Code and amend clause 4.2(1)(a) by inserting 'or disconnection warning' after 'reminder notice'.<br>– but retain the requirement that customers may only be placed on a shortened billing cycle without their verifiable consent after 3 reminder notices (instead of 2).<br>– but clarify that the information in rule 34(2)(c) must have been given before the retailer gives the customer a reminder notice or disconnection warning for the third consecutive bill.<br>b) Replace clause 4.2(3) of the Code with rule 34(3) of the NERR but remove 'without a further reminder notice' from sub-rule (c).<br>c) Retain clauses 4.2(4), (5) and (6) of the Code. | Synergy advocates in accordance with the NERR requirements, two notices should be the maximum required prior to a customer being placed on a shortened billing cycle and not three notices as proposed by the ECCC. |
| **Draft recommendation 15 – Bill Smoothing**<br>- Delete clause 4.3. | Synergy supports the deletion of clause 4.3. |

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| - Insert a new clause that requires retailers to inform customers who have supported to be billed "on any other method", in writing of the method they have supported to. The information must be provided before the arrangement commences. | Synergy does not support the proposed new clause advising the customer in writing of the customer's nominated "other" payment method as this process will not provide a good customer experience and will impose unnecessary regulatory burden on retailers and costs on customers. In many cases customers will nominate their payment method over the telephone.<br><br>The Code should not prevent an agent discussing the customer's requested payment method with the customer whilst on the telephone. Further a retailer should have the option of making the information available to the customer but provide in writing to the customer, if requested. This is a better outcome that lets the customer decide how they receive billing information in relation to "other billing methods". |
| **Draft recommendation 16 – Payment methods**<br>Amend clause 4.5(1)(r) of the Code to be consistent with clause 4.5(1)(p) of the Compendium of Gas Customer Licence Obligations. | Supported. |
| **Draft recommendation 17 – Interpreter services**<br>Amend clause 4.5(1)(bb) of the Code to be consistent with clause 4.5(1)(z) of the Compendium of Gas Customer Licence Obligations | Supported. |
| **Draft recommendation 18 – Customer's name**<br>Insert a new subclause, in clause 4.5 of the Code, consistent with clause 4.5(4)(a) of the Compendium of Gas Customer Licence Obligations | Supported. |
| **Draft recommendation 19 – TTY services**<br>Amend clause 4.5(1)(cc) of the Code so the telephone number for TTY services only has to be included on residential customer bills. | Supported. |
| **Draft recommendation 20 – Basis of bill**<br>a) Replace clause 4.6(a) of the Code with rule 20(1)(a)(i) of the NERR but:<br>- replace "metering data" with "energy data". | Supported. |

| DRAFT RECOMMENDATION | RESPONSE TO ECCC |
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| - replace "metering coordinator" with "distributor or metering data agent".<br>- remove "and determined in accordance with the metering rules".<br>b) Delete clause 4.6(b) of the Code<br>c) Replace clause 4.6(c) of the Code with rule 20(3) of the NERR but replace 'applicable energy laws' with 'the metrology procedure, the Metering Code or any other applicable law'.<br>d) Adopt rule 20(1)(a)(iii) of the NERR. | Synergy also proposes typographical corrections to references to clause 4.6(1)(a) in the definition of "overcharging", the definition of "undercharging" and the definition of "adjustment". The correct reference should be 4.6(a). |
| **Draft recommendation 21** – **Frequency of meter readings**<br>Retain clause 4.7 but incorporate in clause 4.6 of the Code. | Supported. |
| **Draft recommendations 22 – Metering data**<br>Replace 'metering data' with 'actual value' in clause 4.7 of the Code; and define actual value by reference to the Electricity Industry Metering Code 2012. | Supported. |
| **Draft recommendation 23 – agreement between retailer and customer on billing method**<br>Clarify that clause 4.7 does not apply if the bill is based on a method supported between the customer and the retailer. | Supported. |
| **Draft recommendation 24** – **Estimations**<br>Delete clause 4.8(1) of the Code. | Supported. |
| **Draft recommendation 25 - Adjustments to subsequent bills**<br>Delete clause 4.9 of the Code. | Supported. |
| **Draft recommendation 26 – Obligation to replace estimated bill**<br>Replace the requirement, in clause 4.10 of the Code, for a retailer to use best endeavours with an absolute obligation to replace an estimated bill with a bill based on an actual meter reading. | Not supported.<br><br>Synergy sees this change as problematic as it can only comply with the obligation if an actual value is provided by the network operator. However, the Code does not contain a corresponding obligation on the distributor (meter owner) to provide the retailer with an actual reading. Without this back to back obligation on a distributor, a retailer cannot always comply with the obligation. Importantly, the recommendation |

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| | would make no difference to the customer. The requirement to use best endeavours means Synergy must take all reasonable courses of action available to it. It is difficult to see a circumstance under this standard where Synergy could not or would not replace an estimated bill with an actual bill unless actual data was not available. Billing based on estimates is a costly exercise for retailers and a poor billing experience for customers.<br><br>The proposed Code change will not fix this as it places no obligation on the distributor to make the actual read and obtain the required data. In other words, the standard of customer service will not be increased by the change (in fact it will make no difference). The only difference to the status quo is that a retailer may be in breach of the Code (where it has no control over the situation). This is poor regulatory practice.<br><br>Additionally, "best endeavours" already imposes a strong obligation on retailers. If this recommendation proceeds, the requirement needs to be limited in some way, so retailers do not face a situation in which a customer contacts the retailer confirming they will give access and demanding a replacement bill, only to not provide access to the distributor. |
| **Draft recommendation 27 – Actual reading of customer's meter**<br>Replace 'an actual reading of the customer's meter', in clause 4.10(1) of the Code, with 'an actual value | Supported. |
| **Draft recommendation 28 - Customer requests testing of meters or metering data**<br>**a)** Replace clause 4.11(1) of the Code with rule 29(5)(a) of the NERR but:<br>- replace "meter reading or metering data" with "energy data".<br>- retain clause 4.11(1)(b) and add the words "checking the energy data".<br>- replace 'responsible person or metering coordinator (as applicable)' with 'distributor or metering data agent' in sub-rule (5)(a)(ii) | Supported. |

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| b) Amend clause 4.11(2) of the Code to take account of the fact that customers may also request a check of the energy data.<br>(c) Incorporate amended clause 4.11 into clause 4.15 of the Code (Review of bill). | |
| **Draft recommendation 29 – customer applications for changed tariff**<br>a) Replace clause 4.12 of the Code with rules 37(1) and (2) of the NERR but clarify that transfer refers to a transfer in sub-rule 1. | Supported. |
| **Draft recommendation 30 – Written notification of a change to an alternative tariff – change in electricity use**<br>a) Delete clause 4.13(a) of the Code.<br>b) Delete the words 'more beneficial' from clause 4.13(b) of the Code.<br>c) Delete reference to a customer's use of electricity at the supply address from clause 4.13 of the Code | Supported. |
| **Draft recommendation 31 - Written notice**<br>Delete the requirement that notice must be written from clause 4.13 of the Code | Supported. |
| **Draft recommendation 32 – request for final bill**<br>Replace clause 4.14(1) of the Code with rule 35(1) of the NERR. | Not supported.<br><br>There may be situations where a customer's request for a final meter reading bill cannot be accommodated (meter access blocked by customer for example) or where best endeavours would require retailers to use an unreasonable amount of time and resources to achieve the outcome. |
| **Draft recommendation 33 – Written notice**<br>Delete the requirement that notice must be 'written' from clause 4.14(3) of the Code. | Supported. |
| **Draft recommendation 34 – payment for outstanding amounts**<br>a) Adopt rule 29(6)(b)(ii) of the NERR.<br>b) Amalgamate clauses 4.15 and 4.16 of the Code. | Supported. |

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| **Draft recommendation 35 - Electricity Ombudsman (bill review)**<br>Replace "any applicable external complaints handling processes", in clause 4.16(1)(a)(iii) of the Code, with "the electricity ombudsman". | Supported. |
| **Draft recommendation 36 - Undercharging**<br>a) Delete clause 4.17(1) of the Code.<br>b) Replace clauses 4.17(2) and (4) of the Code with rules 30(1) to (3) of the NERR but:<br>- replace '9 months' with '12 months' in rule 30(2)(a) of the NERR.<br>- except for rule 30(2)(b) of the NERR; instead insert clause 4.17(2)(d) of the Code<br>- amend rule 30(2)(d) of the NERR to provide that instalment plans only have to be offered to residential customers and must meet the requirements of<br>- clause 6.4(2) of the Code. | Not supported.<br><br>This recommendation would place an unreasonable burden on the retailer which would be open to misuse. For example, a customer may involve an associate to cause an undercharge and then claim they are not required to pay. This will be particularly burdensome for retailers in relation to meter bypasses, meter tamper etc where multiple parties (apart from the account holder) may be involved.<br><br>The proposal is not consistent with the contractual relationship between retailer and customer. The retailer cannot monitor every premises to see if someone is meter tampering. It is reasonable for the customer (who has control of the premises) to prevent third parties from doing so. Risk in this regard should be on the party which is best placed to mitigate it, which in this case is the customer.<br><br>A retailer will need to form a view as to whether it was the customer's 'fault or unlawful act or omission'. This is difficult for retailers to do as they have limited information. Further, the ambiguity will result in more challenges by the customer to the ombudsman (which will result in costs to the retailer even if it is correct). This is undesirable for all parties.<br><br>Synergy would need to see the definitions of under and over charging to fully consider the impacts of these provisions. However, other than the definitions, Synergy considers the current provisions of the Code in relation to draft recommendation 36 should remain unchanged. If |

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| | these changes proceed, it will reverse changes made to clause 4.17 of the Code in the 2011 review which made responsibility clear. |

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| **Draft recommendation 37 – Overcharging**<br>- Delete clause 4.18(1) of the Code.<br>- Replace clause 4.18(2) of the Code with rule 31(1) of the NERR but retain the requirement that retailers must ask customers for instructions if the credit is more than the threshold amount.<br>- Replace clauses 4.18(3) and (4) of the Code with rule 31(2) of the NERR but retain the timeframes for:<br>- retailers refunding the amount in accordance with the customer's instructions.<br>- customers responding to retailer's request for instructions.<br>- Replace clause 4.18(5) of the Code with rule 31(4) of the NERR.<br>- Replace clause 4.18(6) of the Code with rule 31(3) of the NERR but retain the option for retailers to ask customers for instructions if the credit is less than the threshold amount.<br>- Adopt rule 31(5) of the NERR.<br>- Adopt rule 31(6) of the NERR but:<br>- retain the threshold amount at $100.<br>- do not adopt the words "or such other amount as the AER determines under sub-rule (7)".<br>Clarify that clause 4.18 applies from the time a retailer becomes aware of an overcharge or, if the overcharge is the result of an estimation carried out in accordance with the Electricity Industry Metering Code 2012, from the time the retailer receives an actual value from the distributor. The actual value must be based on a meter reading undertaken in accordance with clause 5.4(1A)(b) of the Metering Code | Not supported.<br><br>Synergy does not agree it should be liable to repay overcharges to customers due to their errors, acts or omissions. Examples include:<br><br>- A customer's failure to change their retail tariff when their circumstances change. For example, if after a customer has built their property and moves in but doesn't change their tariff. Electricity supplied for building purposes is charged at non-residential rates. This exposes a retailer to inappropriate financial risk as it will have paid the network operator a business transport tariff based on the customer's actions but with no redress with the network operator to recover its losses.<br><br>- It is not practical to expect Synergy to monitor all customers to see if they are on the correct tariff on the basis of their meeting required eligibility criteria. The only reasonable approach is for customers to notify Synergy of changes in tariff eligibility.<br><br>- A customer elects to move from an anytime energy tariff to a time of use tariff only to find themselves worse off.<br><br>- A customer applies for REBS/DEBS after the date they become eligible to participate in the scheme.<br><br>- A customer is overcharged because they have tampered with the meter resulting in them paying more not less.<br><br>- A customer does not apply for a concession from the date they are eligible to receive a concession, placing the onus of compliance effectively on Synergy and not the customer. |

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| | The reality of this provision will be if a retailer does not agree that a customer's action constitutes an overcharge then some customers will seek an E&WO determination thus further driving up a retailer's cost.<br><br>Synergy's position is that a customer not a retailer is best placed to manage their own affairs and should be accountable for their actions in this regard. Therefore, a retailer should not be liable for the actions of the customer intentional or otherwise as it is not in the long-term interests of consumers for the mistakes of some customers to be paid by all customers/taxpayers.<br><br>Synergy considers the overcharge threshold should remain at $100.<br><br>The definitions of under and over charging must be determined and will be important to fully consider the impacts of these provisions. If the ERA intends to implement this change then it will need to define overcharge very tightly and carefully. For example, if overcharging includes the impact of concessions then this will mean that a retailer becomes de-facto responsible for every residential customer's compliance / eligibility for concessions. |
| **Draft recommendation 38 – written notice**<br>Delete the requirement that notice must be 'written' from clause 4.18(7) of the Code. | Supported. |
| **Draft recommendation 39 – Adjustments**<br>a) Delete clause 4.19 of the Code.<br>Consequential amendments<br>b) Delete the definition of "adjustment" in clause 1.5 of the Code.<br>c) Amend the definition of "overcharging", in clause 1.5 of the Code, to provide that an overcharge is the amount charged that is more than the amount that would have been charged if the bill had been based on an actual value. | No objection, dependent on receipt of, and consideration of revised overcharging and undercharging definitions. |

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| d) Amend the definition of 'undercharging', in clause 1.5 of the Code, to provide that an undercharge is the amount charged that is less than the amount that would have been charged if the bill had been based on an actual value determined in accordance with clause 5.4(1A)(b) of the Electricity Industry Metering Code 2012 | |
| **Draft recommendation 40 – due dates for payment**<br>a) Replace clause 5.1(1) of the Code with rule 26 of the NERR but retain the right of customers to agree to a different minimum due date.<br>b) Delete clause 5.1(2) of the Code.<br>Consequential amendments<br>c) Amend clause 1.5 of the Code to insert a definition of 'bill issue date' consistent with the definition of bill issue date in rule 3 of the NERR.<br>Insert a new paragraph, in clause 4.5(1) of the Code, consistent with rule 25(1)(e) of the NERR. | Not supported.<br><br>These initiatives would be costly for retailers to implement and would provide limited benefit to the customer.<br><br>Synergy's current collection processes already provide extra days over and above the regulated requirement before it commences collection activities. It is not in the customers' best interests to codify activities where retailers already undertake as customers will bear the cost of such regulation. It further disincentivises retailers to offer services to a higher standard/protection than the Code requires.<br><br>Synergy considers the inclusion of the bill issue date is unnecessary and will cost significant expenditure without any benefit to the customers and add further complexity and confusion to a bill already cluttered with more than 30 regulatory requirements.<br><br>From Synergy's experience the customer is concerned about the due date (which is specified) not the issue date. The issue date does not correspond with the billing period (which is specified – c/f cl4.5(a)). The reason for the issue date is for the customer to double check that the due date is correct and there are other regulatory mechanisms for this (for example, the performance audit).<br><br>If a customer is concerned about the issue date then they can currently switch to paperless billing where the bill issue date is known as it is the date the email is sent. |

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| **Draft recommendation 41 – Minimum payment methods**<br>Replace clause 5.2 of the Code with rule 32(1) of the NERR but:<br>- do not adopt rule 32(1)(e) of the NERR.137<br>- retain the requirement that the customer must be able to pay in person at one<br>- or more payment outlets within the customer's Local Government District<br>- (clause 5.2(a) of the Code).138<br>- retain Centrepay as a minimum payment method for all residential customers<br>- (clause 5.2(c) of the Code).139<br>- – retain the ability for retailers and customers to agree otherwise. | Supported.<br><br>Draft recommendation is incorrect in that it refers to section 32(1)(e) but should refer to section 32(1)(d) of the NERR. |
| **Draft recommendation 42 – Direct debit**<br>Delete clause 5.3 of the Code. | Supported. |
| **Draft recommendation 43 – Payment in Advance**<br>a) Amend clause 5.4 of the Code to be consistent with clause 5.4 of the Compendium of Gas Customer Licence Obligations.<br>Consequential amendment<br>b) Amend clause 1.5 of the Code to insert a definition of 'maximum credit amount' consistent with the definition of maximum credit amount in clause 1.3 of the Compendium of Gas Customer Licence Obligations. | Supported. |
| **Draft recommendation 44 – Absence or Illness**<br>Retain clause 5.5 of the Code but:<br>- remove the words "if a residential customer is unable to pay by way of the methods described in clause 5.2, due to illness or absence"<br>- replace the requirement to offer redirection of the bill, with a requirement to redirect the bill.<br>- Replace the words 'third person' with 'different address'. | No objection. |
| **Draft recommendation 45 - Vacating a Supply Address**<br>Delete clause 5.7(4)(c) of the Code. | Supported. |

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| **Draft recommendation 46 - definitions of payment difficulties and financial hardship**<br>a) Amend the definition of 'financial hardship', in clause 1.5 of the Code, by replacing 'more than immediate' with 'long term'.<br>b) Amend the definition of 'payment difficulties', in clause 1.5 of the Code, by replacing 'immediate' with 'short term'. | No objection. |
| **Draft recommendation 47 – Referral to relevant consumer representatives**<br>a) Delete clause 6.1(1)(b) of the Code.<br>b) Delete clause 6.2 of the Code. | No objection. |
| **Draft recommendation 48 – Assessment to remain valid** | Supported. |
| **Draft recommendation 49 – available assistance: concession information** | Not supported.<br><br>Synergy already provides customers experiencing payment difficulties and financial hardship with information about concessions. Synergy provides comprehensive information about concessions on its website and also has a message on each bill advising customers where to find further information about concessions that they may take advantage of. Synergy considers these methods of communication regarding concessions is sufficient and therefore the need to legislate the matter is not necessary. To do so will increase regulatory burden and cost without any customer benefit. |
| **Draft recommendation 50 – offering a payment extension and instalment plan**<br>Amend clause 6.4(1) of the Code to clarify that retailers must offer customers additional time to pay their bill and an instalment plan; where the customer may choose with option they prefer. | No objection. |
| **Draft recommendation 51 – Minimum requirements for instalment plans**<br>Replace clause 6.4(2)(a) of the Code with a requirement that retailers must ensure that an instalment plan is fair and reasonable and has regard to: | Not supported. |

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| – the customer's capacity to pay;<br>– any arrears owing by the customer; and<br>– the customer's expected electricity consumption needs over the duration of the instalment plan | Synergy considers the recommended clauses are unduly onerous on the retailer. If a customer has large arrears and extremely high consumption, they should be working with their retailer to reduce their consumption. If retailers have to consider expected consumption, it may be interpreted such that the customer can say they are going to consume very high amounts so they cannot pay. That then pushes more costs onto customers with a similar ability to pay who are trying to moderate their consumption (and other taxpayers).<br><br>In addition, to consider consumption when instalment plans can be up to 6-12 months in duration would be onerous to manage and would impact Synergy's ability to collect arrears. |
| **Draft recommendation 52 – In writing**<br>a) Amend clause 6.4(3)(a) of the Code to provide that the information must be provided in writing, unless the information has already been provided in the previous 12 months.<br>b) Delete the requirement that information must be provided 'in writing or by electronic means' from clause 6.4(3)(b) of the Code. | Supported. |
| **Draft recommendation 53 – Provision of information: different types of meters**<br>Amend clause 6.8(d) of the Code by deleting reference to meters. | Supported. |
| **Draft recommendation 54 - Minimum payment in advance amount for customers experiencing payment difficulties or financial hardship**<br>Delete clause 6.9 of the Code. | Supported. |

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| **Draft recommendation 55 - Hardship policy and hardship procedures - hard print copies**<br>Amend clause 6.10(2)(j) of the Code so only hard-copies of the hardship policy have to be made available in large print. | Supported. |
| **Draft recommendation 56 - Review of Hardship policy**<br>Amend clause 6.10(6) of the Code by deleting the words 'within 5 business days after it is completed'. | Supported. |
| **Draft recommendation 57 – Amendment of Hardship policy**<br>Amend clause 6.10(8) of the Code by deleting the words 'within 5 business days of the amendment'. | Supported. |
| **Draft recommendation 58 – Instalment plans and concessions**<br>a) Replace clause 7.2(1)(b) of the Code with rule 116(1)(d) of the NERR but do not adopt the words 'is a hardship customer or residential customer and'.<br>b) Replace clause 7.2(1)(d) of the Code with rule 116(1)(e) of the NERR but replace the words 'a rebate, concession or relief available under any government funded energy rebate, concession or relief scheme' with 'a concession' | Supported. |
| **Draft recommendation 59 – minimum disconnection amount**<br>a) Replace 'an amount approved and published by the Authority in accordance with subclause (2)' with '$300' in clause 7.2(1)(c) of the Code.<br>b) Delete clause 7.2(2) of the Code. | Not supported.<br><br>This proposal would result in a negative financial impact to Synergy. Synergy considers customers may be disadvantaged by such a policy as they will not be incentivised to clear debts or enter into payment arrangements if their debt is at or below the disconnection limit. In addition, customers will be subject to late/outstanding payment fees which will compound leading to higher debt.<br><br>However, in the event the recommendation is to proceed Synergy advocates the following reasonable caveats: |

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| | - The limit is applied to residential customers only<br>- The threshold should be reduced to $200 as Synergy's standard billing cycle is 2 months whereas the standard cycle in the NEM is 3 months.<br>- The minimum amount should not apply to persons who repeatedly default or who refuse to enter into an instalment plan or alternative payment arrangement and then fail to comply with that plan or arrangement. |
| **Draft recommendation 60- Access for reasons other than a meter reading**<br>Adopt rule 113(2) of the NERR but:<br>– do not adopt the words 'in accordance with any requirement under the energy laws or otherwise'.<br>– extend the application of the clause to distributors | Supported. |
| **Draft recommendation 61 – Clarification**<br>Clarify that the protections of clauses 7.4(1)(c) to (e) of the Code must be met before a disconnection warning may be issued. | Supported. |
| **Draft Recommendation 62 – General limitations on disconnection**<br><u>Retailers</u><br>a) Adopt rule 116(1)(a) of the NERR.<br><u>Distributors</u><br>b) Adopt rule 120(1)(a) of the NERR.<br>c) Replace clause 7.6(2)(b) of the Code with rule 120(1)(e) of the NERR but retain the ability for distributors to disconnect business customers during the protected period if the business's trading hours are only during that period and it is not practicable to disconnect at any other time.179<br>d)Retailers and distributors d) Replace clause 7.6(3) of the Code with rules 116(3), 120(2) and 120(3)(a) and (b) of the NERR.<br>Consequential amendment<br>e) Amend clause 1.5 of the Code to insert a definition of 'protected period', consistent with the definition of protected period in rule 108 of the NERR. | Not Supported.<br><br>While Synergy currently supports the protected periods for disconnection on the basis it has voluntarily implemented no disconnections on a Friday or over the Christmas/new year Xmas period for more than a decade, regulating this requirement will not increase customer protections and therefore creates unnecessary regulatory burden, while further disincentivising retailers to innovate and provide service standards above the Code's baseline.<br><br>In addition, Synergy advocates clause 7.7(1) be amended to specify medical confirmation needs to be provided in writing in a format acceptable to a retailer. Synergy has a published life support application form but there are instances where customers provide |

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| | alternative forms of confirmation that does not provide adequate specificity on the required life support equipment types. This necessitates further contact with the customer. This has the effect of delaying life support registrations and referral to the distributor as well as creating unnecessary administrative burden on Synergy's life support team. |
| **Draft Recommendation 63 – Provision of information after registering**<br>a) Adopt rules 124(1)(b)(iv), (v) and (vi) of the NERR but:<br>– specify that the information has to be provided within 5 business days of the retailer registering the customer's supply address as a life support equipment address, rather than of 'receipt of advice from the customer'.<br>– amend rule 124(1)(b)(v) so retailers have to recommend customers to prepare a plan of action to deal with an unplanned interruption.<br>– specify that the telephone service does not have to be available to mobile phones at the cost of a local call.<br>b) Delete clause 7.7(4)(a) of the Code. | No objection, however, the clause should be amended to ensure that a retailer should have the option to provide the information to a customer at a registered life support address either before or after registration. Synergy's preference would be to include this information on its published life support application given from Synergy's experience that a life support customer is more likely to note and retain their medically certified life support application rather than a retailer notification. |
| **Draft recommendation 64**<br>**Moving into a supply address -** Amend clause 7.7(1) of the Code by allowing customers to register a supply address as a life support equipment address before they move in. | Not Supported.<br><br>The intent of the proposal to allow customers to register their supply address before moving to new premises provides customers with flexibility to register early and ensures customers are protected from disconnection from the time they move in. In respect of the first point, registration is a critical matter which would not be 'forgotten' by a customer (and so an extended period before moving is not required) and so it would be expected to be done as soon as possible (and often on the day of moving). In any event it would occur well before any bill was issued and the risk of disconnection became real.<br><br>In respect of the second point, this matter is already expressly provided by clause 7.7(4). |

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| | Legislating this requirement is significantly problematic operationally. Synergy currently permits a customer to advise a future move in date that requires a supply address to be registered as life support. However, the registration does not occur on the date of the notification but the move in date. Legislating the requirement to future date a supply address as requiring life support poses the following issues:<br><br>1. Situations where the customer ultimately does not move into the premises and fails to notify the retailer.<br>2. How far in advance should a customer notify a retailer?<br>3. Is a retailer compelled to notify the distributor of a future move in date? This would require the distributor to have systems in place accept and monitor future move in situations.<br>4. There is risk that the current occupants of a future life support registered supply address will be unnecessarily registered as requiring life support before the person who actually requires life support equipment resides at the premises.<br>5. It exposes retailers and distributors to unreasonable type 1 breach risk if they fail to register a customer's address as requiring life support equipment use prior to the actual move in date, but still register the premises on the move in date.<br>6. How will a medical practitioner certify that a customer is moving into a supply address at a future date for the purposes of clause 7.7(1)?<br><br>These operational issues are significant. Against them, the change will allow for flexibility (which is already there) but registration for life support is not something which a customer would 'forget' on moving day or need further flexibility. Registration for life support is a critical registration and the customer would be expected to do it as soon as practicable on move in and prior to any bill being due. As such, the |

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| | practicality of this change is limited (at best) and should not be made when weighed against the significant operational issues.<br><br>This will also be open to abuse in that some customers may try and prevent associates at different houses from being disconnected. |
| **Draft recommendation 65**<br>**Timeframes for registering customer details**<br>Amend clause 7.7(1) and (2) of the Code by providing that the timeframes for acting on information also apply to the registration requirements. | No objection, provided the timeframes specified under clause 7.7(1)(c) and 7.7(2)(f) continue to apply. |
| **Draft recommendation 66 – Information from relevant government agency**<br>a) Amend clause 7.7(3) of the Code by removing the words 'or by a relevant government agency'.<br>b) b) Delete clause 7.7(3)(b) of the Code. | Supported. |
| **Draft recommendation 67 – Information to be provided when seeking re-certification or confirmation**<br>Amend clause 7.7(7)(b) of the Code by specifying that the following information must be included in the written correspondence to the customer:<br>– the date by which the customer must provide re-certification or confirm that a person residing at the supply address still requires life support equipment;<br>– that the retailer will deregister the customer's supply address if the customer does not provide the required information or informs the retailer that the person at the supply address no longer requires life support equipment; and<br>– that the customer will no longer receive the protections under the Code when the supply address is deregistered. | Supported. |
| **Draft recommendation 68 – Retailer to advise distributor of de-registration**<br>Amend clauses 7.7(7)(a) and (c) of the Code to provide that:<br>if a customer informs a retailer that: | Conditional support. Synergy seeks specific drafting on timelines and application to ensure the scope of the obligation is aligned to current practice which has proven adequate to protect customers to date. |

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| - a person who requires life support equipment has vacated the supply aa person who required life support equipment, no longer requires the life support equipment; or<br>- has failed to provide the information requested by a retailer under clause 7.7(6)(a)(i) or re-certification under clause 7.7(6)(a)(ii), within the time period specified by the retailer, the retailer must:<br>- remove the customer's supply address from its life support equipment address register within the timeframes set out in clauses 7.7(7)(a)(iv) and<br>- notify the customer's distributor within the timeframes set out in clause 7.7(7)(c).<br>- upon notification by the retailer, the distributor must remove the customer's supply address from its life support equipment address register within the timeframes set out in clauses 7.7(7)(a)(iv) and (v).<br>- the retailer's and distributor's obligations under clauses 7.7(1) to (6), and clause 7.6 (to the extent that it provides a retailer or distributor must not disconnect a life support equipment address), terminate from the time the retailer or distributor has removed the customer's supply address from their life support equipment address register. | The proposed amendments to clauses 7.7(7)(a) and (c) also need to provide for a life support registration to be removed when a retailer becomes aware that a life support registration is no longer required at the supply address. Unfortunately this is to cover the common scenario where the customer is deceased. |
| **Draft recommendation 69 – reconnection by retailer**<br>a) Replace clause 8.1(1) of the Code with rule 121(1) of the NERR but:<br>– do not adopt the requirement that a customer must rectify the issue and request reconnection within 10 business days.<br>– retain clause 8.1(1)(e)(ii) of the Code.<br>– do not adopt the words 'in accordance with any requirements under the energy laws' and 'or arrange to re-energise the customer's premises remotely if permitted under energy laws'.<br>b) Retain clauses 8.1(2)200 and (3)201 of the Code. | Supported. |
| **Draft recommendation 70 -reconnection by distributor**<br>a) Replace clause 8.2(1) of the Code with rule 122(1) of the NERR except for the words 'in accordance with the distributor service standards'.<br>b) Adopt rule 122(2) of the NERR except for: | No objection. |

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| - the requirement that a customer must rectify the issue and request reconnection within 10 business days.<br>– the words 'in accordance with the distributor service standards'.<br>c) Retain clauses 8.2(2) and (3) of the Code. | |
| **Draft recommendation 71 - Reversion**<br>Delete clause 9.4(1)(a) from the Code. | Supported. |
| **Draft recommendation 72 – requirements for pre-payment meters**<br>Amend clause 9.6(a) of the Code to provide that:<br>– A retailer must ensure that a pre-payment meter customer has access to emergency credit of $20 outside normal business hours.<br>– A retailer may only de-energise a pre-payment meter:<br>• during normal business hours, if the customer has no more credit available (regardless of whether the customer still has emergency credit available); or<br>• at any time, if the customer has no more emergency credit available.<br>– If a retailer has de-energised a pre-payment meter during normal business hours, a retailer does not have to re-energise the meter after business hours if the customer has not made a payment to the account, even if the customer still has all or some emergency credit available. | Supported. |
| **Draft recommendation 73 – recharge facilities**<br>Amend clause 9.7(a) of the Code to clarify that retailers must ensure that at least 1 physical recharge facility is located as close as practicable to a pre-payment customer, and in any case no further than 40 kilometres away. | Supported. |
| **Draft recommendation 74 – Information and communication**<br>Adopt rules 56 and 80 of the NERR to the extent that they explain how information must be provided to customers but do not adopt the words 'but information requested more than once in any 12 month period may be provided subject to a reasonable charge' (in rules 56(4) and 80(4)). | Supported. However, Synergy suggests a limit be imposed as to how many times a customer can request the information free of charge. Synergy advocates the limit be consistent with the limit specified in rules 56 and 80 of the NERR. |

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| **Draft recommendation 75 – advance notice of tariff changes**<br>a) Adopt rules 46(3), (4)(a), (4A) (except for (4A)(e)),215 (4B)(a), (c) and (e) of the NERR for customers whose tariffs are not regulated, but:<br>- amend rule 46(4A)(f) by deleting the words 'and, if they are being sold electricity, energy consumption data'.<br>- amend rule 46(4B)(a) by deleting the words 'pursuant to rule 46A and section 39(1)(a) of the Law'.<br>b) Amend clause 10.1(1) of the Code so it only applies to customers whose tariffs are regulated. | Synergy's final view will be confirmed once drafting on this clause is received. Clarification is also sought if the recommendation not to adopt rule 46(4B)(d) will mean that any changes as a result of concession changes etc will need to be notified? |
| **Draft recommendation 76 – Maximum timeframe for providing tariff information.**<br>Delete clause 10.1(3) of the Code | Supported. |
| **Draft recommendation 77 – Maximum timeframe for providing historical billing data**<br>Delete clause 10.2(3) of the Code. | Supported. |
| **Draft recommendation 78 – Minimum timeframe for keeping historical billing data**<br>Delete clause 10.2(4) of the Code. | Supported. |
| **Draft recommendation 79 – Concessions**<br>Retain clause 10.3 of the Code but:<br>- incorporate into the new, general information provision.<br>- delete the words 'to the residential customer'. | Supported. |
| **Draft recommendation 80 – Energy efficiency advice**<br>Retain clause 10.4 of the Code, but incorporate into the new, general information provision (see recommendation 76).<br>insert 'electrical' before 'appliances' in paragraph (b) | Supported. |
| **Draft recommendation 81 - Obligations particular to distributors – general information** | Supported. |
| **Draft recommendation 82 – Maximum timeframe for providing historical consumption data** | Supported. |

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| Delete clause 10.7(3) of the Code. | |
| **Draft recommendation 83 – Minimum timeframe for providing historical consumption data**<br>Delete clause 10.7(4) of the Code. | Supported. |
| **Draft recommendation 84 – Distribution standards**<br>Retain clause 10.8 of the Code but incorporate into the new, general information provision. | Supported. |
| **Draft recommendation 85 – Code of Conduct**<br>Retain clause 10.10 of the Code but incorporate into the new, general information Provision (see draft rec. 74) | Supported. |
| **Draft recommendation 86 – Special information needs**<br>Delete clause 10.11(2)(b) of the Code.<br>b) Delete the words 'and the words "Interpreter Services"' from clause 10.11(2)(c) of the Code. | Supported. |
| **Draft recommendation 87 – Obligation to establish complaints handling process – responding to complaints**<br>a) Insert the words 'including the obligations set out in [clause …]' in clause 12.1(2)(b)(ii)(B) of the Code.<br>b) Delete clause 12.1(3) of the Code and include a new clause that requires retailers and distributors, when they respond to a complaint, to inform the customer of the information set out in:<br>- Section 82(4) of the NERL, other than the words 'as soon as reasonably possible but, in any event, within any time limits applicable under the retailer's or distributor's standard complaints and dispute resolution procedures'.<br>- Section 82(5) of the NERL, other than the words 'may make a complaint or' and 'if the customer is not satisfied with the outcome' and provide instead that the information does not have to be provided if the customer has advised the | Not supported.<br><br>Different levels of complaints require different levels of response. If a customer is satisfied with their resolution at the time of call, providing formal notification of the outcome, reason and ombudsman details would be an unreasonable administrative burden that would be costly with no extra benefit to a customer.<br><br>The requirement for a retailer to advise a customer of the electricity ombudsman's contact details unless the customer has advised the retailer that the complaint has been resolved in a manner acceptable to the customer is unrealistic and unworkable. Customers do not interact on this basis. This would result in retailers having to advise of the electricity ombudsman's availability in situations where a |

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| retailer or distributor that the complaint has been resolved in a manner acceptable to the customer. | complaint has been resolved but the customer has not explicitly stated "it was in a manner acceptable to them". By requiring the retailer to provide the electricity ombudsman's contact details where the customer has not expressed dissatisfaction with the outcome infers the retailer's actions or response is somehow unreasonable. |
| **Draft recommendation 88 – Removing duplication**<br>Delete clause 12.1(2)(c) of the Code | Supported. |
| **Draft recommendation 89 – Compliance with response times for complaints**<br>Move clause 12.1(4) of the Code to a new clause and delete the words 'for the purposes of subclause (2)(b)(iii)' | Supported. |
| **Draft recommendation 90 – summary of complaints procedure online**<br>Add the following subclauses to the new, general information provisions:<br>- a summary of the customer's rights, entitlements and obligations under the retailer's or distributor's standard complaints and dispute resolution procedure.<br>- the contact details for the electricity ombudsman. | Supported. |
| **Draft recommendation 91 – obligation to comply with guideline that distinguishes customer queries from complaints**<br>Delete clause 12.2 of the Code. | Supported. |
| **Draft recommendation 92 - Information Provision**<br>Delete clause 12.3 of the Code. | Supported. |
| **Draft recommendation 93 – Performance reporting**<br>Delete Part 13 of the Code. | Supported. |
| **Draft recommendation 94 – definition of family violence**<br>Insert a definition of 'family violence' in the Code, being the meaning given in section 5A of the Restraining Orders Act 1997. | Supported. |

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| **Draft recommendation 95 – definition of affected customer**<br>Insert a definition of 'affected customer' in the Code, meaning any residential customer, including a former residential customer, who may be affected by family violence. | Supported. |
| **Draft recommendation 96 – Evidence of family violence**<br>A retailer must not request written evidence of family violence from an affected customer unless the evidence is reasonably necessary to enable the retailer to assess appropriate measures that it may take in relation to debt collection or disconnection. | Not supported. Synergy considers the right for a retailer to request evidence of domestic violence should also extend to situations where a retailer reasonably considers there is a possibility of a false claim. |
| **Draft recommendation 97 - Requirement to have a family violence policy**<br>A retailer must have a family violence policy.<br>b) A retailer must develop its family violence policy in consultation with relevant consumer representatives. | Supported. |
| **Draft recommendation 98 – Minimum content of family violence policy**<br>A family violence policy must require a retailer to provide for training of staff about family violence. The training must be developed in consultation with, or delivered by, relevant consumer representatives. | Supported. |
| **Draft recommendation 99 – Account security**<br>a) A family violence policy must require a retailer to protect an affected customer's information, including from a person that is or has been a joint account holder with the affected customer.<br>b) A family violence policy must require the retailer to take reasonable steps to establish a safe method of communication with an affected customer and, if that method is not practicable, offer alternative methods of communication.<br>c) A family violence policy must require the retailer to comply with an established safe method of communication, including when other parts of the Code direct how information must be given.<br>d) A family violence policy must require the retailer to keep a record of the established safe method of communication that has been supported with the affected customer. | Not supported.<br><br>Synergy's privacy policy and internal procedures require Synergy to take reasonable steps to protect customers' personal data and not disclose it without authorisation. The proposed amendments therefore overlap with general privacy obligations, particularly the requirements of Australian Privacy Policy 11. The Code inclusion would result in regulatory duplication for retailers who are required to comply with the Privacy Act 1988.<br><br>The recommendation that the protection apply to a person "that is" a joint account holder also puts Synergy at risk of a contractual breach if the customer has not asked Synergy to remove the authorised contact |

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| | from the account. As a joint account holder the person is contractually entitled to the relevant information unless the customer withdraws their authorised consent.<br><br>A policy would not override this. It would require Synergy to amend all of its contracts to account for this or an amendment to the Code is needed to protect a retailer from a breach (to provide the information) in circumstances where this applies. That is, the Code would need to provide an exemption that any obligations on the retailer to comply with information requirements do not apply in these circumstances. |
| **Draft recommendation 100 – Customer service**<br>A family violence policy must require a retailer to have a process that avoids an affected customer needing to repeatedly disclose or refer to their experience of family violence. | Supported. |
| **Draft recommendation 101 – Debt management**<br>a) A family violence policy must require the retailer to consider the potential impact of debt collection on the affected customer and whether another person is responsible for the electricity usage that resulted in the debt.<br>b) A family violence policy must require the retailer to consider reducing and/or waiving fees, charges and debt. | Supported. |
| **Draft recommendation 102 – publication of family violence policy**<br>Include a requirement for a retailer to publish its family violence policy under the new, general information provision in the Code | Supported. |
| **Draft recommendation – 103 – Review of family violence policy**<br>- A retailer must review its family violence policy if directed to do so by the ERA.<br>- The review must be conducted in consultation with relevant consumer representatives.<br>- The retailer must submit the results of its review to the ERA. | Supported. |

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| **Draft recommendation – 104 – Customer circumstances**<br>A family violence policy must require the retailer to take into account the circumstances of an affected customer before disconnecting the customer's supply address for failure to pay a bill. | Supported. |

## ECCC questions

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| 1 | Contracting out of the Code<br><br>a) Should any of the clauses listed in clause 1.10 be removed from clause 1.10? If so, should any of those clauses instead include the words 'unless otherwise agreed'? | **Non-standard contracts**<br><br>No. Synergy considers customers benefit from having the flexibility to agree to variations to statutory rights contained in the Code under a non-standard contract.<br><br>Clause 1.10 provides customers with the right to agree terms (to be contained in a non-standard contract) that allow the parties to vary Code requirements relating to standard billing cycles, shortened billing cycles, due dates for payment, minimum payment methods, payment in advance, vacating a supply address and reconnection. The balance between statutory rights and a customer's freedom to contract is adequately struck with the inclusion of the current provisions contained in clause 1.10, allowing freedom and flexibility for the customer to ensure they are provided with a service that suits their requirements on a continuing contractual basis.<br><br>If a customer contracts out of any of the protections contained in clause 1.10, they remain protected by the *Electricity Industry (Customer Contracts) Regulations 2005* and the Australian Consumer Law with respect to unconscionable conduct, false or misleading misrepresentations and the consumer guarantees. It is Synergy's view customers and retailers should remain able to enter into non-standard contracts that alter or remove the protections in the clauses listed in clause 1.10 as generally speaking customers have a right to freedom to contract.<br><br>Providing an agreement or contract was not entered into as a result of duress, fraud, misrepresentation or failure to disclose the terms of the contract then customers should have the autonomy to choose. If a customer freely chooses to contract with a retailer on agreed terms and that negotiation process was fair, then the Code and the ERA should not seek to limit freedom of contract. As Synergy notes above, there are a number of laws which achieve a fair negotiation process (including the ACL). Accordingly, Synergy does not consider that any of the clauses listed in clause 1.10 should be removed. |

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| | b) Should the words 'unless otherwise agreed' be removed from any clauses that currently include those words? If so, should any of those clauses be added to clause 1.10? | **"Unless otherwise agreed"**<br><br>No. Synergy does not consider the words 'unless otherwise agreed' be removed from the Code. Synergy notes the ERA and ECCC has progressively introduced the ability for customers to elect service standards that differ from the Code over many years and queries why this is considered no longer appropriate. Synergy is not aware of any market failure or customer detriment resulting from existing arrangements.<br><br>The wording 'unless otherwise agreed' allows customers to make use of an ability to vary a provision within the Code as per their needs – this may be for a one-off variation (i.e. an agreement to a lower minimum amount for payment in advance to assist a customer in hardship) irrespective of whether the customer is supplied under a standard form or non-standard contract. Synergy considers it is not in the long term interests of consumers to be required to enter into a non-standard contract (via clause 1.10 under the Code) simply to be able to obtain differing service standards that the customer seeks or does not value in exchange for something that the customer does value.<br><br>The use of the phrase 'unless otherwise agreed' gives the ability for the customer and retailer to customise electricity supply under a standard form contract. The ability to vary terms within the standard form contract is also fair and useful for retailers – for example, retailers may wish to offer a new retail product which is beneficial for all parties, however the retailer may wish to mandate the preferred payment type (such as direct debit instalments) in exchange for a tariff discount relative to a standing or regulated price. In the event a retailer is obliged to offer customers all regulated payment methods this could have the unintended consequence of new products not being developed, existing products being withdrawn or discounts reduced.<br><br>The ability for retailers to customise products to their customer needs is how they differentiate in competing to supply a homogenous product such as electricity. By requiring all retailers to provide supply on the same terms and service standards, it reduces a retailer's ability to compete and innovate to meet varying customer needs.<br><br>The ability to agree with different minimum payment methods with a customer does not diminish customer rights and enhances the ability for a retailer to make customised offerings with targeted outcomes. It simply presents customers with a choice. |

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| | | Customers who value the flexibility of different payment methods will likely choose a different product than a customer who does not value flexible payment methods as high but seeks to pay a lower price in exchange for a higher discount.<br><br>It also means that these types of customised offerings are made within the standard form contract framework, which is significantly regulated and approved by the ERA. Removing the words 'unless otherwise agreed' would mean that all such products (even with minor changes) would be made under the non-standard contract framework.<br><br>Synergy is not aware of any regulatory failure in respect of the existence of clause 1.10 and the use of the words 'unless otherwise agreed' in the Code. Regulatory intervention is only justified if there is market failure, intervention leads to a superior outcome and the benefits exceeds the costs.[1] Synergy does not support the removal of any clauses listed in clause 1.10 or with the removal of the words 'unless otherwise agreed' in the Code because it will reduce customer choice and freedom to contract. There are existing mechanisms to ensure that customers are sufficiently protected and not coerced into contracting out of protections offered by the Code.<br><br>It should also be noted the ability of a retailer and customer to 'otherwise agree' to departures from an industry code made under legislation is not without precedent. The Telecommunications Consumer Protections Code made under the Telecommunications Act 1997 (Cth) also allows departures from its protections in the areas of billing timeframes and timeframes for compliance with directives.<br><br>In addition, the instrument of customer protection under the NECF, the National Energy Retail Rules (NERR) (Version 24) also provides similar flexibility to both customers and retailers to agree to variations to protections. The following examples can be noted from NERR:<br><br>• **Timeframe for Reconnection.** Requires retailers to reenergise disconnected premises within the service standard timeframes, "unless (the customer) requests a later time". |

[1] Best Practice Utility Regulation – Discussion Paper, July 1999; https://www.accc.gov.au/system/files/July%201999%20-%20Best%20Practice%20Utility%20Regulation.pdf

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| | | • **Basis of Bills.** Permits bills to be based on metering data, estimated data or on "any other method agreed by the retailer and the small customer"<br>• **Frequency of Bills.** A retailer must issue bills to a small customer at least once every 100 days. However, "A retailer and a small customer may agree to a billing cycle with a regular recurrent period that differs from the retailer's usual recurrent period where the retailer obtains the explicit informed consent of the small customer."<br>• **Apportionment.** This ability provides if a bill includes amounts payable for goods and services other than the sale and supply of energy, any payment made by a small customer in relation to the bill must be applied firstly in satisfaction of the charges for the sale and supply of energy, "unless the customer otherwise directs or another apportionment arrangement is agreed to by the customer".<br>• **Payment towards Prepayment meter system account.** Requires specific payment facilities are in place for prepayment customers are available either for cash payment, telephone payment or electronic payment but permits that an "other payment method acceptable to the retailer and agreed to by the customer" may be in place.<br><br>Given the majority of the ECCC's proposed recommendations is to provide greater alignment between the Code and the NERR, removal of clause 1.10 and the words "unless as otherwise agreed", is inconsistent with this approach. |
| 2 | Should the Code be amended to require that, if one or more Code clauses do not apply or apply differently in a customer's non-standard contract, the customer is informed of this before they enter into the contract? | No. Synergy considers the proposed introduction of a requirement to advise customers prior to contracting if one or more Code provisions do not apply or apply differently in a non-standard contract will add to customer confusion. Customers are already informed as to the contents of their non-standard contract and agree to it on that basis.<br><br>As required by the Code (cl 2.3(4)(b)), Synergy currently provides customers with information regarding the difference between the standard and non-standard form contract before a customer enters into a non-standard contract. Customers are equipped and have the ability to compare a standard and non-standard contract prior to entering into a non-standard contract and can thus determine the most appropriate contract that suits their particular needs. |

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| | | The document setting out the differences may be a lengthy which would add to the paperwork a customer receives. It may also mean that a customer relies on the summary instead of reviewing the contracts to determine which is most appropriate for them, when the customer should consider the terms of each contract carefully.<br><br>Retailers are also prohibited from engaging in misleading or deceptive conduct including in respect of negotiations with customers. This would include representations made about non-standard and standard form contracts.<br><br>Synergy is not aware of any problems or deficiencies with the current requirements relating to entering into a non-standard contract or the information disclosure requirements contained in clause 2.3 of the Code. Consequently, Synergy does not consider it is in the long-term interests of consumers for Synergy to incur additional of information disclosure costs and for these additional costs to be passed to customers when there is no evidence of market failure that warrants regulatory intervention. |
| 3 | The ECCC considers that retailers should have to notify customers with a fixed term contract that their contract is about to end. The ECCC seeks feedback as to whether:<br><br>a) This matter should be addressed in the Code or in the Electricity Industry (Customer Contracts) Regulations 2005.<br><br>b) If the matter is addressed in the Code, should the new provision follow rule 48 of the NERR? | Synergy does not consider that the expiry of fixed term contracts has been evidenced to be problematic in Western Australia. However, if in the future it needs to be addressed, then Synergy considers the *Electricity Industry (Customer Contract) Regulations 2005* is the most appropriate regulatory instrument to address fixed term non-standard contract expiry notification, not the Code. |
| 4 | Is the amount of information that must currently be included on a bill appropriate? Could some of the minimum bill items be removed from clause 4.5, or should additional information be included on the bill?<br><br>Should clause 4.5 be amended to allow retailers to provide (some of) the information in different formats for customers who have agreed to receive their bill electronically? | Synergy considers the current volume of information required to be included on a small use customer's bill to be excessive and has resulted from a regulatory misconception that that customers only obtain information via their electricity bill. Synergy considers the Code should specify billing information objectives and outcome-based principles and specify a limited number of primary information such as the amount owed, when payment is due, available payment options, payment difficulty, financial assistance, contact details for faults, emergencies or interpretation services etc. If other information is required to be provided to customers then this information should be specified under |

| | QUESTION | RESPONSE TO ECCC |
|---|---|---|
| | | the Code but retailers should be given the flexibility on how best to deliver it according to their customer needs. |
| 5 | Should the Code be amended to require retailers to offer a payment extension and an instalment plan to all residential customers? | No. Synergy does not consider current arrangements have led to regulatory failure and if the Code is amended to be consistent with the Victorian framework, some customers could receive less assistance than they are currently entitled to under the Code.<br><br>The requirement to offer more or further payment extension and instalment plans could encourage poor payment behaviour and the de-prioritisation of payments to Synergy, which in turn could increase hardship and could restrict Synergy's ability to successfully manage customers' payment and debt levels.<br><br>Any moves to amend the Code in this manner would require further information as to whether there would a regulated requirement on the number of times customers must be offered each of the payment options and whether defaulting on one will still trigger the need to offer another.<br><br>In the event the matter was regulated Synergy considers the obligation to offer should apply on request by a customer. |
| 6 | Should the Code be amended to require retailers to offer bill smoothing to all residential customers as a form of assistance? | No. Synergy's periodic direct debit payments scheme essentially allows all customers to elect bill smoothing on their own terms. Direct debit is a well-established and utilised customer payment channel. Accordingly, it is unnecessary for the Code to prescribe a bill smoothing requirement. Synergy also notes the ECCC has recommended the deletion of current Code provisions relating to bill smoothing requirements due to the problematic drafting of the current provisions. By establishing an obligation on retailers to offer a bill smoothing payment option this runs the risk of creating further regulatory risk for retailers in terms of defining what constitutes "bill smoothing". |
| 7 | Should the Code be amended to require retailers to offer an instalment plan to customers who the retailer otherwise considers are experiencing repeated difficulties in paying their bill or require payment assistance? | No. Synergy considers determining how this obligation will be met will be difficult. Questions raised include what will be the measurement for when the retailer otherwise considers a customer is experiencing difficulties and will there be a crossover between these customers and hardship customers? |

| | QUESTION | RESPONSE TO ECCC |
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| | | While Synergy currently undertakes proactive identification of customers who may be at risk of hardship or payment difficulties and contacts these customers these are voluntary programs for customers. With a regulated requirement to proactively identify customers experiencing repeated difficulties in paying their bill or those that require payment assistance, this creates regulatory burden in terms of wider application and monitoring of the instalment plan, extra onus to spend time and resources identifying and then contacting these customers and extra burden in terms of audit and reporting. |
| 8 | a) Should retailers continue to be able to amend a customer's instalment plan without the customer's consent?<br>or<br>b) Should clauses 6.4(2) and (3) of the Code be amended to clarify that a retailer cannot amend an instalment plan without:<br>(i) consulting the customer?<br>or<br>(ii) obtaining the customer's consent? | Yes. Synergy considers clause 6.4 benefits customers as it removes the onus from customers having to contact Synergy to amend their instalment plan when they receive a bill subsequent to an instalment plan being established. Some customers do not understand that new charges do not automatically roll into their payment plan and are required to contact Synergy to request this. Synergy's actions to roll in new charges to payment plans and make adjustments accordingly have been well received by customers.<br>Synergy has also employed case managers to assist hardship customers who regularly monitor payment plans and proactively contact customers to assist them to roll in new charges or make other such adjustments as necessary to help the customer keep on track with their payments.<br>Synergy considers amending the terms and conditions in the initial agreement to advise customers that a retailer may roll in new charges to the instalment plan as they come due would be sufficient provided the change is undertaken to assist the customer. |
| 9 | Should the Code be amended to include one or more of the assistance measures that Victorian retailers must offer to their customers under clauses 77 to 83 of the Victorian Energy Retail Code? | No. Synergy notes the Victorian assistance measures are extensive and delivery of these will be at a high cost. Synergy undertakes a number of assistance programs focussed on hardship customers and caters these to customers based on trends, external market forces and research. Providing retailers with the ability to cater offerings to hardship customers will result in targeted and constantly improving outcomes, rather than expensive regulated programs, the success of which will be difficult to measure. |
| 10 | Should clause 6.7 be amended: | Synergy considers an obligation upon a retailer to give reasonable consideration (option a) is fair, however it will be difficult to monitor and report upon. Option b) that involves an absolute obligation to revise an instalment plan if a customer reasonably |

| | QUESTION | RESPONSE TO ECCC |
|---|---|---|
| | a) by providing that a retailer must give reasonable consideration to offering a<br><br>(revised) instalment plan if the customer informs a retailer that they cannot meet the conditions of their payment extension or instalment plan?<br><br>or<br><br>b) by providing that a retailer must offer a (revised) instalment plan if the customer reasonably demonstrates to a retailer that the customer cannot meet the conditions of their payment extension or instalment plan?<br><br>or<br><br>c) consistent with clause 30(4)(b) of the Water Code? | demonstrates an inability to meet the conditions will again be difficult to administer and define in terms of what a reasonable demonstration from a customer will consist of.<br><br>The Water Code's requirement to 'review upon request by the customer' is the most appropriate option as it places an obligation upon the customer to be responsible for their agreement to make payments under the arrangement and enables the retailer to respond appropriately. The Water Code's requirements however would not allow a retailer to refuse to revise an instalment plan, even if a customer continuously defaults and has been offered multiple plans previously. This exposes a retailer to significant financial risk and administrative overhead.<br><br>Synergy recommends an amendment to a Water Code style of requirement wherein retailers are only required to offer such a revision on two occasions. |
| 11 | Should the Code prohibit disconnection of an affected customer's supply address?<br><br>If so, what period should disconnection action be prohibited for? | Synergy's Fresh Start program assists those experiencing family violence by considering customer's individual needs. While Fresh Start does not specifically contain a prohibition on disconnection for those affected by family violence, the premise of the program is that a customer who is part of the program has their entire arrears and charges waived as at the point of entry to the program, so they are not at risk of disconnection on the basis of non-payment. If further support is required (including no disconnection activity) this is considered on a case by case basis. Synergy considers retailer flexibility to deliver multiple solutions is a better approach then simply mandating a disconnection prohibition. Synergy further notes a mandated disconnection moratorium could have unintended consequences by requiring affected customers to periodically provide evidence of family violence so as to maintain the disconnection moratorium. |

# UnionsWA submission

Friday, 5 February 2021

Mr Paul Kelly,
Chairman
Electricity Code Consultative Committee
PO Box 8469, PERTH BC WA 6849
publicsubmissions@erawa.com.au

UNIONSWA
WA's PEAK UNION BODY

UnionsWA Incorporated • ABN 64 950 883 305
Level 4, 445 Hay Street, PERTH WA 6000
PO Box Z5380, St Georges Tce, PERTH WA 6831
Tel: +61 8 9328 7877 • Fax: +61 8 9328 8132
unionsyes@unionswa.com.au • www.unionswa.com.au

Dear Mr Kelly

**UnionsWA submission: 2019-22 Review of the Code of Conduct for the Supply of Electricity to Small Use Customers**

UnionsWA is the governing peak body of the trade union movement in Western Australia, and the Western Australian Branch of the Australian Council of Trade Unions (ACTU). As a peak body we are dedicated to strengthening WA unions through co-operation and co-ordination on campaigning and common industrial matters. UnionsWA represents around 30 affiliate unions, who in turn represent approximately 140,000 Western Australian workers.

UnionsWA thanks the ECCC for the opportunity to make a submission to this consultation after the formal due date.

UnionsWA is supportive of the submission done by the Western Australian Council of Social Service Inc. (WACOSS), in particular the following points:

- That the Code's ability to provide a minimum safety net for customers should be maintained
- That retailers must inform customers in writing of the difference between a standard and non-standard contract
- That Bill digitisation should not disadvantage customers with digital literacy issues
- That retailers should be required to offer payment extensions and instalment plans to all residential customers
- That setting an amount below which disconnection should not be allowed
- That retailers should be required to have a family violence policy and new standards of conduct to boost protections for customers, with better training for staff, improved account security and debt management practices, and safe communication methods

Concerning the last point, UnionsWA has consulted with its affiliate the Australian Services Union (ASU) WA Branch. Based on ASU feedback, we believe that the Family and Domestic Violence aspects of the Code should take account of the fact that domestic violence is not only a serious criminal, health and social issue, it is also a workplace issue.

Workplaces have a key role in preventing domestic and family violence and addressing its causes. They should provide a safe and supportive environment for workers experiencing domestic or family violence while the worker is planning how to end a violent relationship.

The development of family violence policies and conduct standards for customers by retailers is inseparable from the development of polices and workplace safety plans for their employees. This is

particularly the case where the Code requires retailers provide for staff training in family violence. This should be *paid time training* as an explicit workplace condition.

More broadly, workplace domestic violence education programs should be incorporated into staff meetings, and new and ongoing staff training. This will improve the responses of staff who deal with customers experiencing domestic and family violence, and to the benefit of those customers.

Therefore, retailers should develop domestic and family violence polices for *both* employees and customers. These policies will complement and improve each other and should be developed in consultation with employees through their unions. Initiatives such as Synergy's Fresh Start Practice to assist customers experiencing domestic violence are rightly regarded with pride by employees. Many retailers across Australia have already agreed to the ASU Domestic and Family Violence Model Clause in collective agreements, and the Code of Conduct should recognise it as an action that will improve retailers' responses to customers on this issue.

Thank you for the opportunity to participate in this Review. Please contact me directly on 08 9328 7877 or owhittle@unionswa.com.au if you wish to discuss matters further.

Yours sincerely

**Owen Whittle**
**Acting Secretary**

# WACOSS submission

Submission to the Economic Regulation Authority

(Electricity Code Consultative Committee)

**2019-22 Review of the Code of Conduct for the Supply of Electricity to Small Use Customers**

*29 January 2021*

The Western Australian Council of Social Service Inc. (WACOSS) welcomes the opportunity to make a submission to the review of the 2019-2022 Code of Conduct for the Supply of Electricity to Small Use Customers.

WACOSS is the peak body for the community services sector in Western Australia and works to create an inclusive, just and equitable society. We advocate for social and economic change to improve the wellbeing of Western Australians, and to strengthen the community services sector that supports them. WACOSS is part of a network consisting of National, State and Territory Councils of Social Service, who advance the interests of people on low incomes and made vulnerable by the systems in place.

WACOSS is also a member of the Electricity Code Consultative Committee (ECCC) [1] and has been actively involved in the process of developing the recommendations to amend the Code as outlined in their Draft Review Report.[2] In addition, WACOSS provides the following responses to the questions outlined in the Draft Review Report:

**Part 1 of the Code: Preliminary**

*Question 1.*
While contractual flexibility may provide some benefits to both customers and retailers, WACOSS believes that it is important to ensure the Code's ability to provide a minimum safety net for customers is maintained. At this time, WACOSS suggests that all clauses listed in clause 1.10 should remain, and does not suggest any changes. WACOSS considers that clauses that include the words "unless otherwise agreed" should not also be listed in clause 1.10.

*Question 2.*
The Code's protections provide a minimum safety net for customers, but some of these protections may be set aside when customers enter a non-standard contract. To help customers make an informed decision, retailers should uphold the responsibility to clearly outline the difference between a standard contract and a non-standard contract. WACOSS believes that the Code should be amended to require retailers to inform customers in writing of the difference between a standard

[1] Electricity Code Consultative Committee (2020)
[2] Electricity Code Consultative Committee (2020) 'Draft review report: 2019-22 Review of the Code of Conduct for the Supply of Electricity to Small Use Customer'

form contract and non-standard contract and if they have contracted out of one or more protections of the Code.

**Part 4 of the Code: Billing**

*Question 3.*
The National Energy Retail Rules (NERR) applicable in New South Wales, Queensland, South Australia, Tasmania and the Australian Capital Territory require retailers to notify customers on a fixed term market retail contract that their contract is coming to an end between 40 and 20 business days before the end date of the contract. Should this matter be taken up by the ECCC, WACOSS proposes that it be addressed in the Code and that the new provisions follow rule 48 of the NERR to provide a level of consistency with other jurisdictions.

*Question 4.*
Electricity bills are a key way to inform people about their plan and usage and are the primary touchpoint between consumers and their electricity provider. WACOSS believes that the amount of information currently included on a bill is appropriate and that retailers should provide sufficient rationale for the removal of any bill items.

Although bill digitalisation offers new opportunities for retailers to simplify bill design by providing links to detailed or complex information, not all customers are, or will be, digitally enabled. For example, people on low incomes are significantly impacted by the affordability of access to digital technologies and internet services.[3] Although improving in some areas, there remain ongoing barriers to accessing digital technologies and affordable, reliable internet access or mobile network coverage in regional and remote communities across Australia.[4] As outlined in the Draft Review Report, customers who do not have, or have only limited, access to digital technology should not miss out on important information because the information is only available in a digital format. WACOSS believes that all consumers should have access to all bill information, irrespective of their ability to access digital technology.

In addition, Western Australians have diverse levels of general and digital literacy and experience using digital technologies and the internet.[5] Even when consumers have agreed to receive their bill electronically, consumers may have difficulty in confidently navigating and critically evaluating a digitalised bill with links to separate and more complex information. Some older Western Australians who encountered modern technologies later in life or people with disability, for example, may need considerable support to engage with digital technologies and digitally-enabled services. For this reason, WACOSS does not support the amendment of clause 4.5 to allow retailers to provide information in different formats for customers who have agreed to receive their bill electronically as it may place some customers at a disadvantage when accessing important information.

[3] Government of Western Australia (2020) Digital Inclusion in Western Australia: A Blueprint for a Digitally-Inclusive State
[4] Better Internet for Rural, Regional & Remote Australia (2018) Regional Telecommunications Independent Review Committee (RTIRC) Submission
[5] Government of Western Australia (2020) Digital Inclusion in Western Australia: A Blueprint for a Digitally-Inclusive State

**Part 6 of the Code: Payment difficulties and financial hardship**

*Question 5.*

Energy is an essential service that should, at all times, be accessible, affordable and equitable. Open and frequent communication about retailer policies and assistance programs has proven to be key in maintaining high customer satisfaction, particularly during challenging times such as the current coronavirus pandemic.[6] By establishing an entitlement to assistance for all residential customers, it may be clearer for customers what their rights are and improve customer satisfaction, while ensuring that no customer is denied assistance. Improving access to financial relief may also serve as an opportunity for retailers to more proactively prevent customers from getting into debt. The advantage for retailers is that they do not have to spend time and resources assessing whether a customer is experiencing payment difficulties or not. WACOSS supports an amendment to the Code to require retailers to offer a payment extension and an instalment plan to all residential customers.

*Question 6.*

The seasonal nature of energy consumption during the peak summer period in Western Australia and the resultant size of the bills, mean that low-income households, particularly in regional areas, can be at substantial risk of bill shock.[7] Higher bills may divert money away from other regular expenses necessary for quality of living, such as food or healthcare, and can impact personal and family health. Offering bill smoothing as a form of assistance may provide advantages for not only low-income households, but all residential customers, as it reduces the impact of seasonal energy usage and makes energy costs more predictable.[8] WACOSS strongly supports an amendment of the Code to require retailers to offer bill smoothing to all residential customers as a form of assistance.

*Question 7.*

The National Energy Customer Framework (NECF) provides protections that recognise energy as an essential service, including a process for early identification of vulnerable customers by the retailer. Retailers are required under the NECF, by law, to offer and apply payment plans for customers the retailer believes are having difficulty paying their bills.[9] A simple analysis of payment patterns that demonstrate a customer's repeated difficulties in paying their bills should be sufficient to trigger a belief in the retailer that a customer requires support (in the form of a payment plan or other payment assistance). Informing the customer of the payment assistance supports available should occur at this early stage in the process of retailer identification to help prevent customers from entering utility debt or severe hardship. WACOSS supports an amendment of the Code to require retailers to offer a payment extension and an instalment plan to customers who the retailer otherwise believes are experiencing repeated difficulties in paying their bill or require payment assistance.

*Question 8.*

Effective, transparent communication from the retailer to the customer should be the touchstone for any payment assistance plan. According to the Australian Energy Regulator (AER), 'what information the customer is given and how it is given…are key to meaningful compliance with the

[6] J.D. Power (2020) 'Electric Utilities' Good Deeds—and Communication about Them—Pay Off During Pandemic, J.D. Power Finds', Press Release
[7] WACOSS (2020) Cost of Living Report
[8] AGL (2020). 'How do smooth bill payments work?' Webpage[8] National Energy Retail Law Section 50(1)

law and achieving better outcomes'.[10] WACOSS supports the proposal that clauses 6.4(2) and (3) of the Code be amended to clarify that a retailer cannot amend an instalment plan without obtaining the customer's consent.

*Question 9.*
The Victorian Energy Retail Code requires retailers to provide standard assistance to all residential customers which allow customers to: make equal payments at a standard interval; select a payment interval; extend the pay-by date of their bill and to make payments towards their accounts in advance. These assistance measures are to help customers who may be experiencing short-term difficulty paying a bill to avoid getting into arrears with their retailer. For customers who are in arrears of $55 or more, or in more severe types of payment difficulty where they cannot afford to pay for their ongoing energy use, the Victorian Energy Retail Code requires retailers to provide additional, tailored assistance that makes it easier for them to pay for their on-going energy use, repay their arrears and lower their energy costs. Some of the tailored assistance measures that retailers must provide under the Victorian Energy Retail Code include:

- Specific advice about the likely costs of the customer's future electricity use and how this cost may be lowered.
- Practical assistance to help the customer lower their electricity costs, such as energy audits.[11]
- Putting repayment of arrears on hold, and paying less than the full cost, for an initial period 6 months, which may be extended.
- The retailer proactively proposing an amendment to an instalment plan if the customer has missed a payment under their current plan.

WACOSS submits if Victorian retailers can implement these organisational practices and are required to provide continued assistance to customers, then Western Australian retailers should be able to ensure all customers experiencing energy bill debt are contacted and provided with comparable information about supports available to them. Equitable access to assistance should be extended nationwide.

*Question 10.*
Following this, WACOSS supports options b and c to amend clause 6.7 to:

b) by providing that a retailer must offer a (revised) instalment plan if the customer reasonably demonstrates to a retailer that the customer cannot meet the conditions of their payment extension or instalment plan; and/or

c) consistent with clause 30(4)(b) of the Water Code

**Part 7 of the Code: Disconnection**

In March 2020, a disconnection moratorium was put in place by the State Government to assist electricity residential customers experiencing hardship as a result of COVID-19. This was partly responsible for electricity residential customer disconnections decreasing in 2019/20 for the first

[10] AER, Hardship Guideline Issues Paper, December 2018, p.12
[11] On 29 December 2020, Energy Minister Bill Johnston announced the new Household Energy Efficiency Scheme for Western Australia.

time in three years. The disconnection moratorium has been extended until 30 June 2021.For the three years prior to the moratorium, however, the percentage of electricity disconnections has increased, with 2018/19 seeing it exceed 2.0 per cent for the first time since the Economic Regulation Authority commenced reporting on electricity retailer performance in 2007.[12]

**Number and percentage of residential electricity customer disconnections 2014 to 2019**

| | 2013/14 | 2014/15 | 2015/16 | 2016/17 | 2017/18 | 2018/19 |
|---|---|---|---|---|---|---|
| Number | 9,235 | 9,412 | 9,774 | 15,935 | 19,743 | 21,212 |
| Percentage | 0.97 | 0.97 | 0.96 | 1.60 | 1.91 | 2.02 |

Source: Economic Regulation Authority (2020)

Western Australia continued to have the highest residential electricity disconnection rate among the comparable jurisdictions of News South Wales, Victoria and South Australia, with the gap between WA and the next highest widening by 0.7 percentage points in 2018/19.[13] Electricity disconnection can have a range of detrimental impacts for households already struggling with everyday living costs, including loss of food, an inability to bathe or to heat or cool rooms, or to maintain connection with relatives and the wider world, leading to health problems, anxiety and emotional disorders.[14] Because of the severity of these impacts, it is commonly acknowledged that disconnection for non-payment should be a last resort measure.[15]

To reduce the high residential electricity disconnection rate in Western Australia, WACOSS strongly supports the recommendation for setting an amount below which disconnection is not allowed. WACOSS believes that this amount should be in line with that set by Australian Energy Regulator and Victoria's payment difficulty framework[16] at $300.

**Family and domestic violence**

Essential services can be used by perpetrators of family violence to coerce and cause harm as a form of economic or financial abuse, due to the critical function essential services play in daily life. Financial abuse is one of the most powerful ways a perpetrator can keep their partner or family member trapped in an abusive relationship and may also impact on that person's ability to stay safe once they leave the relationship. As essential service providers, energy retailers have an important role to play in protecting customers' account information, privacy and personal security and supporting customers and employees affected by family violence. WACOSS strongly supports the ECCC's proposal to require retailers to have a family violence policy and new standards of conduct to boost protections for customers, with better training for staff, improved account security and debt

[12] WACOSS (2020) Cost of Living Report
[13] WACOSS (2020) Cost of Living Report
[14] St Vincent de Paul Society and Alviss Consulting (2016) 'Households in the dark Mapping electricity disconnections in South Australia, Victoria, New South Wales and South East Queensland' Report
[15] Essential Services Commission (2017) 'Payment difficulty framework: Final Decision' Report
[16] Essential Services Commission (2018) 'Energy Retail Code review 2016 (customers facing payment difficulties)' Report

management practices, and safe communication methods for those affected by family and domestic violence.

*Question 11.*
The severity of impacts of disconnection, particularly for households experiencing hardship (as outlined above), when combined with the severity of impacts of family and domestic violence, may undermine a person's safety, mental and physical health, and inhibit their access to material basics and economic and emotional wellbeing. Customers affected by family violence often find it difficult to maintain engagement with services (including energy retailers). WACOSS proposes that retailers should only be able to respond to disengagement in ways appropriate to the customer's situation, including being prohibited from disconnecting affected customers.

Following consultation with our member network, WACOSS proposes a preliminary period of six months following a customer's disclosure of family and domestic violence for which disconnection action by retailers should be prohibited. Retailers should provide an option for further extension if necessary, after careful consideration of a customer's circumstances.

If you would like to discuss this submission further, please contact the WACOSS Senior Policy Officer Graham Hansen at graham@wacoss.org.au or 6381 5300.

Yours sincerely,

Louise Giolitto
Chief Executive Officer
WACOSS

# Western Power submission

Our ref: EDM 55188954
Contact: Mohsin Miyanji

29 January 2021

Mr Paul Kelly
Chairman
ECCC
PO Box 8469
PERTH BC WA 6849

Dear Paul

**Proposed amendments to the *Code of Conduct for the Supply of Electricity to Small Use Customers***

I refer to the 30 November 2020 Electricity Code Consultative Committee **(ECCC)** invitation for public submissions on the amendments proposed by the Economic Regulation Authority **(ERA)** in the Draft Review Report for the 2019-22 Review of the *Code of Conduct for the Supply of Electricity to Small Use Customers* 2018 **(Code)**.

Western Power welcomes the opportunity to respond to the Draft Review Report. Western Power is broadly supportive of the recommendations set out in the Draft Review Report but has comments on the amendments proposed by Draft Recommendation 38, 62, 63 and 65 of the Draft Review Report.

Western Power is also proposing a small amendment to clause 7.7 (4) (b) of the Code, to make it easier for life support equipment customers to "opt out" of being contacted to acknowledge receipt of a planned interruption notice.

**Recommendation 38 of the Draft Review Report – (Part) Unlawful Act or Omission**

Clause 4.18(5) needs to be reviewed, which states in part: 'If the [customer] was overcharged as a result of the customer's unlawful act or omission'...

The Western Power observation relates to the use of the word 'or'. Is the word 'omission' to be interpreted as 'any omission' or an 'unlawful omission'? Is it the intent of the wording of the Code to limit a refund regardless of why a customer omitted some information (accidentally or intentionally or lawfully), or to limit it when the customer unlawfully omitted information?

**Recommendation 62 of the Draft Review Report - General limitation on disconnection**

Under the Draft Review Report, the ERA proposes to amend clause 7.6 of the Code by including a definition of "protected period" during which time a disconnection cannot be undertaken by Western Power, unless any of the following exceptions under clause 7.6(3) applies:

westernpower
363 Wellington Street Perth 6000
GPO Box L921 Perth WA 6842
westernpower.com.au
t 13 10 87
f (08) 9225 2660
TTY 1800 13 13 51
TIS 13 14 50
Electricity Networks Corporation
ABN: 18 540 492 861

*(a) the customer has requested [disconnection];*

*(b) there are health or safety reasons warranting [disconnection]; or*

*(c) there is an emergency warranting [disconnection].*

The "protected period" is defined under clause 1.5 of the Code as:

*(a) a business day before 8am or after 3pm; or*

*(b) a Friday or the day before a public holiday; or*

*(c) a weekend or a public holiday; or*

*(d) the days between 20 December and 31 December (both inclusive) in any year;*

Western Power is supportive of sub-clauses (b), (c) and (d) of the definition, but disagrees with sub-clause (a), in particular "a business day before 8am". The Code is currently silent on a start time for disconnections so the inclusion in the Code of the 8am start will extend an existing Type 1 Licence obligation.

Western Power takes its Type 1 obligations very seriously and has established strong internal controls over disconnections to manage the risk of a disconnection being performed outside the times currently allowed by the Code. Should the 8.00am start time be included in the Code, Western Power will need to undertake significant activities, including:

- Re-training large numbers of Western Power office and operational staff, as well as Contractor service provider staff
- Modifying several IT systems including MBS and the AMI integration layer and Contractor service provider systems
- Modifying hand-held devices utilised by operational personnel
- Updating processes and work practices to include the 8am start Code change

All of these additional activities will need to be undertaken at a time when Western Power is heavily involved in implementing changes being introduced through energy reform and has commenced working on the AA5 Access Arrangement.

It should be understood that Western Power does not object to the Code change being made at a suitable time in the future, when Advanced Metering Infrastructure (AMI) capability will be available across the network for remote disconnections. Manual customer disconnections will reduce in time as the deployment of advanced meters continues.

The current 1 July 2022 timing for the introduction of the Code change poses significant challenges for Western Power, for what will be an interim measure until the AMI capability is available.

Western Power proposes that sub-clause (a) of the definition of protected period should be:

*(a) a business day after 3pm;*

## Recommendation 63 of the Draft Review Report – Provision of information

It is recommended that the wording remain as 'when advised by the customer', rather than 'when registered'. Many registration requests are a result of notification of planned work in a customer's area, with the belief that a registration will guarantee uninterrupted supply. In this context advised means the time of an inquiry into the registration process rather than the point of receiving registration documents from the customer.

It is suggested the retailers provide this information with any registration forms or website information describing life support registration. The information will remain useful to customers even if they do not proceed to registration.

NOTE: The Electricity Industry (Caravan Park Operators) Exemption Order 2018; and The Electricity Industry Exemption Order 2018, need to be considered with this change. The information provided by a retailer should be passed on by on-selling customers to their registrants.

### Recommendation 65 of the Draft Review Report – Timeline to register

The wording of 7.7(3)(i) should be changed from "the next business day" to "before the end of the next business day". Technically, the existing wording excludes registering the site on the same day if it is possible to do so.

### Further Code amendment proposed by Western Power

A minor amendment is proposed for clause 7.7 (4) (b) relating to life support equipment customers wishing to "opt out" of the need to be contacted by Western Power to obtain verbal acknowledgement, written acknowledgement or acknowledgement by electronic means from the customer or someone residing at the supply address that a planned interruption notice has been received. The Code currently requires customers not wishing to be contacted to request this in writing. A number of customers have expressed the desire to be able to provide this request verbally rather than in writing.

It is proposed that the words "in writing" be deleted from clause 7.7 (4) (b), as follows:

*(4) If life support equipment is registered at a customer's supply address under subclause (3)(a), a distributor must—*

> *(b) prior to any planned interruption, provide at least 3 business days written notice to the customer's supply address and any other address nominated by the customer, or notice by electronic means to the customer, and unless expressly requested ~~in writing~~ by the customer not to, use best endeavours to obtain verbal acknowledgement, written acknowledgement or acknowledgement by electronic means from the customer or someone residing at the supply address that the notice has been received.*

Should you have any queries regarding this letter, please do not hesitate to contact Mohsin Miyanji on (08) 9326 6408.

Yours sincerely

**Zahra Jabiri**
Head of Regulation and Investment Assurance