



Electricity Code Consultative Committee

Advice

On the ERA's draft decision to repeal and replace the *Code of Conduct for the Supply of Electricity to Small Use Customers 2018*

21 September 2022

Electricity Code Consultative Committee

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Executive summary

This paper sets out the Electricity Code Consultative Committee's (ECCC) advice to the Economic Regulation Authority on the ERA's draft decision to repeal and replace the *Code of Conduct for the Supply of Electricity to Small Use Customers 2018*.

Before formulating its advice, the ECCC invited public submissions on the ERA's draft decision. The ECCC's advice takes into account the three submissions received.

The ECCC supports the amendments proposed in the ERA's draft decision but recommends several additional amendments.

Family violence

Many of the amendments relate to the new protections around family violence.

Definition of vulnerable customer

The ECCC recommends changes to the definition of vulnerable customer to ensure that the new protections around family violence are available to those customers who need them most. The definition would be extended to include other persons named on a customer's account but no longer apply to all former customers. Former customers would only be covered while they still have an outstanding debt with their retailer.

Vulnerable pre-payment meter customers

The ECCC further recommends that the new disconnection moratorium not apply to vulnerable pre-payment meter customers. The ECCC is concerned that the moratorium would create more problems for many pre-payment meters customers than it would address. Instead of a disconnection moratorium, vulnerable pre-payment meter customers should receive support that helps them avoid disconnection but is tailored to their particular circumstances.

To achieve this, the ECCC recommends that a family violence policy must require a retailer to have arrangements in place to assist vulnerable pre-payment meter customers avoid disconnection. Retailers should also be required to consider providing financial assistance to vulnerable pre-payment meter customers.

The ECCC recognises that each customer's circumstances are different, and some vulnerable pre-payment meter customers could benefit from a disconnection moratorium. To help these customers access the disconnection moratorium, the ECCC recommends that vulnerable pre-payment meter customers should be allowed, on request, to have their pre-payment meter replaced with a standard meter free of charge. A retailer's family violence policy should also have to require a retailer to inform vulnerable pre-payment meter customers about the different types of meters available and help customers make an informed choice by explaining the advantages and disadvantages of those meters, taking into account the customer's individual circumstances.

Protecting a vulnerable customer's information

The ECCC recommends that a family violence policy must require a retailer to advise vulnerable customers that, on request, the retailer must take reasonable steps to – rather than 'can' – protect the customer's information. The proposed amendment recognises that retailers cannot always protect all information provided by a person named on an account from an account holder. To ensure that persons named on the account understand that the account holder may have access to some of their personal information, the ECCC recommends that a family violence policy require retailers to advise vulnerable customers about the consequences of being named on a customer's account.

Disconnection protections not to apply to former vulnerable customers

The ECCC also recommends that the protections around disconnection, including the 9-month disconnection moratorium, not apply to former customers.¹ Operationally, it is difficult for retailers to comply with these obligations if a former vulnerable customer moves in with another customer who already has an account for the supply address as the retailer would not know that the former vulnerable customer is now residing at another supply address.

Pre-payment meter customers

The ECCC recommends several new protections for residential pre-payment meter customers.

Pre-payment meter customers who have advised their retailer that they are struggling to pay for their consumption should not be charged a fee if they want to revert to a standard meter.

Pre-payment customers who have been disconnected repeatedly or who have advised their retailer that they are struggling to pay for their consumption, should be given information about available concessions. Retailers should also have to give reasonable consideration to requests from these customers for a reduction in their fees, charges or debt.

Cap on payment extensions

The ECCC further recommends placing a cap on the number of payment extensions retailers have to offer residential customers. Customers who have been granted an extension for two or more bills and have twice failed to pay by the agreed date, should not be entitled to another payment extension. This is similar to the existing cap on payment plans. The new cap would be in addition to the cap on payment plans; that is, customers would be entitled to a minimum of two payment extensions and two payment plans per year.

Increased flexibility for customers, retailers and distributors

To provide retailers and customers with more flexibility to negotiate outcomes that suit a customer's personal circumstances, the ECCC recommends that retailers be allowed to offer

¹ The protections would continue to apply to (former) customers who transfer their account to, or open a new account at, another supply address as they would continue to be, or once again become, current customers of the retailer. The protections would also continue to apply to former customers who are named on the account of another customer as they would be covered by the proposed changes to the definition of vulnerable customer.

customers payment plans of at least two instalments, instead of the proposed minimum of three. The proposed amendment recognises that retailers will have to make payment plans available to all residential customers under the new Code, making it more likely that some customers who ask for a payment plan will only need a short extension of time to pay. The amendment should not affect customers who need more time to pay as any payment plan would still have to take into account a customer's capacity to pay.

The ECCC further recommends that retailers and distributors be allowed to refer customers for information not only to their websites, but also to other electronic information sources, such as mobile applications or electronic communication portals. However, a retailer or distributor who opts to refer a customer to other electronic information sources must advise the customer that they are entitled to receive a copy of the information.

1. Background

The *Code of Conduct for the Supply of Electricity to Small Use Customers* regulates and controls the conduct of retailers and distributors that supply electricity to residential and small business customers. The Code covers a broad range of areas including billing, payment, financial hardship, disconnection and complaints.

Section 81 of the *Electricity Industry Act 2004* requires the ERA to establish a committee to advise it on matters relating to the Code. The ERA established the Electricity Code Consultative Committee to fulfil this function. The ECCC consists of four members from consumer organisations, four members from industry and two members from government agencies.²

Review of Code

Every two years, the ECCC must review the Code and present its findings to the ERA. The object of a review is to re-assess the suitability of the provisions of the Code for the purposes of section 79(2) of the Act.³

The ECCC commenced the 2019 to 2022 review of the Code in July 2020. That review was the most comprehensive review since the Code commenced in 2004. In addition to reviewing existing provisions, the ECCC looked for opportunities to better align the Code with the National Energy Customer Framework and considered new protections for customers affected by family violence.

As part of its review, the ECCC published a draft review report for public consultation.⁴ The ECCC received 11 submissions.⁵

Following consideration of the submissions, the ECCC provided its final review report to the ERA.⁶ The report included 115 recommendations for amendments to the Code.

² More information about the ECCC is available in Appendix 7.

³ Section 79(2) of the Act provides:

The code of conduct is to regulate and control the conduct of —

(a) the holders of retail licences, distribution licences and integrated regional licences; and

(b) electricity marketing agents,

with the object of —

(c) defining standards of conduct in the supply and marketing of electricity to customers and providing for compensation payments to be made to customers when standards of conduct are not met; and

(d) protecting customers from undesirable marketing conduct.

⁴ 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*, ([online](#)).

⁵ The submissions are attached to the ECCC's draft review report.

⁶ Electricity Code Consultative Committee, 2021, *Final Review Report: 2019-22 Review of the Code of Conduct for the Supply of Electricity to Small Use Customers*, ([online](#)).

ERA draft decision

The ERA published a draft decision that proposed to accept all the ECCC's recommendations.⁷ The ERA also proposed various minor, additional amendments to the Code. The additional amendments stemmed from the ECCC's recommendation that the ERA ask the Parliamentary Counsel's Office to review the drafting of the Code to improve clarity.

As required under the Act, the ERA requested the ECCC's advice on the ERA's draft decision to repeal and replace the Code.

Public consultation

Following receipt of the ERA's request for advice, the ECCC published a notice on the ERA website inviting public comment on the ERA's draft decision. The ECCC also published two public consultation notices in *The West Australian*. The eight-week public consultation period closed on 11 February 2022.

The ECCC received submissions from:

- Alinta Energy.
- Dr Lee White and Ms Sally Pearson (Australian National University's School of Regulation and Global Governance); Mr Brad Riley and Dr Lily O'Neill (Australian National University's Centre for Aboriginal Economic Policy Research); and Dr Thomas Longden (Australian National University's Crawford School of Public Policy).
- Synergy.

Copies of the submissions are in Appendices 4 to 6.

The ECCC has taken the submissions into account in formulating its final advice to the ERA.

⁷ Economic Regulation Authority, 2021, *Draft decision: Repeal and replacement of the Code of Conduct for the Supply of Electricity to Small Use Customers 2018*, ([online](#)).

2. Advice

The ECCC welcomes the ERA's draft decision to accept all the recommendations made by the ECCC in its final review report. The ECCC also supports the minor, additional amendments proposed by the ERA.

After consideration of the submissions received, the ECCC recommends the following changes to the draft Code that was included as Appendix 1 to the ERA's draft decision (consultation draft Code).

2.1 ECCC recommendations

2.1.1 Commencement of Part 13 (family violence policy) and other Parts of the Code

[Clause 2 of the consultation draft Code]

Recommendation 1

- a) That Part 13 (family violence policy) commence at the same time as the other Parts of the Code.
- b) Amend clause 2(b) of the consultation draft Code to provide that the Code commences on 16 January 2023.

The ERA had proposed that Part 13 (family violence policy) commence two months after gazettal, and the other Parts of the Code on 1 January 2023. As the ERA's intended gazettal date was the end of June 2022, Part 13 would have commenced about four months earlier than the other Parts.

Delays to the review process mean that the ERA's proposal would now result in Part 13 commencing less than two months earlier than the other Parts of the Code.

The ECCC considers that the advantages of commencing Part 13 less than two months earlier do not outweigh the disadvantages, such as the additional administrative burden for retailers. Also, some retailers may need more time to implement the new requirements of Part 13 as the ECCC has recommended further changes to Part 13.⁸

The ECCC therefore recommends that Part 13 commence at the same time as the other Parts of the Code.

In addition, the ECCC recommends that the new Code commence on 16 January 2023, instead of 1 January 2023 as proposed by the ERA. The new Code includes many new obligations on retailers and distributors. To ensure a smooth implementation of those obligations, it is

⁸ See sections 2.1.19 to 2.1.22 of this advice.

preferable for the new obligations to commence after the Christmas and New Year holidays, when most staff have returned from leave.

2.1.2 Definition of payment plan

[Clause 4(1) of the consultation draft Code]

Recommendation 2

Amend the definition of payment plan, in clause 4(1) of the consultation draft Code, to require a payment plan to consist of two or more instalments.

Alinta Energy pointed out in its submission that the new definition of payment plan required a plan to consist of at least three instalments, while the current definition only required a plan to 'generally [involve] payment of at least 3 instalments'.⁹ Alinta Energy proposed to delete the words 'at least 3' from the definition of payment plan.¹⁰

Under the consultation draft Code, retailers must make payment extensions and payment plans available to all residential customers, not only customers who are experiencing payment difficulties or financial hardship. It is likely that this will result in more customers asking for a payment plan who only need a short extension of time to pay. To ensure that retailers can offer these customers payment plans of two instalments, the ECCC recommends that the words 'at least 3' be replaced by '2 or more'.

The requirement in clause 42(1)(a) of the consultation draft Code for any payment plan to take into account information about a customer's capacity to pay, will ensure that payment plans of two instalments will only be available to customers who have the capacity to pay within that timeframe. Customers who need more time to pay will still be entitled to a payment plan that consists of more instalments.

2.1.3 Provision of information to customers

[Clause 5(2)(a) of the consultation draft Code]

Recommendation 3

Amend clause 5 of the consultation draft Code to provide that, if the Code requires a retailer, distributor or electricity marketing agent to give or provide information to a customer on request:

- The retailer, distributor or electricity marketing agent may refer a customer not only to their website for the information, but also to a mobile application or electronic communication portal; and

⁹ *Code of Conduct for the Supply of Electricity to Small Use Customers 2018* (WA) clause 1.5 (definition of instalment plan).

¹⁰ Alinta Energy, 4 February 2022, Submission to *ERA draft decision – Repeal and replacement of the Code of Conduct for the Supply of Electricity to Small Use Customers 2018*, p 1.

- If the retailer, distributor or electricity marketing agent refers a customer to a mobile application or electronic communication portal for information, the retailer, distributor or electricity marketing agent must advise the customer that the customer is also entitled to be provided with a copy of the information.

Various clauses in the Code require retailers, distributors and electricity marketing agents to provide information to customers on request. Clause 5(2) of the consultation draft Code allows retailers, distributors and electricity marketing agents to meet this requirement by referring the customer to their website. However, if a customer requests that the information be given, the retailer, distributor or electricity marketing agent must do so.

In its submission, Synergy argued that the reference to website, in clause 5(2)(a), was too limited. According to Synergy, it was becoming increasingly common for retailers to have electronic information sources in addition to a website such as mobile applications and customer portals (Synergy MyAccount). Synergy recommended the clause be broadened to include “website, mobile application or an alternative electronic communication portal”.¹¹

The ECCC recognises that information that is specific to a customer’s circumstances, such as historical billing data, will generally not be available from the retailer’s generic website but may be available through a mobile application (app) or customer portal. Most customers are likely to prefer accessing tariff or billing data through an app or customer portal. For example, because it will give them access to the full data sets or because they may be able to download the data directly into a spreadsheet.

However, accessing information in an app or customer portal is generally more cumbersome than accessing information from a website as the customer will first have to download the app or set up a customer account. To ensure customers are aware they have the choice to receive a copy of the information, the ECCC recommends that if a retailer, distributor or electricity marketing agent refers a customer to a mobile application or electronic communication for information, the retailer, distributor or electricity marketing agent must advise the customer that the customer is also entitled to be provided with a copy of the information.

2.1.4 Entering into non-standard contract

[Clause 10(5) of the consultation draft Code]

Recommendation 4

Amend clause 10(5) of the consultation draft Code so it applies to retailers who will be required, under regulation 20 of the *Electricity Industry (Customer Contracts) Amendment Regulations 2022*, to offer to supply electricity to a customer under a standard form contract.

¹¹ Synergy, 10 February 2022, Submission to *ERA draft decision - Repeal and replacement of the Code of Conduct for the Supply of Electricity to Small Use Customers 2018*, p 2 of Attachment.

Clause 10(5) of the consultation draft Code requires Synergy and Horizon Power to advise a customer, before entering into a non-standard contract, that they are able to choose the retailer's standard form contract and about the difference between a non-standard and standard form contract.

The obligation only applies to Synergy and Horizon Power because they are the only retailers that, under regulation 40 of the *Electricity Industry (Customer Contracts) Regulations 2005*, must offer to supply electricity under a standard form contract to any customer who requests supply.

In June 2022, Energy Policy WA gazetted the *Electricity Industry (Customer Contracts) Amendment Regulations 2022*. The amendment regulations are due to commence on 1 January 2023 and will extend the obligation to offer to supply electricity under a standard form contract.¹² For existing connections, the obligation will apply to the retailer determined by the distributor to be the default supplier for the customer's connection point. This will generally be the retailer currently, or most recently, supplying the supply address. For new connections, the obligation will remain with Synergy and Horizon Power.

To ensure customers of retailers other than Synergy and Horizon Power are entitled to the protections of clause 10(5), the ECCC recommends that clause 10(5) be amended to apply to any retailer who will be required under the amended regulations to supply electricity under a standard form contract.

2.1.5 Undercharging

[Clause 29 of the consultation draft Code]

Recommendation 5

Amend clause 29 of the consultation draft Code so retailers must always notify a customer who has been undercharged of the amount of the undercharge and provide an explanation of the basis on which the amount was calculated, even if the undercharge occurred because the customer denied access to the meter for more than 12 months.

Under the 2018 Code, the protections of the undercharging clause did not apply if the undercharging had occurred due to the customer denying access to the meter.¹³ The same limitation is included in the consultation draft Code, although under the consultation draft Code the limitation only applies if the customer has denied access for more than 12 months.

The ECCC agrees that customers who have denied access to the meter for more than 12 months should not be entitled to a payment plan or have the undercharge amount capped at 12 months. Retailers should also be allowed to charge these customers late payment fees or interest. However, the ECCC considers that the obligation on a retailer to notify a customer of the amount to be recovered together with an explanation of the basis on which the amount

¹² Regulation 20 of the *Electricity Industry (Customer Contracts) Amendment Regulations 2022*.

¹³ *Code of Conduct for the Supply of Electricity to Small Use Customers 2018* (WA) clause 4.17(4).

was calculated should apply to these customers. It is important that customers understand why they are being back-billed and how the amount was calculated.

2.1.6 Maximum number of payment extensions

[Clause 42(3) of the consultation draft Code]

Recommendation 6

Include a new clause in the Code that provides that if a customer has, in the previous 12 months, been granted a payment extension for two or more bills but twice failed to pay within the additional time provided, the retailer is not required to make another payment extension available to the customer.

The consultation draft Code requires retailers to make payment extensions and payment plans available to all residential customers, not only those that have been assessed by the retailer as experiencing payment difficulties or financial hardship.¹⁴ However, retailers only have to offer one payment extension or payment plan per bill.¹⁵ Also, if a customer has had two payment plans cancelled for non-payment in the last 12 months, the retailer does not have to make another payment plan available to the customer.

In its submission, Synergy requested that the cap on payment plans be extended to include payment extensions. According to Synergy it was:¹⁶

reasonable if a customer fails to make payment after being given two payment extensions within a 12 month period, a retailer should not be obliged to offer further extensions – this should then be discretionary.

The ECCC agrees that customers who have been granted a payment extension for two or more bills in the past 12 months but who have twice failed to pay within the additional time provided, should not be entitled to more extensions. The cap will ensure that retailers can refuse a payment extension to customers who habitually request extensions but then fail to pay within the additional time provided.

The ECCC further recommends that the cap on payment extensions be in addition to the existing cap on payment plans; that is, customers should be entitled to a minimum of two payment extensions and two payment plans per year.

¹⁴ Clause 41(1) of the consultation draft Code.

¹⁵ Clause 41(2) of the consultation draft Code.

¹⁶ Synergy, 10 February 2022, Submission to *ERA draft decision - Repeal and replacement of the Code of Conduct for the Supply of Electricity to Small Use Customers 2018*, p 3 of Attachment.

2.1.7 Compliance with financial hardship policy guidelines

[Clause 46(4) of the consultation draft Code]

Recommendation 7

- a) Delete clause 46(4) of the consultation draft Code.
- b) That the ERA insert a new clause in the electricity retail and integrated regional licences that requires a retailer to ensure that its hardship policy and hardship procedures comply with the ERA's financial hardship policy guidelines.

Clause 46(4) of the consultation draft Code requires retailers to ensure that their hardship policy and hardship procedures comply with the ERA's financial hardship policy guidelines. The note under the clause explains that these are the guidelines applying at the time the Code is made.

To date, the ERA has commenced reviews of its financial hardship policy guidelines after a new Code has taken effect. Under the wording of the consultation draft Code this would no longer be possible; any review would have to be finalised before the Code takes effect. This could result in significant delays as the commencement of the Code would have to be delayed until the new guidelines have been finalised.

Also, if the ERA decides to amend the guidelines outside of a code review process, the Code will have to be amended to refer to the new guidelines.

To ensure that the ERA does not need to delay the Code commencement date or amend the Code whenever it wants to update the guidelines, the ECCC recommends that the obligation in clause 46(4) is moved from the Code to the electricity retail and integrated regional licences.¹⁷ Unlike the Code, the licence can refer to the guidelines as amended from time to time.

Moving the obligation to the licences should not materially affect retailers because the obligation is already a licence obligation under section 82 of the Act.¹⁸

¹⁷ Only electricity integrated regional licences that authorise the sale of electricity.

¹⁸ *Electricity Industry Act 2004* (WA) section 82: "It is a condition of every retail licence, distribution licence and integrated regional licence that the licensee is to comply with the provisions of the code of conduct that apply to the licensee."

2.1.8 Minimum disconnection amount

[Clause 49(c) of the consultation draft Code]

Recommendation 8

Amend clause 49(c) of the consultation draft Code by inserting the words 'contacted and' before 'agreed'.

Clause 49(c) of the consultation draft Code precludes retailers from arranging 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 pay the amount.

Synergy queried the intent of the provision, in particular the words 'agreed with the retailer to pay this amount':

Synergy notes that for a customer to receive an electricity supply the customer must have previously entered into a supply contract with a retailer. It is a standard contractual term for a customer to pay a bill.¹⁹

The ECCCC notes that the words 'agreed with the retailer to pay this amount' are consistent with the wording in the 2018 Code and the equivalent provision in the *National Energy Retail Rules*.²⁰

The ECCC considers that the words ensure that the protection is only available to customers who have engaged with their retailer and agreed to pay the debt. Customers who fail to engage with their retailer, or who agree to pay the debt but subsequently default on their payment plan or extension, would not be entitled to the protection.

To clarify that contractual obligations to pay for electricity consumed do not imply that the customer has agreed to pay the debt for the purpose of clause 49(c), the ECCC recommends that the customer must not only have agreed with the retailer to pay the debt but must also have contacted the retailer to make arrangements to pay the debt.

¹⁹ Synergy, 10 February 2022, Submission to *ERA draft decision - Repeal and replacement of the Code of Conduct for the Supply of Electricity to Small Use Customers 2018*, p 3 of Attachment.

²⁰ *Code of Conduct for the Supply of Electricity to Small Use Customers 2018* (WA) clause 7.2(1)(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"; *National Energy Retail Rules* rule 116(1)(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".

2.1.9 Designation of pre-payment meter areas

[Clause 55(2) of the consultation draft Code]

Recommendation 9

Delete clause 55(2) of the consultation draft Code.

Clause 55(2) of the consultation draft Code provides that 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.

The ECCC received advice that clause 55(2) provides an unauthorised sub-delegation of power. The ECCC considered several options to address this matter, including:

- a. Replacing clause 55(2) with a list of the areas in which pre-payment meters may be operated.
- b. Replacing the clause with a reference to the existing pre-payment meter area notices published by the Minister for Energy in the Government Gazette.
- c. Deleting the clause from the Code.

Option (a) would require the ERA to prescribe the pre-payment meter areas in the Code. The ECCC understands that the ERA previously considered the designation of pre-payment meter areas to be a policy matter for Government rather than a regulatory matter for the ERA. Option (b) would require the ERA to amend the Code every time the Minister publishes a new or amended notice.

The ECCC agreed not to proceed with option (a) or (b). Instead, the ECCC recommends the deletion of clause 55(2).

Currently, all pre-payment meter customers are supplied by Synergy or Horizon Power. As both Synergy and Horizon Power are government trading enterprises, the Minister can already direct them to only offer pre-payment meter services in prescribed areas.

The ECCC acknowledges that option (c) will reduce transparency and will allow retailers other than Synergy and Horizon Power to offer pre-payment meter services anywhere in the State. However, the ECCC considers it unlikely that the latter will affect residential customers. Firstly, because nearly all residential customers are non-contestable and may only be supplied by Synergy and Horizon Power. Secondly, even though some of Horizon Power's residential customers are contestable, Horizon Power's licence area has already been designated as an area in which any retailer may offer a pre-payment meter service to a residential customer.²¹

²¹ Minister for Energy, 'Electricity Industry (Code of Conduct) (Pre-payment Meter Areas) Notice 2016' in Western Australia, *Government Gazette*, No 10, 22 January 2016

2.1.10 Providing information to pre-payment meter customers experiencing payment problems

[Clause 66 of the consultation draft Code]

Recommendation 10

- a) Delete the words 'in writing' from clause 66(2) of the consultation draft Code.
- b) Delete clause 66(3) of the consultation draft Code.
- c) Insert a new obligation in clause 66 of the consultation draft Code that requires retailers to provide the information specified in clause 66(2) in writing if requested by the customer.

Clause 66 of the consultation draft Code requires retailers to provide certain information in writing to pre-payment meter customers who are experiencing difficulties paying for their consumption. Synergy pointed out that the 2018 Code does not require this information to be provided in writing.²²

The ECCC understands that the ERA added the words 'in writing' to clarify the relationship between clause 9.11(2) and (4) of the 2018 Code. Clause 9.11(2) required a retailer to contact a customer to provide the required information, while subclause (4) explained how the information could be provided in writing. There was, however, no specific requirement to provide the information in writing.

The ECCC recommends that the words 'in writing' be deleted from clause 66(2) and replaced with a new obligation on retailers to provide the information in writing if requested by the customer.

In addition, the ECCC recommends the deletion of clause 66(3), which explains how the information can be provided in writing. The ECCC considers there is no need to explicitly prescribe in the Code how the information could be provided in writing. Also, the *Electronic Transactions Act 2011* (WA) already sets standards around the provision of written information by electronic means.

²² Synergy, 10 February 2022, Submission to *ERA draft decision - Repeal and replacement of the Code of Conduct for the Supply of Electricity to Small Use Customers 2018*, p 3 of Attachment.

2.1.11 Concession information for pre-payment meter customers experiencing payment problems

[Clause 66(2) of the consultation draft Code]

Recommendation 11

Insert a new obligation in clause 66 of the consultation draft Code that requires retailers to provide pre-payment meter customers with information about the concessions that may be available to the customer and how to access them.

Retailers must provide information about meter types, financial assistance programs, independent financial counselling services, and how to contact consumer representatives to pre-payment meter customers who have informed their retailer that they are experiencing difficulties paying for their consumption or who have been disconnected at least twice for more than 120 minutes in a month.

The ECCC recommends that retailers also be required to provide these customers with information about any concessions that may be available and how to access those concessions. A similar obligation already applies to retailers for customers on a standard meter who are experiencing financial hardship.²³

2.1.12 Reducing or waiving fees, charges or debt for pre-payment meter customers

[Clauses 66 of the consultation draft Code]

Recommendation 12

Insert a new obligation in clause 66 of the consultation draft Code that requires retailers to give reasonable consideration to a request by the customer, or a relevant consumer representative for the customer, for a reduction of the customer's fees, charges or debt.

Clause 44(1) of the consultation draft Code requires retailers to give reasonable consideration to a request by a residential customer experiencing financial hardship for a reduction of their fees, charges or debt.

In their submission, the researchers from the Australian National University (ANU researchers) encouraged extending the application of clause 44 to pre-payment meter customers.²⁴

²³ Clause 45(c) of the consultation draft Code.

²⁴ Dr Lee White, Mr Brad Riley, Ms Sally Wilson, Dr Lily O'Neill and Dr Thomas Longden (Australian National University), 11 February 2022, Submission to *ERA draft decision - Repeal and replacement of the Code of Conduct for the Supply of Electricity to Small Use Customers 2018*, p 4.

The ECCC agrees that the obligation should be extended to residential pre-payment meter customers. There are no compelling reasons for not affording residential pre-payment meter customers the same protection as post-paid customers.

The ECCC recommends that the obligation apply if one of the conditions of clause 66(1) has been met and the residential customer has asked for the reduction.²⁵

2.1.13 Fees for reverting a pre-payment meter to a standard meter

[Clause 67(2) of the consultation draft Code]

Recommendation 13

Amend clause 67(2) of the consultation draft Code to preclude retailers from charging a fee for replacing a pre-payment meter with a standard meter to customers who have informed their retailer that they are having difficulties paying for their consumption.

Clause 67(2) of the consultation draft Code requires retailers to give reasonable consideration to waiving any fee for replacing a pre-payment meter with a standard meter if a customer is having difficulties paying for their consumption and has asked for the meter to be replaced.

In their submission, the ANU researchers commented that:²⁶

This seems to favour the interests of retailers rather than customers facing genuine financial difficulties. To align with the NECF Rule 141(2) there should be no charge to the customer.

The ECCC agrees that pre-payment meter customers who have informed their retailer that they are having difficulties paying for their consumption should not be charged a fee for reverting to a standard meter.

When the provision was initially included in the Code, reverting a pre-payment meter to a standard meter was costly as it required the physical removal of the pre-payment meter and the installation of a new standard meter. Horizon Power, which supplies nearly all pre-payment meter customers in Western Australia, has now replaced all its meters with advanced meters. Advanced pre-payment meters can be reversed remotely without replacing the meter, significantly reducing the costs for reversion.

²⁵ The conditions of clause 66(1) are that the customer must have:

- Informed the retailer that they are experiencing difficulties paying for their consumption.
- or
- Been disconnected 2 or more times in any 1-month period for longer than 120 minutes on each occasion.

²⁶ Dr Lee White, Mr Brad Riley, Ms Sally Wilson, Dr Lily O'Neill and Dr Thomas Longden (Australian National University), 11 February 2022, Submission to *ERA draft decision - Repeal and replacement of the Code of Conduct for the Supply of Electricity to Small Use Customers 2018*, p 6.

2.1.14 Information about variations to non-regulated prices

[Clause 71(5) of the consultation draft Code]

Recommendation 14

Amend clause 71(5) of the consultation draft Code to provide that a retailer does not have to give advance notice of tariff variations that are the direct result of a benefit change if the retailer has already notified the customer of the change.

Clause 71 of the consultation draft Code requires retailers to give at least 5 business days' notice to a customer of any variations to its tariffs, fees or charges that affect the customer. Subclause (5) sets out several exceptions to the obligation.

Clause 71 is similar to rule 46 of the *National Energy Retail Rules*. However, rule 46(4B)(b) contains one additional exception: a retailer does not have to give advance notice of tariff variations that are the result of a benefit change if the retailer has already notified the customer of the benefit change as required under rule 48A of the *National Energy Retail Rules*.

When the ECCC considered which exceptions to adopt, there was no requirement in either the Code or any other regulatory instrument for a retailer in Western Australia to inform customers of benefit changes. The ECCC therefore did not recommend adoption of rule 46(4B)(b).

Since then, Energy Policy WA has gazetted the *Electricity Industry (Customer Contracts) Amendment Regulations 2022*. Under the amended customer contract regulations, a customer contract that provides for a benefit change must state that a retailer is required to inform a customer of a benefit change within 40 to 20 business days of the change occurring.²⁷

Therefore, the ECCC recommends that clause 71(5) be amended to include an exception for tariff variations that are the result of a benefit change, similar to rule of 46(4B)(b) of the *National Energy Retail Rules*.

2.1.15 Registration of contact details: customer or other person

[Clause 82(2)(b) and 86(6) of the consultation draft Code]

Recommendation 15

- a) Amend clause 82(2)(b) of the consultation draft Code to refer generally to a person's contact details in relation to the supply address.
- b) Amend clause 84(1) of the consultation draft Code to allow a distributor to provide written notice of an interruption to, and acknowledgement that the notice has been received from, a nominated person as well as the customer.

²⁷ Regulation 5 of the *Electricity Industry (Customer Contracts) Amendment Regulations 2022*.

- c) Amend clause 86(6) of the consultation draft Code to provide that a supply address must not be de-registered if the retailer is aware that another person residing at the supply address still requires life support equipment.

Clause 86(6) of the consultation draft Code provides that a supply address must not be de-registered if another person who resides at the supply address has 'their contact details registered under clause 82(2)(b)' for the supply address.

The wording of clause 86(6) implies that retailers must, under clause 82(2)(b), register the contact details of the person requiring life support equipment; however, clause 82(2)(b) only requires the retailer to register the contact details of the customer.

The inconsistency could be addressed by amending clause 82(2)(b) to refer to the contact details of the person requiring life support equipment. However, the person requiring life support equipment may not always be the person who should be contacted. For example, if the person is a child.

Alternatively, clause 82(2)(b) could be retained as is and the reference to clause 82(2)(b) removed from clause 86(6). However, this would require retailers to always register the contact details of the customer; unnecessarily limiting their ability to register the contact details of persons other than the customer.

To ensure that customers can nominate either their own contact details, those of the person requiring life support equipment or those of a third party (such as a carer), the ECCC recommends that clause 82(2)(b) be amended to refer generally to a person's contact details in relation to the supply address, instead of the contact details of a specific person.

Consistent with the proposed amendment to clause 82(2)(b), the ECCC recommends that clause 84(1) be amended to allow distributors to provide written notice of an interruption to, and acknowledgement that the notice has been received from, a nominated person instead of the customer.

The ECCC further recommends that clause 86(6) be replaced with a general obligation on retailers not to de-register a supply address if the retailer is aware that another person residing at the supply address still requires life support equipment. The proposed wording is similar to the wording of clause 7.7(7)(d) of the 2018 Code ('has been informed') upon which retailers have based their current practices.

2.1.16 Registration of contact details: limits on number of details registered

[Clause 82(2)(b) of the consultation draft Code]

Recommendation 16

Amend clause 82 to provide that a person's contact details are the telephone number, email address (if provided) and postal address as notified by the customer.

Clause 82(2)(b) of the consultation draft Code requires retailers to register the contact details of customers who have provided evidence that a person living at the supply address requires life support equipment. Retailers must also forward the customer's contact details to the distributor.

Synergy proposed to define contact details as:²⁸

one of the following nominated by a customer;

- a supply address
- a postal address
- a telephone number; and
- an electronic address.

The ECCC sought more information from Synergy about its proposal. Synergy advised that some customers nominated several telephone numbers or e-mail addresses. Neither Synergy's nor Western Power's automated processes currently allow for the nomination of more than one telephone number or e-mail address. Additional phone numbers or e-mail addresses have to be registered manually. Also, the more numbers a customer nominates, the higher the risk that the retailer or distributor accidentally omits one when sending a notification.

Synergy therefore requested that retailers be allowed to restrict the number of telephone numbers or e-mail addresses a customer may provide.

A similar restriction applies for exempt suppliers. Clause 6A of the *Electricity Industry Exemption Order 2005* requires an exempt supplier to include a life support equipment property in its register by including the property address, and the contact details of the property's occupier. The order defines contact details as "of a person, means the person's telephone number and email address, as nominated by the person".

The ECCC recommends that the term contact details be defined and refer to a person's telephone number, email address (if provided) and postal address as notified by the customer. The definition should only apply to clause 82 as it is not relevant to other uses of the term in the Code, such as 'the contact details of the electricity industry ombudsman' in clause 89.

²⁸ Synergy, 10 February 2022, Submission to *ERA draft decision - Repeal and replacement of the Code of Conduct for the Supply of Electricity to Small Use Customers 2018*, p 4 of Attachment.

2.1.17 Contact before de-registration as a life support equipment address

[Clauses 85 and 86 of the consultation draft Code]

Recommendation 17

Amend clause 86 of the consultation draft Code by:

- Replacing the requirement, in clause 86(3)(a), to send additional written correspondence by registered post with a requirement that either the notice under clause 85 or the contact under clause 86(3)(b) occur by written correspondence by registered post.
- Reducing the number of times, in clause 86(3)(b), a retailer must take reasonable steps to contact a customer (after having sent a notice) from three to two.

Clauses 85 and 86 of the consultation draft Code require retailers to take the following steps before de-registering a customer's supply address as a life support equipment address:²⁹

- Send a notice seeking confirmation that the customer still requires life support equipment.³⁰
- Send written correspondence by registered post warning the customer that the address may be de-registered.³¹
- At least three times take reasonable steps to contact the customer about the proposed de-registration.³²

In its submission, Synergy pointed out that some of these requirements were new and a significant change to the existing life support requirements. Synergy noted the new requirements were not considered by the ECCC and not supported by Synergy.³³

The ECCC recommends that clause 86 be amended by:

- Replacing the requirement to send additional written correspondence by registered post with a requirement that either the notice under clause 85 or the contact under clause 86 occur by written correspondence by registered post.

²⁹ Notice is only required if the customer has failed to provide confirmation that the person residing at the supply address continues to require life support equipment. No notice is required if de-registration occurs because the retailer has been notified that the customer's supply address no longer requires registration (clauses 86(1)(a) and 86(2) of the consultation draft Code).

³⁰ Clause 85(1) of the consultation draft Code.

³¹ Clause 86(3)(a) of the consultation draft Code.

³² Clause 86(3)(b) of the consultation draft Code.

³³ Synergy, 10 February 2022, Submission to *ERA draft decision - Repeal and replacement of the Code of Conduct for the Supply of Electricity to Small Use Customers 2018*, p 4 of Attachment.

- Reducing the number of times a retailer must take reasonable steps to contact the customer (after having sent a notice) from three to two.

The recommended changes are consistent with recommendation 75 in the ECCC's final review report and ensure that retailers do not have to contact the customer more often than currently required.

The changes will also allow retailers to decide which contact will involve written correspondence by registered post. This will ensure retailers do not incur unnecessary costs for registered post. For example, to reduce costs a retailer may decide that only the final contact will be by registered post as most customers would have responded to the initial notice or subsequent contact.

2.1.18 Reporting of pre-payment meter data

Recommendation 18

That the ERA includes all data that it collects about the use of pre-payment meters in the datasheets that accompany future annual data reports published by the ERA.

In their submission, the ANU researchers commended the ERA's monitoring of data on pre-payment meter customers in Western Australia, but also noted that:³⁴

these figures are not included in ERA's Annual Energy Report 2020-21. We encourage ongoing monitoring and reporting in this area and the inclusion of prepayment disconnection levels in future annual energy reports.

The ANU researchers also referred to the importance of indigenous data sovereignty:³⁵

Given the disproportionate use of prepayment metering in Aboriginal communities it is important to note that energy services networked to information technology introduce novel ways of generating value through data. Internationally the movement to secure local ownership and control of data relating to Indigenous peoples is known as Indigenous data sovereignty [...]. Greater capacity building and sharing of data can do much to support community and service provider efforts to improve energy security for pre-pay customers within remote communities.

The ERA's *Electricity Retail Licence Performance Reporting Handbook* requires retailers to provide the following data to the ERA about the use of pre-payment meters:

- a. Total number of PPM customers.

³⁴ Dr Lee White, Mr Brad Riley, Ms Sally Wilson, Dr Lily O'Neill and Dr Thomas Longden (Australian National University), 11 February 2022, Submission to *ERA draft decision - Repeal and replacement of the Code of Conduct for the Supply of Electricity to Small Use Customers 2018*, p 5.

³⁵ Dr Lee White, Mr Brad Riley, Ms Sally Wilson, Dr Lily O'Neill and Dr Thomas Longden (Australian National University), 11 February 2022, Submission to *ERA draft decision - Repeal and replacement of the Code of Conduct for the Supply of Electricity to Small Use Customers 2018*, p 5.

- b. Total number of PPM customers who have reverted to a standard meter within 3 months of meter installation or entering into a contract.
- c. Total number of PPM customers who have reverted to a standard meter.
- d. Total number of PPM customers who have informed the retailer that the customer is experiencing payment difficulties or financial hardship.
- e. Total number and percentage of PPM customer disconnections.
- f. Total number of PPM customer disconnections involving PPM customers who the retailer identifies have been disconnected 2 or more times in any 1 month period for longer than 120 minutes on each occasion.
- g. Total number of PPM customer complaints.
- h. Total number and percentage of PPM customer complaints concluded within 15 business days.
- i. Total number and percentage of PPM customer complaints concluded within 20 business days.

Only items a, e and f are currently included in the datasheets accompanying the ERA's annual data report for energy retailers.³⁶

The ECCC understands this is an oversight but encourages the ERA to include all data about the use of pre-payment meters in the datasheets that accompany future annual data reports.

2.1.19 Definition of vulnerable customer

[Clause 3 of the consultation draft Code]

Recommendation 19

- a) Amend the definition of vulnerable customer, in clause 3 of the consultation draft Code, as follows:
 - Extend the definition to include other persons named on the account of a residential customer.
 - Limit the definition, to the extent it refers to former residential customers, to former residential customers who still have an outstanding debt with the retailer.
- b) Insert a new clause in the consultation draft Code that provides that clauses 91(2)(i), 91(4) and 91(5) do not apply to former customers.

Part 13 of the consultation draft Code requires retailers to develop a family violence policy that addresses certain matters. It also prohibits retailers from disconnecting a vulnerable

³⁶ The data for indicators a to i, for 2020/21 and previous years, is available from Horizon Power's and Synergy's websites, as retailers are required to publish the data on their website.

customer for nine months from the date on which the retailer becomes aware that the customer is affected by family violence.

A vulnerable customer is defined as:

means a residential customer, or a former residential customer –

- (a) who has advised the retailer that they are affected by family violence; or
- (b) who the retailer has reason to believe is affected by family violence.

In its submission, Synergy commented that:

It is unclear to Synergy how it can operationally administer the proposed Part 13 Code requirements in relation to a former residential customer who is a vulnerable customer (vulnerable customer) but is not the customer (account holder). For example:

- how a retailer can protect a vulnerable customer's information recorded on the account holder's account when the account holder can legitimately access their account information.
- how an agreed method of communication between a retailer and a vulnerable customer would apply (or not apply) to the account holder.
- how a retailer is to contemplate the impact of debt collection on a vulnerable customer when the vulnerable customer is not liable for the debt.
- how a retailer will take into account the circumstances of a vulnerable customer before disconnecting the account holder's supply address due to the account holder's failure to pay a bill.

In summary, Synergy was concerned that applying the protections of Part 13 to persons who were not the account holder would cause operational issues for Synergy.

Vulnerable customers who are not the account holder

Synergy's submission correctly assumed that the ECCC intended for the definition of vulnerable customer to cover account holders as well as other persons who had access to the account.

The definition proposed by the ECCC in its final review report did not specifically refer to other persons named on an account because the ECCC considered these persons to be joint account holders and, therefore, covered by the term 'customer'.

However, the ECCC has since become aware that most retailers only enter into a contract with a single person. This person will become the account holder, and the customer for the purposes of the Code. The protections of Part 13 would apply only to this person; not to other persons named on the account.

Although most retailers do not allow customers to jointly hold an account, they do allow customers to name other persons on their account. Persons named on an account may have access to account information or be able to make changes to the account. To be named on a customer's account, a person generally has to share their contact details, such as telephone number or email address, with the retailer. The protections of Part 13, including protections

around access to a customer's information and safe methods of communication, are therefore also relevant to persons named on an account.

To ensure that the protections of Part 13 apply to persons named on an account, the ECCC recommends that the definition of vulnerable customer be extended to include other persons named on the account.

Former customers

The definition of vulnerable customer currently includes former customers. Although the ECCC considers many of the protections are relevant to former customers, it recommends two changes.

Former customers with an outstanding debt

Firstly, the ECCC recommends clarifying that the term former customer relates only to former customers who have an outstanding debt with their retailer.

Protections such as safe methods of communication and debt waiver, continue to be relevant after a customer has closed their account if the customer still has an outstanding debt with their retailer. Those protections should therefore continue to apply to these customers.

However, the protections are less relevant for former customers who do not have, or no longer have, an outstanding debt. Retailers may also struggle to provide the protections to former customers with whom the retailer no longer has any relationship. Further, it is unclear for how long the protections of Part 13 would continue to apply to former customers.

The ECCC's recommendation would address these issues.

Disconnection protections

Secondly, the ECCC recommends that the 9-month disconnection moratorium and the requirement that a family violence policy require a retailer to consider a customer's circumstances before disconnecting the supply address, do not apply to former customers.

In its submission, Synergy queried how a retailer could "take into account the circumstances of a [former] vulnerable customer before disconnecting the account holder's supply address due to the account holder's failure to pay a bill". In other words, if a former customer moves in with another customer who already has an account for the supply address, the retailer will not know that the customer is now residing at another supply address. It is unclear how, in this case, the retailer could comply with the 9-month disconnection moratorium or the obligation to consider the customer's circumstances before disconnecting the new supply address.³⁷

The ECCC agrees that it would, operationally, be difficult for retailers to provide both of these protections to former customers. Excluding former customers from these protections would address this issue.

³⁷ Clause 91(2)(g), (4) and (5) of the consultation draft Code.

Practical implications

The ECCC expects that, in practice, both recommendations would only affect a small group of customers. This is because the amendments would not affect:

- Customers who transfer their account to, or open a new account at, another supply address as they would continue to be, or once again become, a current customer of the retailer.
- Former customers who move in with another customer and are named on the other customer's account. These customers would still be considered vulnerable customers as a result of the ECCC's recommendation to extend the definition of vulnerable customer to include persons named on the account.

2.1.20 Protections for vulnerable pre-payment meter customers

[Clauses 67 and 91 of the consultation draft Code]

Recommendation 20

- a) Amend clause 91 of the consultation draft Code to provide that clauses 91(4) and (5) do not apply to pre-payment meter customers.
- b) Amend clause 91(2) of the consultation draft Code by including a new paragraph that provides that a family violence policy must require a retailer to have arrangements in place to assist vulnerable pre-payment meter customers avoid disconnection.
- c) Amend clause 91(2) of the consultation draft Code by including a new paragraph that provides that a family violence policy must require a retailer to consider providing financial assistance to a vulnerable pre-payment meter customer.
- d) Amend clause 91(2) of the consultation draft Code by including a new paragraph that provides that a family violence policy must require a retailer that becomes aware that a pre-payment meter customer is a vulnerable customer, to inform the customer:
 - about the different types of meters available, and the advantages and disadvantages of those meters, to the customer; and
 - that, on request, the retailer will replace the customer's pre-payment meter with a standard meter free of charge.
- e) Amend clause 67 of the consultation draft Code to provide that a retailer may also not charge a fee to replace a pre-payment meter with a standard meter if the customer advises the retailer that they are affected by family violence and requests that the pre-payment meter be replaced by a standard meter.

Clause 91(4) of the consultation draft Code requires retailers to ensure that the supply address of a vulnerable customer is not disconnected for a period of nine months from the date on which the retailer becomes aware that the customer is a vulnerable customer.

After the close of the public consultation period, Horizon Power raised concerns about applying the disconnection moratorium to vulnerable customers who are on a pre-payment arrangement and requested that pre-payment meter customers be excluded from the moratorium.

The ECCC agrees that applying the disconnection moratorium to vulnerable pre-payment meter customers would likely be problematic for many of these customers because:

- The customer could accumulate a large debt over the 9-month period.

Most customers who choose a pre-payment arrangement do so because they struggle to manage their finances. It is likely that, compared to post-payment customers, a higher proportion of pre-payment meter customers will accrue significant debt during a disconnection moratorium.

Further, unlike customers with a standard meter, pre-payment meter customers will not receive regular reminders about their outstanding balance through bills and reminder notices during a disconnection moratorium. Pre-payment meter customers are also not entitled to payment extensions and payment plans.^{38,39} This will make it difficult for many pre-payment meter customers to manage payment for their consumption during the 9-month period.

One of the objectives of the disconnection moratorium is to help customers address bill debt issues by giving them more time to work with their retailer. Arguably, this objective would not be met if a disconnection moratorium creates more bill debt issues for a customer.

- Pre-payment meters generally require any debt (for example, emergency credit) to be repaid before supply recommences. If a customer has accumulated a large debt during the 9-month period, it could take a long time before the customer repays that debt and supply recommences.
- Financial stress can be a trigger for family violence, so a large build-up of debt may aggravate a customer's circumstances.
- If the definition of vulnerable customer will include persons named on an account, as recommended by the ECCC, the disconnection moratorium could apply in situations where an account holder is the perpetrator.

A perpetrator who has used all emergency credit but continues to receive supply, is likely to realise that a disconnection moratorium has been applied and, consequently, that the person affected by family violence has disclosed their situation to the retailer. This raises privacy and safety concerns for the person affected by family violence.

The ECCC considers that the disadvantages of providing a 9-month disconnection moratorium to vulnerable pre-payment meter customers outweigh the advantages and, therefore, recommends that the disconnection moratorium not apply to pre-payment meter customers.

³⁸ Part 6 of the Code (Payment assistance) does not apply to pre-payment meter customers.

³⁹ A pre-payment meter customer currently cannot accumulate a debt larger than the emergency credit set by the retailer – making payment plans largely redundant.

Alternative protections

The different nature of pre-payment services requires a different approach by retailers. Instead of a mandatory disconnection moratorium, vulnerable pre-payment meter customers should receive support that helps them avoid disconnection but is tailored to their particular circumstances.

To achieve this, the ECCC recommends that a family violence policy must require a retailer:

- To have arrangements in place to assist vulnerable pre-payment meter customers avoid disconnection.

For example, retailers could provide financial assistance, or allow the customer to trigger a temporary disconnection moratorium for an amount of time designated by the customer, or provide tailored advice on concessions, grants and energy efficiency advice. Ideally, retailers will work with customers to identify what assistance would be most helpful to them.

- To consider providing financial assistance to a vulnerable pre-payment meter customer.

This new requirement would be in addition to the requirement that a family violence policy must require retailers to consider reducing or waiving a vulnerable customer's fees, charges or debt.

While reducing or waiving fees, charges or debt can reduce a pre-payment meter customer's cost of consumption, it may not prevent a pre-payment meter customer's supply from being disconnected.

One of the objectives of the disconnection moratorium is to ensure that electricity supply is available for the operation of security systems, such as cameras and alarm systems. One of the most effective ways to help a vulnerable pre-payment meter customer maintain supply is to provide the customer with financial assistance.

Financial assistance should especially be considered for customers who have recently separated from their partner. The period immediately following separation is often a time when vulnerable customers are at greater risk of family violence and home security measures can increase a customer's safety.

Access to disconnection moratorium

The ECCC acknowledges that the risks associated with a disconnection moratorium will not affect all pre-payment meter customers, and that some customers will still want access to the moratorium. It is important that these customers can easily do so. Therefore, the ECCC recommends that:

- Vulnerable pre-payment meter customers be entitled, on request, to have their pre-payment meter replaced with a standard meter free of charge.

Once the vulnerable customer is on a post-paid billing arrangement, the disconnection moratorium would apply immediately.

- A family violence policy must require a retailer that becomes aware that a pre-payment meter customer is a vulnerable customer to inform the customer:

- about the different types of meters available, and the advantages and disadvantages of those meters, to the customer; and
- that, on request, the retailer will replace the customer’s pre-payment meter with a standard meter free of charge.

By requiring retailers to explain the advantages and disadvantages of pre-paid and post-paid billing arrangements to the customer (having regard to the customer’s circumstances), the customer can make an informed choice.

2.1.21 Protecting a vulnerable customer’s information

[Clause 91(2)(b) of the consultation draft Code]

Recommendation 21

Amend clause 91(2)(b) of the consultation draft Code to provide that a family violence policy must require a retailer to advise a vulnerable customer:

- That the retailer must take reasonable steps to protect the vulnerable customer’s information if the customer requests the retailer to do so.
- About the consequences of being named on the account of a residential customer who is not a vulnerable customer.

In its submission, Synergy raised concerns about how it can protect information from a person named on an account “when the account holder can legitimately access their account information”.

The ECCC understands that Synergy is concerned that it will not always be able to protect the information of a person named on an account from the account holder. For example, it will be unable to protect a person’s supply address where that address is the same as the account holder’s supply address.

To address Synergy’s concerns, the ECCC recommends that clause 91(2)(b) is amended to require a retailer to advise a vulnerable customer that the retailer must take reasonable steps to protect the vulnerable customer’s information if a vulnerable customer requests the retailer to do so.

The term ‘reasonable steps’ ensures retailers still have to do everything reasonable to protect a vulnerable customer’s information while recognising that retailers may not be able to protect the information in all circumstances.

It is important that vulnerable customers understand there may be risks to being named on another customer’s account. The ECCC therefore recommends that a family violence policy also require a retailer to advise a vulnerable customer about the consequences of being named on the account of a residential customer who is not a vulnerable customer.

2.1.22 Vulnerable customers who are not liable for charges

[Clause 91(2)(f) of the consultation draft Code]

Recommendation 22

Amend clause 91(2)(f) of the consultation draft Code by clarifying that the clause only applies to vulnerable customers who are liable for the debt.

The ECCC's recommendation to extend the definition of vulnerable customer to include persons who are not the account holder but are named on the account, means that the protections around family violence will also apply to persons who are not liable for bills or debt relating to an account.

In its submission, Synergy queried "how a retailer is to contemplate the impact of debt collection on a vulnerable customer when the vulnerable customer is not liable for the debt".

The ECCC agrees that if a person is not liable for bills or debt, there is no need for the retailer to consider the potential impact of debt collection on the person.⁴⁰ The ECCC therefore recommends clarifying in clause 91(2)(f) that the protection only applies to vulnerable customers who are liable for the debt.

2.1.23 Family violence policy guidelines

[Clause 91(8) of the consultation draft Code]

Recommendation 23

Delete clause 91(8) of the consultation draft Code.

Clause 91(8) of the consultation draft Code requires retailers to ensure that their family violence policy, and related procedures, comply with any requirements specified by the ERA.

In its submission, Synergy commented:

Clause 91(8) proposes a new significant change to the family violence policy requirements, not considered by the ECCC and is not supported by Synergy. Clause 91(8) of the draft Code requires a retailer must ensure its family violence policy and procedures comply with any requirements specified by the Authority. The Code has been subject to a 2 year review period and there has been adequate time to reflect any specific ERA requirements in the Code. The proposed provision lacks transparency and provides the ERA with an unfettered ability to amend a retailer's public family violence policy and internal operational procedures.

⁴⁰ Clause 91(2)(f) of the consultation draft Code.

The ERA advised the ECCC that it included the clause for consistency with clause 46, which requires retailers to ensure that their financial hardship policies comply with the ERA's financial hardship policy guidelines.

The ECCC understands that the ERA is not considering specifying any additional requirements for family violence policies or developing family violence policy guidelines at this stage. If the ERA were to develop family violence policy guidelines, those guidelines would likely only have effect if they were in place at the time the Code was made or gazetted (similar to the financial hardship policy guidelines: see section 2.1.7).

The ECCC considers there is currently no need for clause 91(8) and recommends deleting the clause from the Code.

2.1.24 Minor amendments

The ECCC also recommends various minor amendments to the draft consultation Code.

The minor amendments are included in two tables in Appendix 2. Table A lists minor amendments proposed in the public submissions. Table B lists minor amendments identified by the ERA and the Parliamentary Counsel's Office after the publication of the ERA's draft decision.

2.2 Other issues raised in submissions

The ECCC does not support the following changes proposed in the public submissions.

2.2.1 Overcharging

[Clause 30(4) of the consultation draft Code]

Clause 30(4) of the consultation draft Code allows retailers to credit an overcharge of less than \$100 to the customer's next bill. In its submission, Synergy requested the clause be amended to "reflect a situation where a former customer cannot be informed of an overcharge because they cannot be contacted".⁴¹

The ECCC recommends subclause (4) be retained as is. The subclause provides retailers with an exception to clause 30(1) but does not preclude retailers from acting under clause 30(1).

Subclause (1) requires retailers to use their best endeavours to inform the customer of the overcharge and ask the customer for instructions on how to refund the overcharge. The ECCC considers that if a customer has not provided the retailer with a forwarding address, a retailer applying the overcharge to the closed account for a defined period of time (as is Synergy's current practice) and sending a notice to the customer's last known contact details likely meets the requirement of subclause (1) to use its best endeavours.

2.2.2 No disconnection during an extreme weather event

In their submission, the ANU researchers recommended that the Code preclude retailers and distributors from disconnecting a customer during an extreme weather event.⁴²

The ECCC understands that distributors have informal processes in place to ensure that customers are not disconnected during extreme weather events. For example, Horizon Power places a disconnection moratorium on pre-payment meters located in zones classified as yellow or above (such as in case of a cyclone). The moratorium is only lifted once the event has passed. Similar processes are in place for post-paid customers.

As the ECCC is not aware of any concerns about customers being disconnected during extreme weather events, the ECCC considers there is no need to address this matter in the Code.

2.2.3 Application of financial hardship policy to pre-payment meter customers

[Clause 46 of the consultation draft Code]

In their submission, the ANU researchers noted that clause 46 of the consultation draft Code (hardship policies and hardship procedures) applies to pre-payment meter customers as well

⁴¹ Synergy, 10 February 2022, Submission to *ERA draft decision - Repeal and replacement of the Code of Conduct for the Supply of Electricity to Small Use Customers 2018*, p 3 of Attachment.

⁴² Dr Lee White, Mr Brad Riley, Ms Sally Wilson, Dr Lily O'Neill and Dr Thomas Longden (Australian National University), 11 February 2022, Submission to *ERA draft decision - Repeal and replacement of the Code of Conduct for the Supply of Electricity to Small Use Customers 2018*, p 4.

as post-payment customers. However, the ANU researchers sought clarification “as to whether retailers will be required to provide specific hardship provisions, policies and/or procedures for pre-payment customers”.⁴³

Neither Horizon Power’s nor Synergy’s financial hardship policy currently deals with pre-payment meter customers. This is partly because a pre-payment meter customer will generally not be significantly in arrears.⁴⁴

Horizon Power has advised that it will soon commence an engagement and consultation program with pre-payment meter customers to gain a better understanding of their needs. Once finalised, the outcomes of this program will be reflected in Horizon Power’s financial hardship policy.

As the Code already requires retailers to address pre-payment meter services in their financial hardship policies, the ECCC does not recommend any changes to the Code.

2.2.4 Balance displayed on pre-payment meter

[Clause 57(3) of the consultation draft Code]

In their submission, the researchers from the ANU researchers pointed out that the Code does not contain any requirements for the meter to be conveniently located and visible within the customer’s household. According to the ANU researchers:⁴⁵

if meters and/or displays showing remaining credit are not easily visible in the home, disconnection for a prepayment customer may occur abruptly and at a time when it is challenging to access a payment top up.

The ECCC agrees that it is important that customers have easy visibility of their remaining credit. This can be achieved by using in-home displays, as suggested by the ANU researchers, but also in other ways, for example with mobile applications (apps).

Horizon Power has developed an app that allows pre-payment meter customers to view their balance and how much they have spent. The app also sends notifications if the customer’s credit is running low. The ECCC recognises that some customers may not be able to access the app if their internet is down or disconnected; however, it considers the app significantly improves customers’ visibility of their remaining credit.

The ECCC considers there are no compelling reasons to require retailers to equip all pre-payment meters with in-home displays when existing mobile applications are achieving the same objective.

⁴³ Dr Lee White, Mr Brad Riley, Ms Sally Wilson, Dr Lily O’Neill and Dr Thomas Longden (Australian National University), 11 February 2022, Submission to *ERA draft decision - Repeal and replacement of the Code of Conduct for the Supply of Electricity to Small Use Customers 2018*, p 4.

⁴⁴ A pre-payment meter customer cannot be in arrears for more than the amount of emergency credit set by the retailer.

⁴⁵ Dr Lee White, Mr Brad Riley, Ms Sally Wilson, Dr Lily O’Neill and Dr Thomas Longden (Australian National University), 11 February 2022, Submission to *ERA draft decision - Repeal and replacement of the Code of Conduct for the Supply of Electricity to Small Use Customers 2018*, p 4.

2.2.5 Pre-payment meter customers with life support equipment

[Clause 59 of the consultation draft Code]

Clause 59 of the consultation draft Code requires retailers to replace or revert a pre-payment meter with/to a standard meter if the customer provides confirmation from an appropriately qualified medical practitioner that a person residing at the supply address requires life support equipment.

The ANU researchers were concerned that:⁴⁶

anecdotal evidence suggests some remote living customers with genuine life support needs are not registering their needs in order to continue to use pre-payment metering that is prevalent in their communities. This concern warrants further investigation of the numbers of customers with life support needs where pre-payment metering is used (whether registered or not), and how their needs can be recognised and accommodated by the retailer and within the context of regulatory protections.

The ECCC sought feedback from Horizon Power on this matter. Horizon Power advised that it was not aware of customers not registering as life support customers for fear of losing access to their pre-payment meter. Horizon Power commented that, on the contrary, it was well understood that life support customers received additional support when faced with financial difficulty or disconnection.

Horizon Power further advised that it was aware that some pre-payment meter customers had reverted to a standard credit meter because a person residing at the supply address required life support equipment. However, it did not collect data on the number of customers who have reverted to a standard credit meter for this reason.

The ECCC is not aware of any reports or concerns from consumer advocates or individual customers about life support customers in Western Australia continuing to use pre-payment meters. In the absence of any specific concerns or complaints, the ECCC does not propose any changes to the Code.

2.2.6 Access to physical recharge facilities

[Clause 61 of the consultation draft Code]

In their submission, the ANU researchers expressed concern about the ERA's proposal to remove the requirement that recharge facilities for pre-payment meters be located within 40 kilometres of a customer's supply address. According to the researchers, recharge facilities that were very far away from a customer's supply address, together with transport fuel precarity, could amplify energy insecurity for the customer. The researchers commented that

⁴⁶ Dr Lee White, Mr Brad Riley, Ms Sally Wilson, Dr Lily O'Neill and Dr Thomas Longden (Australian National University), 11 February 2022, Submission to *ERA draft decision - Repeal and replacement of the Code of Conduct for the Supply of Electricity to Small Use Customers 2018*, pp 4-5.

“it cannot be assumed that remote living residents will always have access to internet-based payment options” or “have access to credit cards for online payment options”.⁴⁷

The ECCC agrees that the amendment may increase the distance some customers will have to travel to access a physical recharge facility. However, the consultation draft Code still requires that a physical recharge facility is located ‘as close as practicable’ to a pre-payment meter.

In most cases, it will be practicable for the retailer to provide a physical recharge facility within 40 kilometres of the customer’s supply address. However, in some cases it may be impracticable to do so, for example if there is no local shop or petrol station within 40 kilometres of the customer’s supply address or the existing facility has closed. The proposed amendment will ensure that in these cases customers can still ask for a pre-payment meter to be installed or continue to use their existing pre-payment meter.

Anecdotal evidence suggests that most existing pre-payment meter customers prefer their pre-payment meter service to a post-payment service. The ECCC does not support denying customers the choice of having a pre-payment meter in cases where it is impracticable for the retailer to offer a physical recharge facility within 40 kilometres of the customer’s supply address.

2.2.7 Fees for meter checks or tests

[Clause 63(3) of the consultation draft Code]

In their submission, the ANU researchers proposed that the Code be amended so retailers could only charge “reasonable ‘published’ charges” for a pre-payment meter check or test. They considered it was important for customers to know the costs for such tests before requesting a test.⁴⁸

The fees that Synergy and Horizon Power may charge for a meter test are prescribed by Government and published in the Government Gazette.⁴⁹ As all pre-payment meter customers are supplied by Synergy and Horizon Power, the ECCC considers there is no need to prescribe in the Code that retailers may only charge published meter test fees.

⁴⁷ Dr Lee White, Mr Brad Riley, Ms Sally Wilson, Dr Lily O’Neill and Dr Thomas Longden (Australian National University), 11 February 2022, Submission to *ERA draft decision - Repeal and replacement of the Code of Conduct for the Supply of Electricity to Small Use Customers 2018*, pp 3-4.

⁴⁸ Dr Lee White, Mr Brad Riley, Ms Sally Wilson, Dr Lily O’Neill and Dr Thomas Longden (Australian National University), 11 February 2022, Submission to *ERA draft decision - Repeal and replacement of the Code of Conduct for the Supply of Electricity to Small Use Customers 2018*, p 6.

⁴⁹ *Energy Operators (Electricity Generation and Retail Corporations) (Charges) By-laws 2006* (WA) Schedule 4; *Energy Operators (Regional Power Corporation) (Charges) By-laws 2006* (WA) Schedule 4.

2.2.8 Financial assistance for pre-payment meter customers experiencing payment difficulties

In their submission, the ANU researchers pointed out that the financial assistance retailers must provide to residential customers under Part 6 of the Code does not extend to pre-payment meter customers.⁵⁰

Payment assistance

The ECCC notes that the payment assistance provisions of the *National Energy Retail Rules* also do not extend to pre-payment meter customers. This is likely due to the fact that traditional payment assistance measures, such as payment extensions and payment plans, are less relevant to pre-payment meter customers as they pay for their electricity in advance.

The ECCC is aware of only one payment assistance measure that is available to pre-payment meter customers: retailers in the United Kingdom must offer 'additional support credit' to pre-payment meter customers in vulnerable situations. Customers who receive additional support credit must repay the credit at a later date through their pre-payment meter.

The ECCC does not propose a similar obligation for retailers in Western Australia. The ECCC understands that, as part of its COVID assistance measures, Horizon Power increased the emergency credit for its pre-payment meters to \$100. Some customers have struggled to repay the amount. The ECCC is concerned that measures such as additional support credit could result in some customers being disconnected for longer (as customers would have to repay a larger debt before being reconnected).

Horizon Power has advised that it will shortly commence an engagement and consultation program with pre-payment meter customers to gain a better understanding of their needs and the optimal amount of emergency credit.

Other financial assistance

The ECCC further notes that pre-payment meter customers are entitled to the same concessions as post-paid customers.

Pre-payment meter customers will soon have access to the State Government's new Household Energy Efficiency Scheme. Under the scheme, eligible households will receive tailored one-on-one coaching and support from non-government organisations and retailers to improve their energy efficiency and energy wellbeing.

2.2.9 Reporting

Part 13 of the 2018 Code requires retailers and distributors to prepare a report for each reporting year setting out the information specified by the ERA. The ERA proposed to delete

⁵⁰ Dr Lee White, Mr Brad Riley, Ms Sally Wilson, Dr Lily O'Neill and Dr Thomas Longden (Australian National University), 11 February 2022, Submission to *ERA draft decision - Repeal and replacement of the Code of Conduct for the Supply of Electricity to Small Use Customers 2018*, p 4.

Part 13 to reduce duplication as the ERA can already request the same information from retailers and distributors under their licence.

The ANU researchers considered that:⁵¹

reporting obligations should be referred to in the Code as a means of supporting and informing small use customer interests. Customers may look at the Code but are less likely to locate and read a licence agreement. A reference to reporting requirements in the Code will help to make these requirements visible to customers and provide a safeguard for reporting to remain if the requirements under the licences change.

The ECCC recommends the draft consultation Code remain as is.

Part 13 of the 2018 Code does not prescribe the type of information that has to be included in the report. Other than flagging that 'a' report has to be published, it is unlikely that retention of Part 13 will be of real benefit to customers.

2.2.10 Minor amendments

Stakeholders also proposed various minor amendments. Amendments not supported by the ECCC are listed in Appendix 3.

⁵¹ Dr Lee White, Mr Brad Riley, Ms Sally Wilson, Dr Lily O'Neill and Dr Thomas Longden (Australian National University), 11 February 2022, Submission to *ERA draft decision - Repeal and replacement of the Code of Conduct for the Supply of Electricity to Small Use Customers 2018*, p 5.

Appendix 1 ECCC recommendations

Recommendation number	Recommendation
Recommendation 1	a) That Part 13 (family violence policy) commences at the same time as the other Parts of the Code. b) Amend clause 2(b) of the consultation draft Code to provide that the Code commences on 16 January 2023.
Recommendation 2	Amend the definition of payment plan, in clause 4(1) of the consultation draft Code, to require a payment plan to consist of two or more instalments.
Recommendation 3	Amend clause 5 of the consultation draft Code to provide that, if the Code requires a retailer, distributor or electricity marketing agent to give or provide information to a customer on request: <ul style="list-style-type: none"> - The retailer, distributor or electricity marketing agent may refer a customer not only to their website for the information, but also to a mobile application or electronic communication portal; and - If the retailer, distributor or electricity marketing agent refers a customer to a mobile application or electronic communication portal for information, the retailer, distributor or electricity marketing agent must advise the customer that the customer is also entitled to be provided with a copy of the information.
Recommendation 4	Amend clause 10(5) of the consultation draft Code so it applies to retailers who will be required, under regulation 40 of the <i>Electricity Industry (Customer Contracts) Amendment Regulations 2022</i> , to offer to supply electricity to a customer under a standard form contract.
Recommendation 5	Amend clause 29 of the consultation draft Code so retailers must always notify a customer who has been undercharged of the amount of the undercharge and provide an explanation of the basis on which the amount was calculated, even if the undercharge occurred because the customer denied access to the meter for more than 12 months.
Recommendation 6	Include a new clause in the Code that provides that if a customer has, in the previous 12 months, been granted a payment extension for two or more bills but twice failed to pay within the additional time provided, the retailer is not required to make another payment extension available to the customer.
Recommendation 7	a) Delete clause 46(4) of the consultation draft Code. b) That the ERA insert a new clause in the electricity retail and integrated regional licences that requires a retailer to ensure that its hardship policy and hardship procedures comply with the ERA's financial hardship policy guidelines.
Recommendation 8	Amend clause 49(c) of the consultation draft Code by inserting the words 'contacted and' before 'agreed'.
Recommendation 9	Delete clause 55(2) of the consultation draft Code.

Recommendation number	Recommendation
Recommendation 10	<ul style="list-style-type: none"> a) Delete the words 'in writing' from clause 66(2) of the consultation draft Code. b) Delete clause 66(3) of the consultation draft Code. c) Include a new obligation in clause 66 of the consultation draft Code that requires retailers to provide the information specified in clause 66(2) in writing if requested by the customer.
Recommendation 11	Insert a new obligation in clause 66 of the consultation draft Code that requires retailers to provide pre-payment meter customers with information about the concessions that may be available to the customer and how to access them.
Recommendation 12	Include a new obligation in clause 66 of the consultation draft Code that requires retailers to give reasonable consideration to a request by the customer, or a relevant consumer representative for the customer, for a reduction of the customer's fees, charges or debt.
Recommendation 13	Amend clause 67(2) of the consultation draft Code to preclude retailers from charging a fee for replacing a pre-payment meter with a standard meter to customers who have informed their retailer that they are having difficulties paying for their consumption.
Recommendation 14	Amend clause 71(5) of the consultation draft Code to provide that a retailer does not have to give advance notice of tariff variations that are the direct result of a benefit change if the retailer has already notified the customer of the change.
Recommendation 15	<ul style="list-style-type: none"> a) Amend clause 82(2)(b) of the consultation draft Code to refer generally to a person's contact details in relation to the supply address. b) Amend clause 84(1) of the consultation draft Code to allow a distributor to provide written notice of an interruption to, and acknowledgement that the notice has been received from, a nominated person as well as the customer. c) Amend clause 86(6) of the consultation draft Code to provide that a supply address must not be de-registered if the retailer is aware that another person residing at the supply address still requires life support equipment.
Recommendation 16	Amend clause 82 to provide that a person's contact details are the telephone number, email address (if provided) and postal address as notified by the customer.
Recommendation 17	<p>Amend clause 86 of the consultation draft Code by:</p> <ul style="list-style-type: none"> - Replacing the requirement, in clause 86(3)(a), to send additional written correspondence by registered post with a requirement that either the notice under clause 85 or the contact under clause 86(3)(b) occur by written correspondence by registered post.

Recommendation number	Recommendation
	<ul style="list-style-type: none"> - Reducing the number of times, in clause 86(3)(b), a retailer must take reasonable steps to contact a customer (after having sent a notice) from three to two.
Recommendation 18	That the ERA includes all data that it collects about the use of pre-payment meters in the datasheets that accompany future annual data reports published by the ERA.
Recommendation 19	<ul style="list-style-type: none"> a) Amend the definition of vulnerable customer, in clause 3 of the consultation draft Code, as follows: <ul style="list-style-type: none"> o Extend the definition to include other persons named on the account of a residential customer. o Limit the definition, to the extent it refers to former residential customers, to former residential customers who still have an outstanding debt with the retailer. b) Insert a new clause in the consultation draft Code that provides that clauses 91(2)(g), 91(4) and 91(5) of the consultation draft Code do not apply to former customers.
Recommendation 20	<ul style="list-style-type: none"> a) Amend clause 91 of the consultation draft Code to provide that clauses 91(4) and (5) do not apply to pre-payment meter customers. b) Amend clause 91(2) of the consultation draft Code by including a new paragraph that provides that a family violence policy must require a retailer to have arrangements in place to assist vulnerable pre-payment meter customers avoid disconnection. c) Amend clause 91(2) of the consultation draft Code by including a new paragraph that provides that a family violence policy must require a retailer to consider providing financial assistance to a vulnerable pre-payment meter customer. d) Amend clause 91(2) of the consultation draft Code by including a new paragraph that provides that a family violence policy must require a retailer that becomes aware that a pre-payment meter customer is a vulnerable customer, to inform the customer: <ul style="list-style-type: none"> – about the different types of meters available, and the advantages and disadvantages of those meters, to the customer; and – that, on request, the retailer will replace the customer’s pre-payment meter with a standard meter free of charge. e) Amend clause 67 of the consultation draft Code to provide that a retailer may also not charge a fee to replace a pre-payment meter with a standard meter if the customer advises the retailer that they are affected by family violence and requests that the pre-payment meter be replaced by a standard meter.
Recommendation 21	<p>Amend clause 91(2)(b) of the consultation draft Code to provide that a family violence policy must require a retailer to advise a vulnerable customer:</p> <ul style="list-style-type: none"> - That the retailer must take reasonable steps to protect the vulnerable customer’s information if the customer requests the retailer to do so.

Recommendation number	Recommendation
	- About the consequences of being named on the account of a residential customer who is not a vulnerable customer.
Recommendation 22	Amend clause 91(2)(f) of the consultation draft Code by clarifying that the clause only applies to vulnerable customers who are liable for the debt.
Recommendation 23	Delete clause 91(8) of the consultation draft Code.

Appendix 2 Minor amendments

Table A: Minor amendments in response to public submissions

Item	Clause	Recommended amendment	Reason
A1	3	<p>Terms used</p> <p>contact means contact that is —</p> <p>(a) face to face; or</p> <p>(b) by telephone; or</p> <p>(c) by post or facsimile; or</p> <p>(d) by email or other means of electronic communication;</p>	Contact by facsimile is already covered by 'electronic communication' under paragraph (d).
A2	3	<p>Terms used</p> <p>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 to whom the supply of electricity is not restricted under the <i>Electricity Corporations Act 2005</i> section 54 or under another enactment dealing with customer contestability;</p>	<ul style="list-style-type: none"> • For consistency with the definitions of 'contestable' in the <i>Electricity Industry (Customer Transfer) Code 2016</i>, the <i>Electricity Industry (Metering) Code 2012</i> and the <i>Electricity Industry Network Access Code 2004</i>. • It is unclear what other enactment may be caught by the words 'or under another enactment dealing with customer contestability'. Retaining the words could have unintended consequences.
A3	3	<p>Terms used</p> <p>overcharging —</p> <p>(a) includes the overcharging of a customer as the result of —</p> <p>(i) the overcharging of a customer that is the result of an error, defect or default for which the retailer or distributor is responsible (including when a meter is found to be defective); and or</p> <p>(ii) an adjustment that results from 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 the Metering Code clause</p>	Clarification.

Item	Clause	Recommended amendment	Reason
		<p>5.4(1A)(b); the retailer basing a bill or bills on estimated energy data that is greater than the actual value (not being a deemed actual value) of energy used where the actual value is derived from an actual meter reading undertaken by a person employed or appointed by the distributor that passes the validation processes in Appendix 2 of the Metering Code;</p> <p>but</p> <p>(b) does not include an amount charged in accordance with a bill smoothing arrangement;</p>	
A4	3	<p>Terms used</p> <p><i>relevant consumer representative</i> —</p> <p>(a) means a person who may reasonably be expected to represent the interests of residential customers who are experiencing —</p> <p>(i) payment difficulties <u>in paying their bills or purchasing credit for the recharge of a pre-payment meter;</u> or</p> <p>(ii) financial hardship; and</p> <p>(b) includes financial counsellors;</p>	Consistent with the removal of the term 'payment difficulties' from the Code.
A5	3	<p>Terms used</p> <p><i>shortened billing cycle</i> —</p> <p>(a) means a billing cycle that is shorter than the a customer's standard billing cycle; but</p> <p>(b) does not include a billing cycle agreed under clause 19(3).</p>	Clarification (to provide a baseline to measure a period that is shorter than the baseline).
A6	3	<p>Terms used</p> <p><i>undercharging</i> —</p> <p>(a) includes <u>the undercharging of a customer that is the result of</u> —</p> <p>(i) the undercharging of a customer that is the result of an error, defect or default for which the retailer or distributor is responsible (including when a meter is found to be defective); and/or</p> <p>(ii) an adjustment that results from 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 the Metering Code clause 5.4(1A)(b), other than if the adjustment results from the customer denying access</p>	<ul style="list-style-type: none"> Clarification. Paragraph (ii): the words "other than if the adjustment results from the customer denying access to the meter at the supply address for more than 12 months" are no longer required as clause 29 (undercharging) will explicitly state what protections apply to a customer who has denied access to the meter for more than 12

Item	Clause	Recommended amendment	Reason
		<p>to the meter at the supply address for more than 12 months; the retailer basing a bill or bills on estimated energy data that is less than the actual value (not being a deemed actual value) of energy used where the actual value is derived from an actual meter reading undertaken by a person employed or appointed by the distributor that passes the validation processes in Appendix 2 of the Metering Code; or</p> <p><u>(iii) a failure to issue a bill to a customer;</u></p> <p>but</p> <p>(b) does not include an amount charged in accordance with a bill smoothing arrangement;</p>	<p>months. See ECCC recommendation 5.</p> <ul style="list-style-type: none"> • Paragraph (iii): failure to issue a bill also constituted an undercharge under the 2018 Code.
A7	20(1)	<p>Shortened billing cycle</p> <p>A retailer must not place a customer on a shortened billing cycle unless subclause (2) or clause 19(3) applies.</p>	Consequential amendment of the introduction of the new definition 'shortened billing cycle' (the definition specifically excludes a billing cycle agreed under clause 19(3)).
A8	23(3)	<p>Estimations</p> <p>For the purposes of this clause, a bill is taken to be based on an estimation <u>in relation to an interval meter</u> if —</p> <p>(a) more than 10% of the interval meter readings are estimated interval meter readings; and</p> <p>(b) the actual energy data cannot otherwise be ascertained.</p>	To clarify that subclause (3) is only relevant for estimated bills where the customer has an interval meter installed at the supply address.
A9	25(1) (a)	<p>Customer request for change of tariff</p> <p>requests a <u>the</u> retailer to transfer from that customer's current tariff to another tariff; and</p>	Drafting changes.
A10	30(1)	<p>Overcharging</p> <p>If a customer (including a customer who has vacated the supply address) has been overcharged, the retailer must use its best endeavours to inform the customer of the overcharge within 10 business days after the retailer becomes aware of the overcharging (being, where there has been an estimation of an amount due, from the time that the retailer becomes aware of the overcharging after a meter reading) and,</p>	This clarification is no longer required if the ERA accepts the recommended amendments to the definition of 'overcharging'. ⁵²

⁵² ECCC minor amendment, item A3.

Item	Clause	Recommended amendment	Reason
		<p>subject to this clause, ask the customer for instructions as to whether the amount should be credited to —</p> <p>(a) the customer’s next bill; or</p> <p>(b) a bank account nominated by the customer.</p>	
A11	34(1) (d)	<p>Payment methods</p> <p>A retailer must accept payment for a bill in the following ways — [...]</p> <p>(d) for residential Centrelink customers — by Centrepay;</p>	To clarify that Centrepay is only available to Centrelink recipients.
A12	43(1) 44	<p>Variation of payment plans</p> <p>A retailer must review a payment plan at the request of the a residential customer.</p>	Drafting changes.
A13	48(1)	<p>General requirements</p> <p>Before arranging for the disconnection of a customer’s supply address for failure to pay a bill, a retailer must —</p> <p>(a) not less than 15 business days from the date of dispatch of the bill bill issue date, give to the customer a written notice (a reminder notice) that includes — [...]</p> <p>(b) [...]</p> <p>(c) give the customer a disconnection warning, not less than 20 business days from the date of dispatch of the bill bill issue date, advising the customer — [...]</p>	The term ‘bill issue date’ is defined in clause 3 as ‘the date on which a bill is sent by a retailer to a customer’.
A14	60(2)	<p>Requirements for pre-payment meters</p> <p>(2) The following provisions apply in relation to a retailer’s ability to de-energise a pre-payment meter service —</p> <p>(a) if the pre-payment meter has run out of credit (disregarding any emergency credit), the meter may be de-energised during normal business hours;</p> <p>(b) if the pre-payment meter has run out of credit and any emergency credit, the meter may be de-energised at any time;</p> <p>(c)(3) if the If a pre-payment meter has been de-energised and the customer makes a payment to their account that results in an amount of credit in excess of emergency credit, the meter retailer must be re-energised re-energise the meter.</p>	Subclause (2) now only deals with de-energisation, while new subclause (3) deals with re-energisation.

Item	Clause	Recommended amendment	Reason
A15	66	Information Assistance for customers experiencing payment difficulties problems	Consistent with the deletion of the term 'payment difficulties' from the Code.
A16	67	Assistance Waiver of fee for customers experiencing payment difficulties problems	Consistent with the deletion of the term 'payment difficulties' from the Code.
A17	87(2) (b)	Obligation to establish complaints handling procedures how complaints will be handled by a the retailer or distributor, including —	Drafting changes.
A18	94(1) 96 (1)	Customer service Unless clause 97 99 applies, if a retailer fails to acknowledge or respond to a complaint within the timeframes set out in clause 88, the retailer must pay to the customer \$20.	Drafting change.
A19	95(1) 98 (1)	Customer service Unless clause 97 99 applies, if a distributor fails to acknowledge or respond to a complaint within the timeframes set out in clause 88, the distributor must pay to the customer \$20.	Drafting change.

Table B: Other minor amendments

Item	Clause	Recommended amendment	Reason
B1	3	<p>Terms used</p> <p>basic living needs includes payments for —</p> <ul style="list-style-type: none"> (a) rent or mortgage; and (b) other utilities (e.g. for example, gas, phone and water); and (c) food and groceries; and (d) transport (including petrol and car expenses); and (e) childcare and school fees; and (f) clothing; and (g) medical and dental expenses; 	Drafting changes.
B2	3	<p>Terms used</p> <p>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 for which a response or resolution is explicitly or implicitly expected or legally required;</p>	Drafting changes.
B3	3	<p>Terms used</p> <p>disconnection warning means a notice in writing issued in accordance with clause 48(1)(c) or clause 51(2)(d);</p>	Drafting change.
B4	3	<p>Terms used</p> <p>interruption —</p> <ul style="list-style-type: none"> (a) means the temporary unavailability of supply of electricity from the distribution network to a customer, supply address; but (b) does not include a disconnection under Part 7; 	Drafting changes.
B5	3	<p>Terms used</p> <p>life support equipment means the specified equipment designated under the Life Support Equipment Electricity Subsidy Scheme as administered by the department of the Public Service principally assisting in the administration of the Taxation Administration Act 2003 immediately before 1 January 2023;</p>	As explained in section 2.1.7, the Code can only refer to guidelines, schemes etc as they are in place at the time the Code takes effect.
B6	3	<p>Terms used</p> <p>life support equipment address means an a supply address registered under Part 11;</p>	Drafting changes.
B7	3	<p>Terms used</p>	Drafting changes.

Item	Clause	Recommended amendment	Reason
		<p>relevant standard —, in relation to a retailer or a distributor, has the meaning given in clause 81;</p> <p>(a) in relation to a retailer, has the meaning given in clause 81(1); and</p> <p>(b) in relation to a distributor, has the meaning given in clause 81(2);</p>	
B8	3	<p>Terms used</p> <p>verifiable confirmation means confirmation that is given <u>to a retailer or electricity marketing agent</u> —</p> <p>(a) expressly; and</p> <p>(b) in writing or orally; and</p> <p>(c) by a customer or a nominated person competent to give the confirmation on the customer's behalf;</p>	Drafting changes.
B9	3	<p>Terms used</p> <p>verifiable consent means consent that is given <u>to a retailer or electricity marketing agent</u> —</p> <p>(a) expressly; and</p> <p>(b) in writing or orally; and</p> <p>(c) by a customer or a nominated person competent to give the consent on the customer's behalf; and</p> <p>(d) after the retailer or electricity marketing agent (whichever is relevant) has, in plain language appropriate to the customer, disclosed all matters materially relevant to the giving of the consent, including each specific purpose for which the consent will be used;</p>	Drafting changes.
B10	3	<p>Terms used</p> <p>Note for this clause:</p> <p>Other terms <u>A term</u> used in this code have <u>has</u> the same meanings as <u>it has</u> in the <i>Electricity Industry Act 2004</i>. See the <i>Electricity Industry Act 2004</i> sections 3 and 78 in particular, and the <i>Interpretation Act 1984</i> section 44.</p>	Drafting changes.
B11	4(1)	<p>Payment plans</p> <p>For the purposes of this code, a payment plan is an interest free and fee free plan or other arrangement between a retailer and a residential customer under which the customer is allowed to pay a bill, any arrears or a charge (including a disconnection or reconnection charge) by at least 32 or more instalments while permitted to continue <u>continuing</u> consumption of electricity.</p>	Drafting changes.

Item	Clause	Recommended amendment	Reason
B12	5(2)(a)	<p>Provision of information to customers</p> <p>(a) referring the customer —</p> <p>(i) to the information on a retailer's or distributor's website (as the case requires); or</p> <p>(ii) subject to subclause (4), to a mobile application or an electronic communication portal where the information may be obtained;</p> <p>or</p> <p>(b) providing a copy of the information to the customer</p>	Drafting changes.
B13	5(2)(b)(4)	<p>Provision of information to customers</p> <p>A designated entity may only rely on subclause (2)(a)(ii) only if the designated entity, when referring a customer to the mobile application or portal, advises the customer that the customer is also entitled to be provided with a copy of the information by the designated entity. providing a copy of the information to the customer.</p>	Drafting changes.
B14	6(1)	<p>Variations relating to standard form contracts</p> <p>A retailer and a customer may agree that the following clauses do not apply, or are to be amended in their application, to a standard form contract —</p> <p>(a) clause 18(2);</p> <p>(b) clause 38(1);</p> <p>(c) clause 53;</p> <p>(d) clause 86(2);</p> <p>(d)(e) clause 98100(1);</p> <p>(e)(f) clause 98100(2).</p>	Paragraph (d): To ensure that a customer and retailer can agree that a retailer will de-register a customer's supply address at a later date (for example, the date the customer vacates the premises).
B15	7(1)	<p>Variations relation to non-standard contracts</p> <p>A retailer and a customer may agree that the following clauses do not apply, or are to be amended in their application, to a non-standard contract —</p> <p>(a) clause 18(2);</p> <p>(b) clause 19;</p> <p>(c) clause 20;</p> <p>(d) clause 21(1) to (6);</p> <p>(e) clause 33;</p> <p>(f) clause 34;</p> <p>(g) clause 35;</p>	Paragraph (j): To ensure that a customer and retailer can agree that a retailer will de-register a customer's supply address at a later date (for example, the date the customer vacates the premises).

Item	Clause	Recommended amendment	Reason
		(h) clause 38 ; (i) clause 53 ; (j) clause 86(2) ; (k) clause 98100(1) ; (l) clause 98100(2) .	
B16	Part 2	Marketing This code is not the only compliance obligation in relation to marketing. Other State and Federal Commonwealth laws apply to marketing activities, including the <i>Fair Trading Act 2010</i> , the <i>Spam Act 2003</i> (Commonwealth), the <i>Spam Regulations 2004 2021</i> (Commonwealth), the <i>Do Not Call Register Act 2006</i> (Commonwealth), the <i>Telecommunications (Telemarketing and Research Calls) Industry Standard 2017</i> (Commonwealth) and the <i>Privacy Act 1988</i> (Commonwealth).	<ul style="list-style-type: none"> • Drafting changes. • Correction.
B17	Part 2, Division 1	Obligations for retailers Retailer obligations	Drafting changes.
B18	9(1)	Entering into standard form contract When entering a retailer and a customer enter into a standard form contract that is not an unsolicited consumer agreement, the retailer or an electricity marketing agent must —	Drafting changes.
B19	9(1)(b)	Entering into standard form contract give, or make available to the customer, at no charge, a copy of the standard form contract —	Drafting changes.
B20	9(2)(f)	Entering into standard form contract the relevant distributor's 24 hour telephone number for faults and emergencies;	Drafting change.
B21	9(3)	Entering into standard form contract A retailer or an electricity marketing agent is not required to give the information set out in subclause (2) to a customer if — (a) the retailer or an electricity marketing agent has given the information to the customer within the preceding 12 months; or (b) the retailer or an electricity marketing agent has informed the customer how the customer may obtain the information and the customer has not requested to be given the information.	Drafting changes.

Item	Clause	Recommended amendment	Reason
B22	10(1)(b)	Entering into non-standard contract give, or make available to the customer, at no charge, a copy of the non-standard contract —	Drafting changes.
B23	10(2)	Entering into non-standard contract Before entering a retailer enters into a non-standard contract with a customer , the retailer or an electricity marketing agent must give the customer the following information —	Drafting changes.
B24	10(2)(b)	Entering into non-standard contract in the case of if the customer is a residential customer — a statement that the customer may be eligible to receive concessions and how the customer may find out about their eligibility to receive those concessions;	Drafting changes.
B25	10(2)(c)	Entering into non-standard contract details of any right the customer may have to rescind the non-standard contract during the cooling off period and the charges that may apply if the customer rescinds the non-standard contract.	Drafting changes.
B26	10(3)(e)	Entering into non-standard contract the relevant distributor's 24-hour telephone number for faults and emergencies;	Drafting change.
B27	10(4)	Entering into non-standard contract A retailer or an electricity marketing agent is not required to give the information set out in subclause (3) to a customer if — (a) the retailer or an electricity marketing agent has given the information to the customer within the preceding 12 months; or (b) the retailer or an electricity marketing agent has informed the customer how the customer may obtain the information and the customer has not requested to be given the information.	Drafting changes.
B28	11(1)	Standards of conduct A retailer or an electricity marketing agent must ensure that the inclusion of concessions is made clear to residential customers of the retailer and that any prices that exclude concessions are disclosed.	Drafting change.
B29	11(2)	Standards of conduct A retailer or an electricity marketing agent must ensure that a customer of the retailer is able to contact the retailer or electricity marketing agent on	Drafting changes.

Item	Clause	Recommended amendment	Reason
		the retailer's or electricity marketing agent's contact details, including their telephone number, during the normal business hours of the retailer or electricity marketing agent for the purposes of enquiries, verifications and complaints.	
B30	12(1)	<p>Contact for purposes of marketing</p> <p>A retailer or electricity marketing agent who contacts a customer for the purposes of marketing must, on request by the customer, provide the customer with —</p> <p>(a) the customer with the complaints telephone number of the retailer on whose behalf the contact is being made; and</p> <p>(b) the customer with the telephone number of contact details for the electricity industry ombudsman; and</p> <p>(c) in the case of contact by an electricity marketing agent — the customer with the electricity marketing agent's marketing identification number.</p>	Drafting changes.
B31	12(2)(a)(iii)	<p>Contact for purposes of marketing</p> <p>in the case of an electricity marketing agent — the electricity marketing agent's marketing identification number; and</p>	Drafting changes.
B32	12(2)(b)(ii)	<p>Contact for purposes of marketing</p> <p>in the case of an electricity marketing agent — the electricity marketing agent's marketing identification number; and</p>	Drafting changes.
B33	12(2)(b)(v)	<p>Contact for purposes of marketing</p> <p>the business address and Australian Business Number or Australian Company Number of the retailer on whose behalf the contact is being made;</p>	Drafting changes.
B34	12(2)(b)(vi)	<p>Contact for purposes of marketing</p> <p>the telephone number of contact details for the electricity industry ombudsman.</p>	Drafting changes.
B35	14(2)	<p>Compliance with Code</p> <p>If an electricity marketing agent of a retailer contravenes a provision of this Part while acting on behalf of a retailer, the retailer commits an offence.</p>	Drafting changes.

Item	Clause	Recommended amendment	Reason
B36	18(1)	<p>Obligation to forward connection application request</p> <p>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).</p>	Drafting changes.
B37	18(2)	<p>Obligation to forward connection application request</p> <p>A retailer must forward the customer's request for connection to the relevant distributor —</p> <p>(a) if the request is received before 3 pm on a business day — on that same day; or</p> <p>(b) if the request is received <u>on or</u> after 3 pm <u>on a business day</u> or on a Saturday, a Sunday or a public holiday throughout the State — no later than the next business day.</p>	Drafting changes.
B38	19(2)(a)	<p>Standard billing cycle</p> <p>has not received the required energy data from the relevant distributor for the purpose of preparing the bill, despite using its best endeavours to obtain the energy data from the relevant distributor; or</p>	Drafting changes.
B39	19(3)(a)	the retailer has obtained <u>obtains</u> the customer's verifiable consent to the new billing cycle; and	Drafting changes.
B40	20(2)(a)	<p>Shortened billing cycle</p> <p>in the case of a residential customer — the customer is not <u>a customer</u> experiencing financial hardship; and</p>	Drafting changes (to make use of the defined term "customer experiencing financial hardship").
B41	Division 2	Contents of a bill	Drafting change.
B42	21	Contents of bills	Drafting change.
B43	21(3)(c) and (d)	<p>Contents of bills</p> <p>(c) the customer's consumption, or estimated consumption;</p> <p>(d) if the customer is on a time of use tariff, the customer's consumption or estimated consumption for each time band in the time of use tariff;</p> <p><u>(c) either —</u></p>	To clarify that a bill for a customer on a time of use tariff is not required to include the customer's total consumption; only the consumption for each time band in the time of use tariff. This is consistent with the billing requirements for electricity

Item	Clause	Recommended amendment	Reason
		<p><u>(i) if the customer is on a time of use tariff — the customer’s consumption or estimated consumption for each time band in the time of use tariff; or</u></p> <p><u>(ii) in any other case — the customer’s consumption or estimated consumption;</u></p>	exported under clause 21(5)(b).
B44	21(5)(b)(i)	<p>Contents of bills</p> <p>if the customer is on a time of use tariff — the amount, or estimated amount, of electricity exported by the customer for each time band in the time of use tariff; or</p>	Correction.
B45	21(6)(c)	<p>Contents of bills</p> <p>the relevant distributor’s 24 hour telephone number for faults and emergencies.</p>	Drafting change.
B46	22(1)(a)	<p>Contents of bills</p> <p>on energy data provided for the relevant meter at the customer’s supply address provided by the relevant distributor or metering data agent; or</p>	Drafting change.
B47	23(1)	<p>Estimations</p> <p>If a retailer has based a <u>customer’s</u> bill on an estimation, the retailer must clearly specify on the customer’s bill that —</p>	Drafting changes.
B48	Part 2, Division 4	<p>Alternative Change of tariffs</p>	Drafting changes.
B49	25(1)	<p>Customer request for change of tariff</p> <p>A retailer must comply with subclause (2) if the retailer offers alternative tariffs or tariff options and a customer —</p>	Drafting changes. It is unclear what the difference is between alternative tariffs and tariff options.
B50	25(1)(a)	<p>requests a <u>the</u> retailer to transfer from that customer’s current tariff to another tariff; and</p>	Drafting changes.
B51	25(2)	<p>Customer request for change of tariff</p> <p>The retailer must transfer the customer to the other tariff referred to in subclause (1)(a) within 10 business days after the customer satisfying the conditions referred to in <u>complies with</u> subclause (1)(b).</p>	Drafting changes.
B52	25(3)	<p>Customer request for change of tariff</p> <p>If a customer transfers from 1 tariff type to another under this clause, the effective date of the transfer is —</p>	Drafting change.

Item	Clause	Recommended amendment	Reason
B53	28(1)	<p>Energy data checking</p> <p>If a customer, after receiving a bill, requests that the energy data be checked or the meter be tested, the retailer must arrange for a check of the energy data or testing of the meter (as the case requires).</p>	Drafting change.
B54	29(1)(a)	<p>Undercharging</p> <p>limit the amount to be recovered to no more than the amount undercharged in the 12 months before the date on which the retailer notified the customer that of the undercharging had occurred; and</p>	Drafting changes.
B55	29(1)(c)	<p>Undercharging</p> <p>unless subclause (2)(3) applies, not charge the customer interest on that the amount to be recovered or require the customer to pay a late payment fee; and</p>	Drafting changes.
B56	29(1)(d)	<p>Undercharging</p> <p>in the case of a residential customer — offer the customer time to pay that the amount to be recovered by means of a payment plan in accordance with clause 4243 for a period at least equal to the period over which the recoverable undercharging occurred.</p>	Drafting changes.
B57	29(3)	<p>Undercharging</p> <p>If, after notifying a customer of the amount to be recovered in accordance with subclause (1)(b), the customer has failed fails to pay the amount to be recovered by the due date and has does not entered enter into a payment plan under subclause (1)(d), a retailer may do either but not both of following —</p> <ul style="list-style-type: none"> (a) charge the customer interest on that the amount from the due date; (b) require the customer to pay a late payment fee. 	Drafting changes.
B58	30(1)	<p>Overcharging</p> <p>If a customer (including a customer who has vacated the supply address) has been overcharged, the retailer must use its best endeavours to inform the customer of the overcharge amount overcharged within 10 business days after the retailer becomes aware of the overcharging (being, where there has been an estimation of an amount due, from the time that the retailer becomes aware of the overcharging after a meter reading) and, subject to this clause, ask</p>	Drafting changes.

Item	Clause	Recommended amendment	Reason
		the customer for instructions as to whether the amount should be credited to —	
B59	30(4)	Overcharging If a customer has been overcharged by an amount that is less than \$100, the retailer may credit the amount to the customer's next bill instead of complying with subclause (1).	Drafting changes.
B60	30(7)	Overcharging Subclause (6) does not apply if the customer is a residential customer experiencing financial hardship.	Drafting change. The definition of 'customer experiencing financial hardship' already refers to a residential customer.
B61	30(8)	Overcharging If there remains an amount in credit after a set-off under subclause (6), the retailer must deal with the amount in accordance with subclause subclauses (1) or to (4) (depending on the amount that remains in credit).	Drafting changes.
B62	31(5)	Request for final bill If, after a set-off under subclause (4), there remains an amount of credit, the retailer must deal with the amount in accordance with subclause (2) subclauses (2) and (3).	Drafting changes.
B63	35(3)	Payment in advance The amount of \$20 is the minimum amount for which that a retailer is required to accept as a payment in advance from a customer (although the retailer may accept a lower amount if it thinks fit).	Drafting changes.
B64	37(1)	Late payment fee A retailer must not charge a residential customer a late payment fee in connection with the payment of a bill if —	Drafting changes.
B65	37(1)(b)(ii)	Late payment fee a payment extension <u>the customer being given additional time to pay a bill</u> under Part 6, and the customer pays the bill by the new due date; or	Drafting changes (for consistency with clause 41(1)(a)).
B66	40(3)(a)	Assessment information — (i) given by the residential customer; and (ii) requested or held by the retailer; or <u>or</u>	Drafting changes.

Item	Clause	Recommended amendment	Reason
B67	41(2)	Payment assistance However, a customer is only entitled to select one <u>1</u> option under subclause (1) once per bill.	Drafting changes.
B68	41(3)	Payment assistance A retailer must offer a residential customer who has been <u>is</u> assessed as experiencing financial hardship at least the following (without the need for the customer to make a request) — (a) a payment plan; (b) assistance in accordance with clauses 44 and 45.	Drafting changes.
B69	432 (5)	Payment plans If a residential customer accepts a payment plan, the retailer must, within 5 business days after the customer accepting <u>accepts</u> the payment plan, provide the customer with information in writing that specifies — (a) the terms of the payment plan, including the number of payments, the amount of each payment, the duration of payments <u>when each payment must be made</u> and how the payments are calculated; and (b) the consequences of not complying with the payment plan; and (c) the importance of making contact with the retailer to ask for further assistance if the customer cannot comply with, or continue to comply with, the payment plan terms .	Drafting changes.
B70	4344 (2)	Variation of payment plans A retailer is not required to undertake a review under subclause (1) on more than 2 occasions in any 12 month period (but may do so at any time <u>agree to undertake 1 or more additional reviews</u> if the retailer thinks fit).	Drafting changes.
B71	4344 (7)	Variation of payment plans Nothing in this clause prevents a retailer from cancelling a payment plan if the customer has failed to meet the requirements of <u>fails to comply with</u> the payment plan.	Drafting changes.
B72	4445	Reductions of fees, charges or debt <u>and provision of advice</u>	Consequential amendment of combining clause 44 and 45 in a single clause.
B73	4445 (2)	Reduction of fees, charges or debt	Drafting changes.

Item	Clause	Recommended amendment	Reason
		In acting under subclause (1), a retailer should <u>must</u> take into account its hardship policies and procedures under clause 46.	
B74	45	Provision of information <u>(3)</u> A retailer must advise a customer experiencing financial hardship of the —	Drafting changes.
B75	46(2)(a)	Hardship policy and hardship procedures include a statement encouraging customers to contact the retailer if they are having trouble <u>experiencing problems</u> paying the retailer's <u>their</u> bill; and	Drafting changes.
B76	46(3)(c)	Hardship policy and hardship procedures require that the retailer's credit management staff have a direct telephone number and that the number be provided to relevant consumer representatives;	Correction.
B77	48(1)(a)	General requirements not less than 15 business days from the bill issue date, give to the customer a written notice (a reminder notice) that includes <u>sets out</u> —	Drafting changes.
B78	48(1)(c)(i)	General requirements that the retailer may disconnect the customer's <u>supply address</u> with at least 5 business days' notice to the customer; and	Drafting changes.
B79	48(1)(c)(ii)	General requirements of the existence and operation of complaint handling processes, including the existence and operation of the electricity industry ombudsman and the Freecall telephone number of <u>contact details for</u> the electricity industry ombudsman.	Drafting changes.
B80	48(2)	General requirements 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; or (b) agreed with the retailer to an offer of a payment plan or other payment arrangement to pay the retailer's bill; or (c) adhered to the customer's obligation to make payments in accordance with an agreed payment plan or other payment arrangement relating to the payment of the retailer's bill.	Drafting changes.

Item	Clause	Recommended amendment	Reason
B81	49(b)	Limitations on disconnection for failure to pay bill if the customer is adhering to the customer's obligation to make payments in accordance with an agreed payment plan or other payment arrangement relating to the payment of the retailer's bill; or	Drafting change.
B82	49(c)(iii)	Limitations on disconnection for failure to pay bill the customer has contacted <u>contacts</u> and agreed <u>agrees</u> with the retailer to pay this amount;	Drafting changes.
B83	49(d)	Limitations on disconnection for failure to pay bill if the customer has informed <u>informs</u> the retailer, or the retailer is otherwise aware, that the customer has applied for a concession and a decision on the application has not been made; or	Drafting changes.
B84	49(e)	Limitations on disconnection for failure to pay bill if <u>the amount</u> the customer has failed <u>fails</u> to pay an amount that does not relate to the supply of electricity; or	Drafting changes.
B85	51(1)	Disconnection for denying access to meter Subclause (2) applies if, for at least 9 consecutive months, a customer has does not provided <u>provide</u> the retailer or relevant distributor (or a representative of the retailer or relevant distributor) safe access to the customer's supply address for the purposes of reading a meter at the supply address.	Drafting changes.
B86	51(2)(a)	Disconnection for denying access to meter the retailer has , on at least 1 occasion, given <u>gives</u> the customer written notice —	Drafting changes.
B87	51(2)(a)(i)	Disconnection for denying access to meter giving at least 5 business days' notice of a date on which, or a timeframe during which, the customer is requested to provide safe access to the supply address in order for the retailer or relevant distributor (or a representative) to gain access to a <u>the</u> meter; and	Drafting changes.
B88	51(2)(b)	Disconnection for denying access to meter the customer has failed <u>fails</u> to provide safe access in accordance with the requirements of the notice, or reasonable alternative access arrangements within a	Drafting changes.

Item	Clause	Recommended amendment	Reason
		reasonable time after notice is given under paragraph (a); and	
B89	51(2)(c)	Disconnection for denying access to meter the retailer has used uses its best endeavours to contact the customer to advise of the proposed disconnection on account of that failure; and	Drafting changes.
B90	51(2)(d)	Disconnection for denying access to meter the retailer has given gives the customer a disconnection warning with at least 5 business days' notice of its intention to arrange for disconnection.	Drafting changes.
B91	51(3)	Disconnection for denying access to meter Subclause (4) applies if a customer has not provided the retailer or relevant distributor (or a representative of the retailer or relevant distributor) safe access to the customer's supply address for the purposes of —	Drafting changes.
B92	51(4)(a)	Disconnection for denying access to meter the retailer has , on at least 1 occasion, given gives the customer written notice —	Drafting changes.
B93	51(4)(a)(ii)	Disconnection for denying access to meter giving at least 5 business days' notice of a date on which, or a timeframe during which, the customer is requested to provide safe access to the supply address in order for the retailer or relevant distributor (or a representative) to gain access to a meter ; and	Drafting changes.
B94	51(4)(a)(iii)	Disconnection for denying access to meter advising the customer of the retailer's ability to arrange for disconnection if the customer fails to provide safe access to the meter in accordance with the requirements of the notice or by providing reasonable alternative access arrangements;	Drafting changes.
B95	51(4)(b)	Disconnection for denying access to meter the customer has failed fails to provide safe access in accordance with the requirements of the notice, or reasonable alternative access arrangements within a reasonable time after notice is given under paragraph (a).	Drafting changes.
B96	52(1)(a)	General limits on disconnection the customer has made makes a complaint to the retailer that is directly related to the reason for the	Drafting changes.

Item	Clause	Recommended amendment	Reason
		proposed disconnection and the complaint has not been resolved by the retailer; or	
B97	52(1)(b)	General limits on disconnection the retailer has been <u>is</u> notified by the relevant distributor, electricity industry ombudsman or an external dispute resolution body that the customer has made a complaint that is directly related to the reason for the proposed disconnection and the complaint has not been resolved by the distributor or determined by the electricity industry ombudsman or external dispute resolution body (as the case may be); or	Drafting change.
B98	52(1)(c)	General limits on disconnection the supply address is registered under Part 11 as a life support equipment address.	Drafting changes (the definition of “life support equipment address” already refers to an address registered under Part 11).
B99	52(2)(b)	General limits on disconnection if the supply address is registered under Part 11 as a life support equipment address.	Drafting changes (the definition of “life support equipment address” already refers to an address registered under Part 11).
B100	52(2)(c)(iii)	General limits on disconnection it is not practicable for the distributor to disconnect <u>the supply address</u> at any other time.	Drafting changes.
B101	53(1)(a)	Obligation on retailer to arrange reconnection a customer’s supply address has been disconnected by, or at the request of, the <u>a</u> retailer; and	Drafting changes.
B102	53(1)(b)(iii)	Obligation on retailer to arrange reconnection paid the retailer’s charge for reconnection (if any), or accepted an offer of <u>entered into</u> a payment plan for those charges.	Drafting changes.
B103	53(3)	Obligation on retailer to arrange reconnection For the purposes of subclause (2), a <u>the</u> retailer must forward the customer’s request for reconnection to the relevant distributor — (a) on the same business day , if the request is received before 3 pm on a business day — on that same day ; or (b) no later than 3 pm on the next business day , if the request is received —	Drafting changes.

Item	Clause	Recommended amendment	Reason
		<p>(i) <u>on or</u> after 3 pm on a business day; or</p> <p>(ii) on a Saturday, a Sunday or a public holiday throughout the State <u>— no later than 3 pm on the next business day.</u></p>	
B104	54(1)	<p>Obligation on distributor to reconnect supply address</p> <p>A distributor must reconnect a <u>customer's</u> supply address if —</p> <p>(a) a retailer has arranged for the disconnection of the customer's <u>the</u> supply address <u>was disconnected by the distributor at the request of the retailer;</u> and</p> <p>(b) the retailer has forwarded <u>forwards</u> the customer's request for reconnection to the distributor under clause 53.</p>	Drafting changes.
B105	54(2)(a)	<p>Obligation on distributor to reconnect supply address</p> <p>a distributor has disconnected a customer's supply address <u>has been disconnected by a distributor</u> otherwise than at the request of a retailer; and</p>	Drafting changes.
B106	54(2)(b)	<p>Obligation on distributor to reconnect supply address</p> <p>the customer has —</p> <p>(i) if relevant, rectified <u>rectifies</u> the matter that led to the disconnection; and</p> <p>(ii) made <u>makes</u> a request for reconnection; and</p> <p>(iii) paid <u>pays</u> the distributor's charge for reconnection (if any).</p>	Drafting changes.
B107	54(4)	<p>Obligation on distributor to reconnect supply address</p> <p>For the purposes of subclauses (1) and (3), a distributor must reconnect a customer's supply address —</p> <p>(a) if the supply address is located within the metropolitan area —</p> <p>(i) within 1 business day after receipt of the relevant request, if the request is received before 3 pm on a business day <u>— within 1 business day after receipt of the relevant request;</u> and</p> <p>(ii) within 2 business days after receipt of the relevant request, if the request is received <u>on or</u> after 3 pm on a business day or on a Saturday, a Sunday or a public holiday</p>	Drafting changes.

Item	Clause	Recommended amendment	Reason
		<p>throughout the State — <u>within 2 business days after receipt of the relevant request;</u></p> <p>and or</p> <p>(b) if the supply address is located within a regional area —</p> <p>(i) <u>if the request is received before 3 pm on a business day —</u> within 5 business days after receipt of the relevant request, if the request is received before 3 pm on a business day; and</p> <p>(ii) within 6 business days after receipt of the relevant request, if the request is received <u>on or</u> after 3 pm on a business day, or on a Saturday, a Sunday or a public holiday throughout the State — <u>within 6 business days after receipt of the relevant request.</u></p>	
B108	55(1)	<p>Application</p> <p>The following <u>provisions</u> do not apply to a pre-payment meter customer —</p> <p><u>(a) clauses 9(2) and 10(3);</u></p> <p>(a)(b) Parts 4, 5, 7, 8 and 11;</p> <p>(b)(c) Part 6 (other than clause 46);</p> <p>(c) — clause 11 (other than as specified below);</p> <p>(d) clause 72.</p>	<p>In 2007, clause 2.4 (information to be provided after entering into a contract) was renumbered to clause 2.7. However, the reference to clause 2.4, in clause 9.1 (now 55), was never updated. Clause 9.1 therefore incorrectly provided that the marketing standards of conduct did not apply to pre-payment meter customers. The proposed changes would correct this error.</p> <p>Clauses 9(2) and 10(3) should not apply to a pre-payment meter customer because clause 57(2) already specifies the information that must be provided after a customer and retailer enter into a pre-payment meter contract.</p>
B109	57(1)(g)	<p>Provision of information</p> <p><u>how</u> credit retrieval <u>may be retrieved.</u></p>	Drafting changes.
B110	57(2)	<p>Provision of information</p>	Drafting changes.

Item	Clause	Recommended amendment	Reason
		No later than 10 business days after the time a residential customer enters into a pre-payment meter contract at the customer's supply address, a retailer must give or make available to the customer at no charge —	
B111	57(2)(g)	Provision of information the relevant distributor's 24-hour telephone number for faults and emergencies; and	Drafting change.
B112	57(2)(m)	Provision of information a statement setting out how the retailer may assist in the event the customer is experiencing difficulties paying for their consumption; and	Drafting changes.
B113	57(2)(n)	Provision of information a statement setting out how to make an enquiry of, or complaint to, the retailer; and	Drafting changes.
B114	57(2)(s)	Provision of information a statement setting out the options available to the customer if the customer replaces the pre-payment meter with a standard meter or switches the pre-payment meter to a standard meter.	Drafting changes.
B115	57(3)(a)	Provision of information the positive or negative balance of the pre-payment meter within \$1 dollar of the actual balance;	Drafting changes.
B116	57(3)(d)	Provision of information the relevant distributor's 24 hour telephone number for faults and emergencies.	Drafting change.
B117	57(4)	Provision of information A retailer must give a pre-payment meter customer on request, at no charge, the following information for the previous 2 years or for the period since the commencement of the pre-payment meter contract (whichever is the shorter), divided into quarterly segments —	Drafting changes.
B118	58(1)	Reversion If a pre-payment meter customer requests the retailer to replace the pre-payment meter with a standard meter, within 1 business day after the request the retailer must arrange with the relevant distributor to replace the pre-payment meter with a standard meter or switch the pre-payment meter to a standard meter.	Drafting change.

Item	Clause	Recommended amendment	Reason
B119	58(2)	<p>Reversion A retailer must not require payment of a charge <u>a fee</u> for reversion to a standard meter ...</p>	Drafting changes. For consistency with clause 67(2).
		<p>... if a pre-payment meter customer is a residential customer and that the customer, or its nominated representative,</p>	Drafting changes. It is unnecessary to refer to the customer's nominated representative. Other, similar clauses also do not refer to the customer's nominated representative.
		<p>requests reversion of a pre-payment meter <u>makes a request</u> under subclause (1) within 3 months after the later of —</p> <p>(a) the installation of <u>day on which</u> the pre-payment meter is installed; or</p> <p>(b) the date on which the customer entered into the pre-payment meter contract</p>	Drafting changes.
B120	58(3)	<p>Reversion If a pre-payment meter customer requests reversion of a pre-payment meter <u>makes a request</u> under subclause (1) after the date end of the period calculated in accordance with subclause (2), a retailer may charge the customer ...</p>	Drafting changes.
		<p>... a reasonable charge <u>fee</u> for the reversion.</p>	Drafting changes. For consistency with the changes proposed to clause 58(2).
B121	58(4)	<p>Reversion However, the <u>The</u> retailer's obligations under subclause (1) —</p> <p>(a) if the pre-payment meter customer is a residential pre-payment meter customer — are not conditional on the customer paying the retailer's reasonable charge <u>fee</u> for reversion to a standard meter (if any); and or</p> <p>(b) otherwise — may be made conditional on the pre-payment meter customer paying the retailer's reasonable charge <u>fee</u> for reversion to a standard meter (if any).</p>	<p>Drafting changes. For consistency with the changes proposed to clause 58(2).</p> <p>It is not necessary to refer to a "reasonable fee" as this is already addressed in clause 58(3).</p>
B122	58(5)	<p>Reversion If a retailer requests a distributor to revert a pre-payment meter <u>after a request</u> under subclause (1),</p>	Drafting changes.

Item	Clause	Recommended amendment	Reason
		the distributor must revert the pre-payment meter at that supply address —	
B123	59(1)	<p>Life support equipment</p> <p>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 —</p>	Drafting changes.
B124	59(1)(c)	<p>Life support equipment</p> <p>provide information to the pre-payment meter customer about the contract options available to the pre-payment meter customer.</p>	Drafting changes.
B125	59(2)	<p>Life support equipment</p> <p>If a retailer requests a distributor to revert a pre-payment meter under subclause (1)(b), the distributor must revert the pre-payment meter at that supply address as soon as possible and in any event no later than —</p> <p>(a) if the supply address is located within the metropolitan area —</p> <p>(i) if the request is received before 3 pm on a business day — within 1 business day after receipt of the request; and</p> <p>(ii) if the request is received <u>on or</u> after 3 pm on a business day or on a Saturday, a Sunday or a public holiday throughout the State — within 2 business days after receipt of the request;</p> <p><u>or</u></p> <p>(b) if the supply address is located within a regional area —</p> <p>(i) if the request is received before 3 pm on a business day — within 9 business days after receipt of the request; and</p> <p>(ii) if the request is received <u>on or</u> after 3 pm on a business day, or on a Saturday, a Sunday or a public holiday throughout the State — within 10 business days after receipt of the request.</p>	Drafting changes.
B126	60(2)	Requirements for pre-payment meters	Drafting changes.

Item	Clause	Recommended amendment	Reason
		<p>The following provisions apply in relation to a retailer's ability to de-energise a pre-payment meter service —</p> <p>(a) if the pre-payment meter has run out of credit (disregarding any emergency credit), the meter may be de-energised during normal business hours;</p> <p>(b) if the pre-payment meter has run out of credit and any emergency credit, the meter may be de-energised at any time.</p>	
B127	60 (3) (4)	<p>Requirements for pre-payment meters</p> <p>A retailer is not required to re-energise a <u>pre-payment</u> meter if the only credit that the customer has is emergency credit.</p>	Drafting change.
B128	61(c)	<p>Recharge facilities</p> <p>it uses its best endeavours to ensure that the a pre-payment meter customer can access a recharge facility for periods greater than required under paragraph (b); and</p>	Drafting changes.
B129	63(2)	<p>Meter check or test</p> <p>If a retailer requests a distributor to check or test a pre-payment meter under subclause (1)(c), the distributor must check or test the pre-payment meter.</p>	Drafting change.
B130	63(4)(c)	<p>Meter check or test</p> <p>refund any charges paid by the pre-payment meter customer under this clause for the <u>checking or</u> testing of the pre-payment meter.</p>	Drafting changes.
B131	65(1)(a)	<p>Overcharging and undercharging</p> <p>If a pre-payment meter customer (including a pre-payment meter customer who has vacated the supply address) has been overcharged <u>an amount</u> as a result of an act or omission of the retailer or relevant distributor (including as a result of a defective pre-payment meter), the retailer must —</p> <p>(a) use its best endeavours to inform the customer accordingly within 10 business days after the retailer becoming <u>becomes</u> aware of the error <u>overcharge</u>; and</p>	Drafting changes.
B132	65(2)	<p>Overcharging and undercharging</p> <p>If the retailer receives instructions from the customer <u>in response to a request</u> under subclause (1), the retailer must <u>credit or</u> pay the amount in accordance</p>	Drafting changes.

Item	Clause	Recommended amendment	Reason
		with the customer's instructions within 12 business days after receiving the instructions.	
B133	65(3)	Overcharging and undercharging If the retailer does not receive instructions from the customer under subclause (1) within 20 business days after making the request for instructions, the retailer must use reasonable endeavours to credit the amount overcharged to the customer's account.	Drafting change.
B134	65(6)	Overcharging and undercharging If a retailer proposes to recover from a pre-payment meter customer an amount undercharged as a result of an act or omission by the retailer or relevant distributor (including as a result of a defective pre-payment meter), the retailer must —	Drafting changes.
B135	66(2)(c)	Information Assistance for customers experiencing payment difficulties problems information about relevant financial assistance programmes programs ;	Drafting changes.
B136	66(6)	Information for customers experiencing payment difficulties This clause applies to a retailer despite in addition to any obligation under clause 46.	Drafting changes.
B137	68	Provision of general information to customers General information	For consistency with the heading of clause 75.
B138	68(5) 68(2)	Provision of general information to customers General information The retailer is not required to make publish a copy of this code available under subclause (1)(g) if it instead provides an electronic link to a website where a copy of this code may be accessed.	Drafting changes.
B139	71(3)	Information about variations to tariffs, fees or charges: non-regulated prices The notice must be given at least 5 business days before the variation is to apply to the customer will come into effect .	Drafting changes.
B140	71(5)(a)	Information about variations to tariffs, fees or charges: non-regulated prices if the customer has entered enters into the relevant contract with the retailer within 10 business days before the variation is to take will come into effect and the retailer has already informed the customer of the variation; or	Drafting changes.

Item	Clause	Recommended amendment	Reason
B141	74(b)	Distribution matters refer the customer to the relevant distributor for a response.	Drafting change.
B142	75(5) 75(2)	General information The distributor is not required to make publish a copy of this code available under subclause (1)(k) if it instead provides an electronic link to a website where a copy of this code may be accessed.	Drafting changes.
B143	76(b)	Information about supply changes or interruptions an explanation for any unplanned interruption of supply <u>of electricity</u> to the customer's supply address.	Drafting changes.
B144	79(2)(b)	Metering refer the customer to the relevant distributor for a response.	Drafting change.
B145	80	Disconnection or interruption for emergencies 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 an <u>an</u> emergency line at telephone contact number (the charge of which will be no more than <u>the cost of a local call (excluding mobile telephones),)</u> through which the customer can obtain, on a 24-hour basis, information on the nature of the emergency and an estimate of the time when <u>the</u> supply <u>of electricity</u> will be restored; and (b) use its best endeavours to restore <u>the</u> supply <u>of electricity</u> to the customer's supply address as soon as possible.	Drafting changes.
B146	81	Relevant standards (1) — The relevant standard under this Part for a retailer is that a step be taken — <u>In this Part —</u> <u>relevant standard —</u> (a) <u>in relation to a step required to be taken by a retailer, means the step is taken —</u> (a)(i) on the same day if a confirmation or notification is received before 3 pm on a business day <u>— on the same day;</u> or <u>day;</u> or	Drafting changes.

Item	Clause	Recommended amendment	Reason
		<p>(b)(ii) no later than the next business day if a confirmation or notification is received <u>on or</u> after 3 pm or on a Saturday, a Sunday or a public holiday throughout the State — no later than the next business day; <u>and</u> (2) — The relevant standard under this Part for a distributor is that a step be taken — <u>(b) in relation to a step required to be taken by a distributor, means the step is taken</u> <u>—</u> (a)(i) no later than the next business day if a notification is received before 3 pm on a business day <u>— no later than the next business day;</u> or (b)(ii) within 2 business days if a notification is received <u>on or</u> after 3 pm or on a Saturday, a Sunday or a public holiday throughout the State <u>— within 2 business after receipt of the notification.</u></p>	
B147	82	Registration of life support equipment <u>address:</u> retailers	Drafting change.
B148	82(1)	Registration of life support equipment: retailers The retailer must take the steps set out in subclause Subclauses (2) and (3) apply in accordance with the relevant standard for a retailer 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.	Drafting changes.
B149	82(2)	Registration of life support equipment: retailers The <u>retailer must take the</u> following steps must be taken <u>in accordance with the relevant standard for a retailer</u> —	Drafting changes.
B150	82(2)(c)	Registration of life support equipment: retailers provide the following to the customer's distributor —	Drafting change.
B151	82(3)	Registration of life support equipment: retailers In addition, a retailer who is required to comply with subclause (2) The retailer must provide the following information in writing to a <u>the</u> customer before, or within 5 days after, registering the customer's supply	Drafting changes.

Item	Clause	Recommended amendment	Reason
		<p>address as a life support equipment address under subclause (2) —</p> <p>(a) advice that there may be planned or unplanned interruptions to the supply at of electricity to the supply address and that the relevant distributor is required to notify the customer provide a notification of a planned disruption interruption in accordance with this code;</p> <p>(b) a recommendation that the customer prepare a plan of action in case of an unplanned interruption;</p> <p>(c) an emergency telephone contact number for the relevant distributor and the retailer (the charge of which will be no more than the charge of a local call (excluding mobile telephones)).</p>	
B152	82(4)	<p>Registration of life support equipment: retailers</p> <p>The retailer must take the steps set out in subclause (5) in accordance with the relevant standard for a retailer Subclause (5) applies if a customer for a supply address registered with a retailer under subclause (2) notifies the retailer —</p>	Drafting changes.
B153	82(5)	<p>Registration of life support equipment: retailers</p> <p>The retailer must take the following steps must be taken in accordance with the relevant standard for a retailer —</p> <p>(a) register the change;</p> <p>(b) provide a notification to the customer's distributor of the change</p>	Drafting changes.
B154	83	<p>Registration of life support equipment address: distributors</p>	Drafting change.
B155	83(1)	<p>Registration of life support equipment: distributors</p> <p>The relevant distributor must take the steps set out in subclause (2) in accordance with the relevant standard for a distributor This clause applies if the distributor is notified by a retailer —</p>	Drafting changes.
B156	83(2)	<p>Registration of life support equipment: distributors</p> <p>The distributor must take the following steps must be taken (as relevant) in accordance with the relevant standard for a distributor —</p>	Drafting changes.

Item	Clause	Recommended amendment	Reason
B157	84(1)	<p>Interruption of supply</p> <p>A distributor must not undertake a planned interruption of the supply at of electricity to a life support equipment address unless the distributor has —</p>	Drafting changes.
B158	84(2)	<p>Interruption of supply</p> <p>Subclause (1) does not apply if —</p> <p>(a) the interruption is to restore for the purpose of restoring the supply at of electricity to a life support equipment address; or</p> <p>(b) the distributor has already provided provides notice of a planned interruption that will affect a supply address under the <i>Electricity Industry (Network Quality and Reliability of Supply) Code 2005</i> before the distributor registers the supply address as a life support equipment address under this Part.</p>	Drafting changes.
B159	85(1)	<p>Periodic reviews</p> <p>A retailer must require the a customer whose supply address is registered as a life support equipment address, by a notice given to the customer within the period beginning 3 months before, and ending 3 months after, each anniversary of the registration of a supply address under this Part —</p>	Drafting changes.
B160	85(1)(b)	<p>Periodic reviews</p> <p>in the case of every third 3rd anniversary — to provide the retailer with confirmation from an appropriately qualified medical practitioner that a person residing at the customer's supply address continues to require life support equipment.</p>	Drafting change.
B161	86(1)(a)	<p>De-registration of address</p> <p>the a retailer is notified that the a customer's supply address no longer requires registration as a life support equipment address; or</p>	Drafting changes.
B162	86(1)(b)	<p>De-registration of address</p> <p>a customer fails to comply with a notice from a retailer under clause 85 in relation to a life support equipment address within the period allowed under clause 85(2)(a).</p>	Clarification.
B163	86(2)(b)	<p>De-registration of address</p> <p>if the notification is received on or after 3 pm or on a Saturday, a Sunday or a public holiday throughout</p>	Drafting changes.

Item	Clause	Recommended amendment	Reason
		the State — within 2 business days after receipt of the notification .	
B164	86(3)(e) b)	<p>De-registration of address</p> <p>de-register the supply address if the customer fails, in response to the steps undertaken ...</p> <p>... under paragraphs (a) and (b), to provide the confirmation required ...</p> <p>... under clause 85(1).</p>	<p>Drafting changes.</p> <p>Consequential amendment of the changes recommended to clause 86(3) – see recommendation 17.</p> <p>Clarification.</p>
B165	86(7)(9)	<p>De-registration of address</p> <p>Once a customer’s supply address ceases to be registered as a life support equipment address, the retailer’s and relevant distributor’s obligations under this code in connection with life support equipment cease to apply in relation to that address.</p>	Drafting change.
B166	89	<p>Advice about outcome of complaint</p> <p>A retailer or distributor must inform the customer —</p> <p>(a) inform the customer of the outcome of a complaints process; and</p> <p>(b) unless the customer has advised the retailer or distributor that the complaint has been resolved in a manner acceptable to the customer, inform the customer —</p> <p>(i) of the retailer’s or distributor’s reasons regarding the outcome; and</p> <p>(ii) that if the customer is not satisfied with the outcome, the customer may make a complaint or take a dispute to the electricity industry ombudsman; and</p> <p>(iii) of the telephone number and other contact details of for the electricity industry ombudsman.</p>	Drafting changes.
B167	90	<p>Obligation to refer complaint</p> <p>When If a retailer, distributor or electricity marketing agent receives a complaint from a customer 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).</p>	Drafting changes.

Item	Clause	Recommended amendment	Reason
B168	Part 13	Family violence policy Protections relating to family violence	Drafting changes.
B169	91(2)(f) (g)(ii)	Family violence policy the extent to which another person may have contributed to an amount owing for electricity supplied to a particular vulnerable customer's supply address;	Drafting changes.
B170	91(2)(g) (i)	Family violence policy provide that the retailer will take into account the circumstances of a vulnerable customer before disconnecting the vulnerable customer's supply address for failure to pay a bill; and	Drafting change.
B171	91(2)(h) (j)	Family violence policy provide information about the operation of subclause (4) clause 92 ; and	Drafting changes. Clause 92 provides for a 9-month disconnection moratorium for vulnerable customers.
B172	91(3)	Family violence policy The training required under subclause (2)(a) must satisfy at least satisfy 1 of the following requirements —	Drafting changes.
B173	91(4) and (5) 92	92. Protection from disconnection (4) (1) A retailer must ensure that the residential supply address of a vulnerable customer is not disconnected for a period of 9 months from the date on which the retailer becomes aware that the customer is a vulnerable customer unless — (a) the retailer is informed by the vulnerable customer, or otherwise becomes aware, that the customer no longer resides at that supply address; or (b) the disconnection is requested by the vulnerable customer; or (c) there are safety reasons warranting the disconnection; or (d) there is an emergency warranting the disconnection; or (e) electricity has been illegally consumed at the supply address. (5) (2) Nothing in subclause (4) (1) — (a) affects a vulnerable customer's responsibility to pay for electricity	<ul style="list-style-type: none"> • Moving clauses 91(4) and (5) into a stand-alone clause: Clause 91 is titled 'family violence policy' but subclauses (4) and (5) do not have to be addressed in a retailer's family violence policy. They are stand-alone obligations on retailers. • Residential: Inserting the word "residential" before "supply address" clarifies that the protections of Part 11 only apply to the residential supply address of a residential customer. • Vulnerable: Inserting the word "vulnerable" before customer clarifies that the clause applies to

Item	Clause	Recommended amendment	Reason
		<p>supplied by a retailer to a supply address; or</p> <p>(b) affects a retailer's ability to send bills and notices to a vulnerable customer in connection with payment for the supply of electricity or to take other steps in connection with a liability to pay for electricity supplied by the retailer.</p>	vulnerable customers only.
B174	91(6) and (7) 93	<p>93. Written evidence</p> <p>(6)(1) A retailer must not require written evidence of family violence from a customer unless the evidence is reasonably necessary to enable the retailer to determine the most appropriate way to —</p> <p>(a) address a failure to pay a bill and, if relevant, deal with debt collection; or</p> <p>(b) deal with a proposed disconnection of a supply address.</p> <p>(7)(2) To the extent that written evidence of family violence is required, it need only be 1 document of a kind that is listed in the <i>Residential Tenancies Act 1987</i> section 71AB(2).</p>	Clause 91 is titled 'family violence policy' but subclauses (6) and (7) do not have to be addressed in a retailer's family violence policy. They are stand-alone obligations on retailers.
B175	9294 (1)	<p>Facilitating customer reconnections</p> <p>Unless clause 9799 applies, a retailer must make the payment specified under subclause (2) if —</p> <p>(a) the retailer is required to arrange a reconnection of a customer's supply address under Part 8; and —</p> <p>(b) either —</p> <p>(a)(i) but the retailer has not complied with clause 53(3) or (4); or</p> <p>(b)(ii) the retailer has complied with clause 53(3), but a distributor has not complied with the timeframes set out in clause 54(4).</p>	Drafting changes.
B176	9294 (2)	<p>Facilitating customer reconnections</p> <p>The retailer must pay the customer \$60 for each day that it the retailer or the distributor (as the case may be) is late, up to a maximum of \$300.</p>	Correction.
B177	9395 (1)(a)	<p>Wrongful disconnection</p> <p>fails to comply with any of the procedures set out under Part 6 (if applicable and other than clauses 45(3) and 46), or clause 48 or 82(1), before arranging</p>	Consequential amendment of item B74.

Item	Clause	Recommended amendment	Reason
		for disconnection of, or disconnecting, a customer for failure to pay a bill; or	
B178	9496(1)	<p>Customer service</p> <p>Unless clause 9799 applies, if a retailer fails to acknowledge or respond to a <u>written</u> complaint <u>made by a customer</u> within the timeframes set out in clause 88, the distributor must pay the customer \$20.</p>	Drafting changes.
B179	9598(1)	<p>Customer service</p> <p>Unless clause 9799 applies, if a distributor fails to acknowledge or respond to a <u>written</u> complaint <u>made by a customer</u> within the timeframes set out in clause 88, the distributor must pay the customer \$20.</p>	Drafting changes.
B180	9697	<p>Wrongful disconnections</p> <p>Subject to Unless clause 9799 applies, a distributor must make the payment specified under subclause (2) if a <u>the</u> distributor disconnects a customer's supply address other than as authorised by —</p> <p>(a) <u>as authorised by</u> this code or otherwise <u>authorised</u> by written law; or</p> <p>(b) <u>as authorised by</u> a retailer.</p>	Drafting changes.
B181	9799(3)	<p>Exceptions</p> <p>If clause 9694 or 9895 applies, 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 <u>timeframes set out in clause 88</u>.</p>	Drafting changes.
B182	101(2)	<p>Recovery of payment</p> <p>If a retailer is entitled under clause 94(3) or 95(3) to reimbursement <u>of an amount</u> from a distributor, and the distributor fails to <u>pay reimburse</u> the relevant amount to the retailer within 30 days after the date of a demand for payment by the retailer, then the retailer may recover the amount of the payment in a court of competent jurisdiction as a debt due from the distributor to the retailer.</p>	Drafting changes.

Appendix 3 Minor amendments not supported by ECCC

Clause	Submission	ECCC advice	
3	<p>Terms used</p> <p>electricity industry ombudsman means the Energy and Water Ombudsman Western Australia performing the functions of electricity industry ombudsman under a scheme approved under Part 7 of the Act and an agreement under the <i>Parliamentary Commissioner Act 1971</i> section 34;</p>	<p>Synergy</p> <p>Add the words “if applicable” after the words “Part 7 of the Act” to recognise a party other than the Parliamentary Commissioner may be appointed as the Electricity and Water Ombudsman Western Australia.</p>	<p>No change.</p> <p>The ECCC considers it is preferable for the definition to specify the body that has been appointed as the relevant ombudsman under the scheme approved under the Act.</p>
3	<p>Terms used</p> <p>electricity marketing agent—</p> <p>(a) means a person who acts on behalf of a retailer —</p> <p>(i) for the purpose of obtaining new customers for the retailer; or</p> <p>(ii) in dealings with existing customers in relation to contracts for the supply of electricity by the retailer;</p> <p>and</p> <p>(b) includes a representative, agent or employee of a person referred to in paragraph (a); but</p> <p>(c) does not include a customer representative or the Housing Authority;</p>	<p>Synergy</p> <p>Amend the definition to make it explicit that an “electricity marketing agent” is a person that is not a licensed electricity retailer.</p>	<p>No change.</p> <p>The definition of electricity marketing agent refers to “a person who acts on behalf of a retailer” (or a representative, agent or employee of such a person); this would not include a retailer. Similarly, the Code consistently refers to “retailer or electricity marketing agent”.</p> <p>Also, it is preferable to maintain consistency with the approach reflected in the definition of ‘electricity marketing agent’ in section 78 of the Act.</p>
25(3)	<p>Customer request for change of tariff</p> <p>If a customer transfers from 1 tariff type to another under this clause, the effective date of the transfer is —</p>	<p>Alinta Energy</p> <p>Replace “1” with “one”.</p>	<p>No change.</p> <p>The proposed change is inconsistent PCO drafting practices.</p>
27(1)	<p>Review of bill</p>	<p>Alinta Energy</p>	<p>No change.</p>

Clause	Submission	ECCC advice
	<p>If a customer, after receiving a bill, disputes the amount to be paid, the retailer must review the bill if the customer —</p>	
<p>82(2) (c)</p>	<p>Registration of life support equipment: retailers</p> <p>The following steps must be taken —</p> <p>[...]</p> <p>(c) provide the following to the customer's distributor —</p> <p>(i) a notification about the customer's supply address being a life support equipment address;</p> <p>(ii) the contact details of the customer.</p>	<p>Alinta Energy</p> <p>Suggested amendment.</p> <p>(c) provide the following to <u>notify</u> the customer's distributor —</p> <p>(i) a notification about <u>that</u> the customer's supply address being <u>is</u> a life support equipment address;</p> <p>(ii) the contact details of the customer</p>

Appendix 4 Submission from Alinta Energy



4 February 2022

Paul Kelly
Chairman ECCC
Economic Regulation Authority
PO Box 8469
Perth BC WA 6849

publicsubmissions@erawa.com.au

Dear Paul

Draft Decision – Repeal and replacement of the Code of Conduct for the Supply of Electricity to Small Use Customers 2018

Alinta Sales Pty Ltd (**Alinta Energy**) is pleased to provide comment on the consultation draft *Code of Conduct for the Supply of Electricity to Small Use Customers 2022*, which is intended to replace the current Code with full effect from 1 January 2023.

As noted in our previous submission, we support the key amendments proposed to date by the ECCC, which seek to improve alignment with NECF, expand access to payment assistance for residential customers and better protect customers affected by family and domestic violence.

Our observations concerning the drafting of the replacement Code are provided in the table below.

Clause	Comment
4(1)	<p>Amend definition of payment plan. The current Code does not prescribe the minimum number of instalments that a plan must cover; rather, the plan must include an agreed payment schedule “generally involving payment of at least 3 instalments”.</p> <p>For the purposes of this code, a payment plan is an interest-free and fee-free plan or other arrangement between a retailer and a residential customer under which the customer is allowed to pay a bill, any arrears or a charge (including a disconnection or reconnection charge) by at least 3 instalments while permitted to continue consumption of electricity.</p>
23(3)	<p>Suggested amendment as sub-clause (a) is not relevant for accumulation meters. For the purposes of this clause, a bill is taken to be based on an estimation if —</p> <p>(a) for an interval meter, more than 10% of the interval meter readings are estimated interval meter readings; and (b) the actual energy data cannot otherwise be ascertained.</p>
25(1)	<p>A retailer must comply with subclause (2) if the retailer offers alternative tariffs or tariff options and a customer —</p> <p>(a) requests a the retailer to transfer from that customer’s current tariff to another tariff; and</p>

Alinta Sales Pty Ltd ABN 92 089 531 984

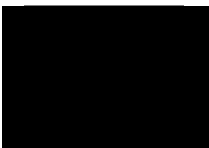
PO Box 8348, Perth BC, WA 6849

T +61 8 9486 3170 **F** +61 8 9266 4688 **W** alintaenergy.com.au

Clause	Comment
25(3)	If a customer transfers from ± <u>one</u> tariff type to another under this clause,
27(1)	Suggested amendment to align with terminology in cl 21(4)(a). If a customer, after receiving a bill, disputes the amount to be paid <u>due</u> ,
29(2)	...a retailer may do either but not both of <u>the</u> following —
38(1)	<u>(1)</u> Except as set out in this clause...
82(2)	Suggested amendment. (c) provide the following to <u>notify</u> the customer's distributor — (i) a notification about that the customer's supply address being <u>is</u> a life support equipment address; (ii) the contact details of the customer
86(3)	(b) at least 10 business days after sending the correspondence under paragraph (a), and on at least 2 other occasions, taken <u>take</u> reasonable steps to contact the customer about the de-registration of the life support equipment address; and
87(2)	(b) how complaints will be handled by a <u>the</u> retailer or distributor, including —
94(1)	For consistency with cl 92 and cl 93. Unless clause 97 applies, if a retailer fails to acknowledge or respond to a complaint within the timeframes set out in clause 88, the retailer must pay to the customer \$20.
95(1)	Per above. Unless clause 97 applies, if a distributor fails to acknowledge or respond to a complaint within the timeframes set out in clause 88, the distributor must pay to the customer \$20.

If you have any questions concerning the above, please contact me on 9486 3191 or catherine.rousch@alintaenergy.com.au .

Yours sincerely



Catherine Rousch
Manager WA Retail Regulation
Alinta Energy

Appendix 5 Submission from Dr Lee White and Ms Sally Pearson (Australian National University's School of Regulation and Global Governance); Mr Brad Riley and Dr Lily O'Neill (Australian National University's Centre for Aboriginal Economic Policy Research); and Dr Thomas Longden (Australian National University's Crawford School of Public Policy)

Electricity Code Consultative Committee (ECCC)

Draft decision – Repeal and replacement of the Code of Conduct for the Supply of Electricity to Small Use Customers 2018

Attention: Mr Paul Kelly, Chairman ECCC

Submission by email: <publicsubmissions@erawa.com.au>

11 February 2022

Submission in Response to *Draft decision – Repeal and replacement of the Code of Conduct for the Supply of Electricity to Small Use Customers 2018*

Submission by:

Dr Lee White at the Australian National University's School of Regulation and Global Governance
<https://researchers.anu.edu.au/researchers/white-lx>

Brad Riley at the Australian National University's Centre for Aboriginal Economic Policy Research
<https://researchers.anu.edu.au/researchers/riley-b>

Sally Wilson at the Australian National University's School of Regulation and Global Governance
<https://regnet.anu.edu.au/our-people/academic/sally-wilson>

Dr Lily O'Neill at the Australian National University's Centre for Aboriginal Economic Policy Research
<https://researchers.anu.edu.au/researchers/o-neill-l>

Dr Thomas Longden at the Australian National University's Crawford School of Public Policy
<https://researchers.anu.edu.au/researchers/longden-t>

Thank you for the opportunity to make a submission in response to the Economic Regulation Authority's (ERA) *Draft decision – Repeal and replacement of the Code of Conduct for the Supply of Electricity to Small Use Customers 2018* dated 9 December 2021. Our submission offers a response to selected issues in the ERA's draft decision. As researchers at the ANU we are keen to engage in further discussions and our contact details are available above on our ANU websites.

We note that many of the suggested changes to the Code of Conduct for the Supply of Electricity to Small Use Customers ('Code') make improvements for customers. New protections for customers experiencing family and domestic violence including privacy protections, a moratorium on disconnection and greater levels of staff training are all welcome changes. We agree with setting a minimum bill debt of \$300 before a residential customer can be disconnected for non-payment. The

amendment to consolidate information requirements and make information available online is an important step. We commend the decision to extend assistance measures offered to customers experiencing payment difficulties to all residential customers who request them and can appreciate that many of these changes better align elements of the Code with the National Energy Customer Framework (NECF) and bring customer protections in WA closer to the national standard.

We now focus our remarks on the areas of pre-payment metering, disconnections, and aspects of information provision. The Code continues to ensure that small use residential pre-payment customers ('pre-payment customers') remain an exception to the widely accepted principle that disconnection from household energy services is only ever 'a last resort'—and we note that for many pre-payment customers disconnection is effectively routinized and the vulnerability of pre-payment customers overlooked. We refer the ECCC to the following research, published in December 2021 and January 2022, regarding the frequency of disconnection for prepayment customers and the greater likelihood of these customers facing disconnection at times of extreme temperatures when electricity can be most critical for health and comfort:

- Longden, T, Quilty, S, Riley, B, White, LV, Klerck, M, Davis, VN & Frank Jupurrurla, N 2021, 'Energy insecurity during temperature extremes in remote Australia', *Nature Energy*.

Available at: <https://www.nature.com/articles/s41560-021-00942-2.epdf>

- Longden, T, Quilty, S, Riley, B, White, LV, Klerck, M, Davis, VN & Jupurrurla, NF, 2022, 'Temperature extremes exacerbate energy insecurity for Indigenous communities in remote Australia', *Nature Energy*, pp.1-2.

Available at: <https://www.nature.com/articles/s41560-021-00968-6.epdf>

- Davis, VN, White, LV & Riley, B, 2021, 'Temperature extremes exacerbate energy insecurity – Australia needs to better support remote Indigenous communities to prepare now', *Nature Sustainability Community*.

Available at: go.nature.com/31WxDNn

Remote living customers on pre-payment meters can experience very high rates of involuntary self-disconnection from energy services in the home. Research by members of our team demonstrates that, in the Northern Territory, over 90% of 3,300 households in 28 communities utilising pre-payment metering experience disconnection from electricity at least once a year with over 70% disconnecting more than 10 times in a year (Longden et al. 2021). This experience is evidently at odds with the

guiding principle expressed in the Code, of small customer disconnection being ‘a last resort’ (referred to in the draft decision at paragraphs 38 and 84). While the new \$300 minimum bill debt provides additional safeguards for post-payment customers in avoiding disconnection, similar sureties and safeguards from the known harms of disconnection do not apply to customers using pre-payment meters. We urge consideration of how the guiding principle of disconnection as a ‘last resort’ is extended to pre-payment customers.

We understand that there are 1,359 households in regional and remote Western Australia using pre-payment meter systems for electricity supply, based on figures reported in ERA’s Annual Data Report 2020-21. This includes 1,348 remote households within Horizon Power’s licensed service area and 11 households within Synergy’s licensed service area. An outcome of the proposed changes to the Code, as well as changes to funding arrangements for the provision of essential services to many small, widely dispersed remote Aboriginal communities since 2015, is that numbers of pre-payment customers in Western Australia will likely increase. Data published by ERA indicates that pre-payment meter customers experience extremely high levels of disconnection in Western Australia. During 2020-21:

- Synergy had 11 pre-payment households, but 249 disconnections across these households
- Horizon Power had 1,348 pre-payment households, but 30,307 disconnections across these households
- For Synergy’s pre-payment customers, there were 21 instances where disconnections exceeding 120 minutes occurred twice or more within any 1-month period
- For Horizon Power’s pre-payment customers, there were 2,454 instances where disconnections exceeding 120 minutes occurred twice or more within any 1-month period.

This contrasts dramatically with levels of disconnection for residential customers, with Horizon Power reporting 251 disconnections for non-payment amongst its 36,256 residential customers and Synergy reporting 2,432 disconnections for non-payment amongst its 1,023 854 residential customers during the same period.

Evidence shows remote living customers on pre-payment meters are most likely to experience disconnection when temperatures are very hot or very cold. For pre-pay customers temperature extremes increase reliance on the services that access to energy provides, while simultaneously increasing the risk of disconnection of those services. This could foreseeably exacerbate risks for residents with underlying health conditions, and cause discomfort even for otherwise healthy residents. Within this frame and additionally within the guiding principle of disconnection as a last resort, we are concerned by the amendment to remove the requirement for a recharge facility to be

within 40km of a customer's pre-payment meter (clause 61 'Recharge facilities' in the amended Code). Residents who are disconnected unexpectedly may face severe challenges in purchasing pre-payment credit. If meters and/or displays showing remaining credit are not easily visible in the home, disconnection for a prepayment customer may occur abruptly and at a time when it is challenging to access a payment top up. The Code does not contain any requirements for the meter to be conveniently located and visible within the customer's household, therefore it cannot be assumed that residents will have advance warning before disconnection occurs. Difficulties faced following abrupt disconnections could be exacerbated further if the recharge facility is very far away, with transport fuel precarity foreseeably amplifying energy insecurity in the home. It cannot be assumed that remote living residents will always have access to internet-based payment options. Likewise, it cannot be assumed that remote living residents will have access to credit cards for online payment options.

As mentioned above, we commend the proposed Code amendments to make payment assistance, namely payment extensions and instalment plans, available to all residential customers who use post-payment billing. Yet, these forms of financial assistance do not extend to pre-payment meter customers whose energy choices and options seem limited in comparison. While the amendments address the long-term interests of a significant cohort of residential customers, they do not adequately address the interests of prepayment customers experiencing ongoing financial difficulties. We also draw attention to the specific circumstances and needs of pre-payment customers under clause 46 'Hardship policies and hardship procedures.' This clause applies to pre-payment customers as well as post-payment customers, but we seek clarification as to whether retailers will be required to provide specific hardship provisions, policies and/or procedures for pre-payment customers. Additionally, we encourage the application of clauses 44 'Reduction of fees, charges or debt' to pre-payment customers, who seem to be excluded from the benefit of this provision.

We acknowledge the clarifications in clause 52 concerning general limits on disconnection and encourage additional protections against disconnection during an extreme weather event e.g., as declared by Emergency WA. This suggestion also applies to pre-payment provisions in clause 60(2) and is consistent with protections afforded under the NECF.

Generally, we urge further consideration of how the circumstances of remote customers with life support needs are addressed in the Code. Prepayment metering is not compatible with life support needs (clause 59), and anecdotal evidence suggests some remote living customers with genuine life support needs are not registering their needs in order to continue to use pre-payment metering that is prevalent in their communities. This concern warrants further investigation of the numbers of

customers with life support needs where pre-payment metering is used (whether registered or not), and how their needs can be recognised and accommodated by the retailer and within the context of regulatory protections.

We commend the monitoring and reporting of data on pre-payment customers in Western Australia, in particular the requirements in the Electricity Retail Licence Performance Reporting Handbook April 2019 which operates alongside the Code. This level of reporting contributes to the visibility of disconnection levels among prepayment customers, yet we note these figures are not included in ERA's Annual Energy Report 2020-21. We encourage ongoing monitoring and reporting in this area and the inclusion of prepayment disconnection levels in future annual energy reports. In the context of the draft decision, we note that reporting requirements are comprehensively removed from the Code. The reasoning provided in the ECCC Final Review Report is that reporting obligations arise under the relevant retail licenses and the removing requirements in the Code avoids unnecessary duplication. Our position is that reporting obligations should be referred to in the Code as a means of supporting and informing small use customer interests. Customers may look at the Code but are less likely to locate and read a licence agreement. A reference to reporting requirements in the Code will help to make these requirements visible to customers and provide a safeguard for reporting to remain if the requirements under the licences change.

Given the disproportionate use of prepayment metering in Aboriginal communities it is important to note that energy services networked to information technology introduce novel ways of generating value through data. Internationally the movement to secure local ownership and control of data relating to Indigenous peoples is known as Indigenous data sovereignty (Yu 2012, Kukatai and Taylor 2016). In Australia research is needed to ensure that the energy data rights and interests of Aboriginal communities are secured and leveraged for Aboriginal benefit. The Council of Australian Governments 'Closing the Gap in Partnership: Priority Reform Four' (COAG 2019) calls for the greater sharing of, and access to, data and information at a regional level, noting that "disaggregated data and information is most useful to Aboriginal and Torres Strait Islander organisations and communities to obtain a comprehensive picture of what is happening in their communities and to support decision making" (NACG 2020). Greater capacity building and sharing of data can do much to support community and service provider efforts to improve energy security for pre-pay customers within remote communities.

Focusing on other proposed changes in Part 9 'Pre-payment meters', we make the following submissions:

- Clause 63(3) 'Meter check or test' should be amended to cover reasonable "published" charges only—the customer needs to know the costs involved before requesting a pre-payment meter check or test.
- Clause 67(2) gives the retailer discretion about whether to charge a pre-payment customer experiencing financial difficulties where they request a switch to post-payment metering. This seems to favour the interests of retailers rather than customers facing genuine financial difficulties. To align with the NECF Rule 141(2) there should be no charge to the customer. Proposed amendments to Code afford residential customers new and more expansive protections to prevent them from reaching positions of real hardship (e.g., through payment assistance mechanisms in Part 6) and additional and specific safeguards for customers experiencing hardship (e.g. in Part 6, Division 3) but pre-payment customers in the state's most remote regions experiencing poverty, energy insecurity and on the frontline of climate change impacts are not afforded equivalent financial protections.

We thank you for the opportunity to make submission of the draft decision and will be pleased to discuss any aspects of our submission with you.

References:

Council of Australian Governments (2019) Partnership Agreement on Closing the Gap 2019-2029, https://www.coag.gov.au/sites/default/files/agreements/partnership-agreement-closing-the-gap_2.pdf

Kukutai, T., Walter M. (2015) Recognition and indigenizing official statistics: reflections from Aotearoa New Zealand and Australia. *Statistical Journal of the IAOS* 31 p. 321 – 326.

Longden, T, Quilty, S, Riley, B, White, LV, Klerck, M, Davis, VN & Frank Jupurrurla, N 2021, 'Energy insecurity during temperature extremes in remote Australia', *Nature Energy*.

NACG (2020) National Agreement on Closing the Gap in Partnership, Reform Priority 4: Shared access to data and information at a regional level <https://www.closingthegap.gov.au/priorityreforms>

Yu, P. (2012) The power of data in Aboriginal hands. Topical Issue 4. *Centre for Aboriginal Policy Research*, Australian National University.

Appendix 6 Submission from Synergy

Our Ref:
Enquiries:
Telephone:



10 February 2022

Mr Paul Kelly
Chairman, ECCC
Economic Regulation Authority
Level 4, 469 Wellington Street,
PERTH WA 6000

Email: publicsubmissions@erawa.com.au

Dear Paul

**CODE OF CONDUCT FOR THE SUPPLY OF ELECTRICITY TO SMALL USE CUSTOMERS
(CODE) – 2019-2022 REVIEW**

I refer to the Electricity Code Consultation Committee's public consultation notice dated 15 December 2021 inviting comment on the new standards proposed to be set out in the draft Code of Conduct for the Supply of Electricity to Small Use Customers (**Draft Code**). Synergy is pleased to provide comment on the Draft Code as it is the primary regulatory instrument that specifies the electricity supply service standards applicable to its 1 million small use customers.

Synergy's submission in response to the Draft Code is attached. Please contact me should you have any queries in relation to the attached submission.

Yours sincerely



**SIMON THACKRAY
MANAGER, REGULATION AND COMPLIANCE**



Synergy's submission in response to the Code of Conduct for the Supply of Electricity to Small Use Customers 2022 consultation draft

ISSUE	CLAUSE	COMMENT
Commencement	2	Synergy notes the commencement date for Part 13 of the proposed new Code is two months after Gazettal which Synergy expects will be 31 August 2022. Synergy requires the commencement date for clause 91(4) to be 30 September 2022 to enable required system changes to be developed, tested and deployed in relation to the vulnerable customer disconnection moratorium.
Definition of "contact" reference to "facsimile"	3	Reference to "facsimile" is redundant as this is covered in paragraph (d) of the definition of "contact" given the term "electronic communication".
Definition of "contestable customer"	3	The definition needs to include a reference to a "bidirectional point" to reflect changes to the Electricity Networks Access Code in 2021.
Definition of "Electricity and Water Ombudsman Western Australia"	3	Synergy proposes the words "if applicable" be added after the words "Part 7 of the Act" to recognise a party other than the Parliamentary Commissioner may be appointed as the Electricity and Water Ombudsman Western Australia.
Definition of "electricity marketing agent"	3	Synergy seeks the definition to be explicit that an "electricity marketing agent" is a person that is not a licensed electricity retailer.
Definition of "overcharging"	3	<p>The current wording could be improved to better reflect the overcharge scenario. An overcharge occurs when:</p> <ul style="list-style-type: none"> (a) a customer is billed on estimated energy data and actual energy data is subsequently received; and (b) the value of previously estimated energy data is greater than the actual value. <p>or put another way:</p> $O = A_{t2} - E_{t1} \text{ and if } E_{t1} > A_{t2}$ <p>O is the overcharge E is the estimate energy data</p>

ISSUE	CLAUSE	COMMENT
		<p>A is the actual value t_1 is time period 1 t_2 is time period 2</p>
Definition of “relevant consumer representative”	3	Recommendation 50(c) of the ECCC final review report confirmed that all references to the term ‘payment difficulties’ be deleted from the Code and replaced with a reference to customers experiencing difficulties paying their bill and payment for their consumption in relation to pre-payment meters. “Payment difficulties” is referred to in the definition of “relevant consumer representative”.
Definition of “undercharging”	3	<p>The current wording could be improved to better reflect the undercharge scenario. An undercharge occurs when:</p> <ul style="list-style-type: none"> (c) a customer is billed on estimated energy data and actual energy data is subsequently received; and (d) the value of previously estimated energy data is less than the actual value. <p>or put another way:</p> $O = A_{t_2} - E_{t_1} \text{ and } E_{t_1} < A_{t_2}$ <p>O is the overcharge E is the estimate energy data A is the actual value t_1 is time period 1 t_2 is time period 2</p>
Definition of “vulnerable customer”	3	The definition of vulnerable customer includes “a former customer”. However a “former customer” is not defined. Operationally Synergy intends to determine this based on its retained customer records consistent with Australian Privacy Principles requirements.
Provision of information to customers – referring the customer to a retailer’s or distributor’s website	5(2)(a)	Reference to a “website” is too limited given it is becoming increasingly common for retailers to have electronic information sources in addition to a website such as mobile applications and customer portals (Synergy MyAccount). Synergy recommends the clause be broadened to include: “website, mobile application or an alternative electronic communication portal”.

ISSUE	CLAUSE	COMMENT
Shortened billing cycle	20	The clause as drafted does not provide a baseline to measure a period that is shorter than the baseline. This baseline should be specified as the “customer’s standard billing cycle.”
Overcharging	30(4)	Clause 30(4) needs to be amended to reflect a situation where a former customer cannot be informed of an overcharge because they cannot be contacted. For example where a customer closes an existing account and the overcharge is identified post account closure. In this scenario a credit cannot be applied to the customer’s next bill because there is no next bill. In practice the credit will be applied to the closed account for a defined period before being transferred to Treasury as unclaimed money.
Payment methods	34(d)	The clause should be amended to refer to “eligible residential customers”. Centrepay is limited to Centrelink recipients only.
Payment plan	42(3)	A cap on a retailer’s obligation to offer a payment plan should similarly be extended to a payment extension. As the Code is currently drafted there is no cap on a retailer’s obligation to offer a payment extension. Synergy suggests it reasonable if a customer fails to make payment after being given two payment extensions within a 12 month period, a retailer should not be obliged to offer further extensions – this should then be discretionary.
Variation of payment plans	43(1)	The provision should refer to “residential customers”.
General requirements	48(1)(a) and (c)	“date of dispatch” should refer to “bill issue date”.
Limitations on disconnection for failure to pay bill	49(c)(iii)	Synergy does not understand the intent of this provision. Synergy notes that for a customer to receive an electricity supply the customer must have previously entered into a supply contract with a retailer. It is a standard contractual term for a customer to pay a bill.
Requirements for pre-payment meters	60(2)(c)	Synergy considers this matter should be a stand-alone provision given clause 60(2) deals with a retailer’s ability to de-energise a pre-payment meter service.
Information for customers experiencing payment difficulties	66	The heading should refer to “payment problems” opposed to “payment difficulties”.
Information for customers experiencing payment difficulties	66(2)	A higher obligation has been imposed on retailers relative to the 2018 Code. Synergy proposes the required information should also be permitted to be made available in addition to “in writing”.

ISSUE	CLAUSE	COMMENT
Assistance for customers experiencing payment difficulties	67	The heading should refer to “payment problems” opposed to “payment difficulties”.
Registration of life support equipment: retailers	82(2)(b)	<p>“contact details” should be defined as one of the following nominated by a customer;</p> <ul style="list-style-type: none"> • a supply address • a postal address • a telephone number; and • an electronic address.
Periodic reviews De-registration of life support address	85 86	Clause 85 proposes a new but significant change to existing life support requirements. This is a new requirement, not considered by the ECCC and is not supported by Synergy. Unlike the existing Code, the proposed new Code requires up to four notifications to be sent to a customer before a life registration can be removed whereas the existing Code requires up to three notifications.
De-registration of life support address	86(3)	Clause 86 proposes a new significant change to existing life support requirements. This is a new requirement, not considered by the ECCC and is not supported by Synergy. Synergy’s concern relates to the requirement that the first contact with a customer under clause 86(3) must be via registered mail. Synergy’s current process as permitted by the existing Code is to contact the customer via registered mail on the third attempt. It is unreasonable for retailers to incur the expense of registered mail if a customer provides the confirmation as required by clauses 85(1)(a) and (b) in response to an electronic communication or telephone call.
Application of Part 13 to a former residential customer	Part 13	<p>It is unclear to Synergy how it can operationally administer the proposed Part 13 Code requirements in relation to a former residential customer who is a vulnerable customer (vulnerable customer) but is not the customer (account holder). For example:</p> <ul style="list-style-type: none"> • how a retailer can protect a vulnerable customer’s information recorded on the account holder’s account when the account holder can legitimately access their account information. • how an agreed method of communication between a retailer and a vulnerable customer would apply (or not apply) to the account holder. • how a retailer is to contemplate the impact of debt collection on a vulnerable customer when the vulnerable customer is not liable for the debt.

ISSUE	CLAUSE	COMMENT
		<ul style="list-style-type: none"> • how a retailer will take into account the circumstances of a vulnerable customer before disconnecting the account holder's supply address due to the account holder's failure to pay a bill.
Family violence policy and procedures	91(8)	<p>Clause 91(8) proposes a new significant change to the family violence policy requirements, not considered by the ECCC and is not supported by Synergy. Clause 91(8) of the draft Code requires a retailer must ensure its family violence policy and procedures comply with any requirements specified by the Authority. The Code has been subject to a 2 year review period and there has been adequate time to reflect any specific ERA requirements in the Code. The proposed provision lacks transparency and provides the ERA with an unfettered ability to amend a retailer's public family violence policy and internal operational procedures.</p>

Appendix 7 ECCC

ECCC members for the 2022 term are:

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

Mr Daniel Pritchard Circle Green Community Legal Centre

Industry representatives

Ms Stephanie Barnes Western Power

Mr David Frankel Horizon Power

Ms Catherine Rousch Alinta Energy

Mr Simon Thackray Synergy

Government representatives

Ms Anne Braithwaite Energy Policy WA

Ms Karen Keyser Consumer Protection, Department of Mines, Industry Regulation and Safety

Mr Brent Savage, Energy Policy WA, attended the ECCC meetings as an observer.

More information about the ECCC is available on the [ERA website](#).