

Economic Regulation Authority
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Via email: publicsubmissions@erawa.com.au

Expert Consumer Panel submission on the ERA's Draft Decision - 2023 Review of the Compendium of Gas Customer Licence Obligations

Dear Mr Kroon,

Thank you for the opportunity to make a submission in response to the Draft Decision - 2023 Review of the Compendium of Gas Customer Licence Obligations (Compendium).

The WA Expert Consumer Panel (ECP) is supported by the State Government's Western Australian Advocacy for Consumers of Energy (WA ACE) funding, to engage in consumer advocacy and contribute to major decision making in the sector.

Gas is an essential service for over 764,000 Western Australian households who use it to cook, heat their homes to comfortable temperatures, and heat water for bathing and cleaning.¹ Strong and consistent consumer protections across electricity and gas sectors ensure that Western Australian households can access these essential services on fair terms.

ECP members therefore support the proposed amendments to the Compendium in the Draft Decision and thank the ERA for this important work which follows similar reforms to the framework for electricity services.

In this submission ECP members identify opportunities to adjust aspects of the Draft Decision to ensure the protections achieve intended outcomes for Western Australian gas consumers. Any changes to the Compendium must take account of the broader context of the urgent need for energy transition and implications for consumer protections - notably the prospect of hydrogen blending in gas supplies, as well as home and business electrification.

¹ Economic Regulation Authority's Annual data report 2021/22 – Energy retailers report, page 7
<https://www.erawa.com.au/cproot/23107/2/Final-for-publication---Energy-Retailers-Annual-Data-Report-202122.PDF>

ECP members note that the ERA's proposals around family and domestic violence, disconnections and payment difficulties reflect contemporary expectations around standards of service and supporting regulatory frameworks in Western Australia and nationally.

Issue 1: Aligning the Compendium with the Code of Conduct for the Supply of Electricity to Small Use Customers

ECP members welcome the ERA's proposal to align the customer protections supported by the Compendium of Gas Customer Licence Obligations (Compendium) with what is now provided under the reformed Code of Conduct for the Supply of Electricity to Small Use Customers (Electricity Code).

As the Western Australian Council of Social Service (WACOSS) pointed out in its submissions to the Electricity Code Review and this process, perpetrators of family violence can use essential services to coerce and cause harm as a form of economic or financial abuse. Financial abuse is one of the most powerful ways a perpetrator can keep their partner or family member trapped in an abusive relationship and may also impact on that person's ability to stay safe once they leave the relationship.²

Gas retailers can play an important role in protecting customers' account information, privacy and personal security and supporting customers and employees affected by family violence. ECP members therefore strongly support new requirements for gas retailers to adopt family violence policies, develop new standards of conduct, improve account security and debt and equip their employees to better support customers.

ECP members also support proposed changes to enhance long standing protections around contracts, billing, hardship and disconnection, and communication to better align the Compendium with the National Energy Customer Framework (NECF).

ECP members do however make the following suggestions to amend what is proposed, to ensure the protections are effective.

² <https://www.wacoss.org.au/library/submission-electricity-code-review/>

Variations to contracts

We welcome the ERA's proposal to introduce new requirements for gas retailers to notify customers ahead of varying non-regulated tariffs, fees or charges under Part 9 (Information and Communication of the Compendium). We are concerned however that customers will not be given adequate notice ahead of a variation.

Part 9, Division 1, Section 50, Information about variations to tariffs, fees or charges: regulated prices

The Compendium requires that retailers notify customers about variations in regulated prices no later than the next bill in the customer's billing cycle. This does not provide adequate notice and should be redrafted.

Customers weigh up a range of factors when making decisions about their energy supplies and we do not believe it is right to assume that these sorts of regulated price changes would not influence the customers' decision to remain on the same contract, or critically, to take steps to manage their energy use to minimise the impact of a price change.

It is unlikely that the State Government will not give retailers advanced notice of any changes to these tariffs, fees, or charges prior to them being enacted, meaning retailers should always be able to forewarn their customers.

Notwithstanding this, the Compendium could provide retailers with an exemption to cover circumstances where no prior warning was provided, such as allowing charges to be passed on without informing the customer where a certain number of days warning has not been provided by the Government and/or when it might not be reasonable to provide notice to their customers of the change (e.g. perhaps if the bill is going to be issued within the next 30 days). If retailers are disinclined to provide each individual customer advice on increases to their tariffs, fees and charges, then it could be mandated that retailers undertake a public advertising campaign instead to alert their customers of the increases.

Part 9, Division 1, Section 51, Information about variations to tariffs, fees or charges: non-regulated prices

The draft decision proposes that gas retailers be required to give customers 5 business days' notice ahead of changing their tariff, fees or charges for non-regulated prices. This essentially requires people to engage and potentially act on the notice in the same week. It is important that

the provisions give people who may be ill, face additional barriers, are culturally and linguistically diverse, working away or have other priorities, sufficient time to receive, understand and action changes. As such we suggest that providing 20 business days' notice is more appropriate for any changes to tariffs, fees or charges.³

Additional matters relevant to Part 9 - comparing offers and switching

We also suggest that the Compendium give customers the right to break a contract and switch providers where there are changes to non-regulated tariffs that were not agreed to at the start of the contract. To support customer choices in these circumstances, variation notices should make it clear that customers are free to move to another retailer, along with outlining the value of the proposed changes in both dollar and percentage terms.

Issues around the variation of terms and conditions also raise questions about how the Compendium can better support easy comparison and switching. Unlike electricity for small energy customers, the retail gas market is contestable, and there is a need for the Compendium to go beyond the protections provided under the Electricity Code in this regard.

It is notable that there is no regulated independent price comparison service for gas retail offers in Western Australia comparable to the Energy Made Easy website operated by the Australian Energy Regulator (AER). Successive reviews of retail energy markets by the Australian Competition and Consumer Commission (ACCC), and extensive behavioural insights research, has identified the difficulty customers face with comparing offers as a contributor to customers not taking steps to choose the best deal for them, and inertia and stickiness in energy retail markets more generally.⁴ Supported by behavioural insights research, Energy Made Easy has been upgraded to make it much easier for customers to compare different offers, including the ability to upload a photo of their bill to import their historical consumption data and generate more relevant and accurate comparisons.

ECP members' consider that the Compendium should therefore provide for sharing of data (e.g. individual meter, billing and customer offer data) that a regulator/comparator website requires, when such a service is introduced (e.g. a standardised, machine-readable format), and that the ERA (outside of the Compendium review) consider partnering with the AER to enable Western

³ We note that at least one gas retailer requires that customers provide 20 days notice for terminating fixed-term contracts - see https://www.kleenheat.com.au/docs/NG-Non-Standard_Terms.pdf

⁴ See for example, <https://www.accc.gov.au/retail-electricity-pricing-inquiry-final-report>

Australian gas customers to compare gas offers on the Energy Made Easy website, or alternatively that the ERA or another trusted entity develop a comparator website.⁵

As a minimum, ECP members' view is that the Compendium should require gas retailers to provide potential customers with energy price fact sheets prior to a customer signing up to a contract. Standardised customer disclosure documents help customers compare and rank offers, which is vital in promoting competitive and fair market conduct.⁶ Regulators across Australia and New Zealand have mandated such documents across a range of industries, including in banking (product disclosure statements), telecommunications (Critical information summaries) and energy (energy price fact sheets/Basic plan information document).⁷ The formats developed by the AER have been extensively researched and provide a good guide for how fact sheets might be approached under the Compendium. To be effective, fact sheets will need to be tested with Western Australian gas customers and refined based on their feedback.

Additional useful resources on this matter include:

- [Review of Basic Plan Information Document - Final Report - April 2018 \(PDF 4.94 MB \)](#) by the Behavioural Insights Team
- [Energy offer comparison pricing - Stage 1 report - 27 February 2018 \(PDF 2.53 MB \)](#) by Deloitte Access Economics
- [Saying more with less - Simplifying energy fact sheets - final report - March 2018 \(PDF 2.54 MB \)](#) by the Behavioural Economics Team of the Australian Government

⁵ The provision of data in a standardised, machine-readable format could see the same 'customer data rights' introduced into Western Australia that NEM energy customers are already able to access.

⁶ For instance, the Communications Alliance outlines that "Our members' experience is that the Critical Information Summaries are well received by customers and provide an important role in customers' purchasing decisions." See page 10 of its submission in response to the Treasury's Consumer Data Right Sectoral Assessment Telecommunications Consultation Paper

https://www.commsalliance.com.au/_data/assets/pdf_file/0003/78087/210819_CA-submission_CDR-Telco-Sectoral-Assessment_SUBMITTED.pdf

⁷ The Commerce Commission New Zealand in relation to introducing a CIS approach in the New Zealand telecom sector outlines that they are of the "view that a more standardised approach to producing and providing offer summaries would improve outcomes for consumers. Evidence from Australia shows that over three quarters of those who had seen a Critical Information Summaries found it useful and we would expect improved summaries to be similarly beneficial for New Zealand consumers" - see paragraph 59 of their Q3 Update and Response to Submissions

https://comcom.govt.nz/_data/assets/pdf_file/0023/320693/Improving-RSQ-Product-Disclosure-Q3-Update-and-Submission-Response-30-June-2023.pdf

- [Energy offer comparison pricing - Stage 2 report - 26 April 2018 \(PDF 2.34 MB \)](#) by Deloitte Access Economics
- [Notice of Final Instrument - Retail Pricing Information Guidelines - Version 5 - April 2018](#) by the AER

With the likely increase in the number of Time of Use (ToU) tariffs offered in the electricity sector, ECP members' view is that there is an emerging case for extending price comparison requirements to the electricity sector during the next Electricity Code review. Therefore introducing this into the Gas Compendium now could assist with aligning both the Compendium and Electricity Code come 2025. While there is no retail competition for small business and residential electricity customers, these provisions will allow households to compare the available A1/A2 and ToU tariffs and potentially switch to offers which help them save money and reduce system costs for all consumers.

Accessibility

Part 4, Division 8, Providing bills under standard form contracts

ECP members support the changes to the Compendium to give retailers more flexibility about the form bills take and how they communicate with their customers. However, it is important that, as communication becomes increasingly digitalised, people can continue to request paper bills without being subject to additional fees and charges. While the rates of internet use continue to increase, there is still a cohort of Australians that either don't or can't pay their bills online.⁸ Therefore the prohibition on charging for paper bills should apply to all customers.

It is also important that digital communications (including billing) adheres to the latest Web Content Accessibility Guidelines (WCAG). ECP members are aware of reports that people with vision impairments are encountering difficulties using text recognition software to decipher their bills and consider that the ERA consider introducing provisions into the Compendium to ensure that retailers are issuing bills that conform to the WCAG.⁹

⁸ See ACMA, How we use the internet, December 2022 <https://www.acma.gov.au/sites/default/files/2023-03/HOWWEU~1.PDF>

⁹ See ABC news article Electricity bills unreadable for thousands of Australians amid a cost-of-living crisis <https://www.abc.net.au/news/2023-07-27/electricity-power-bills-unreadable-for-thousands-of-australians/102625208> .

Other matters of interest to ECP Members

'Service standard payments' for (certain) breaches of the Compendium

As outlined above, it is noted that the ERA prefers the Compendium and the Electricity Code to align where possible. Part 14 of the Electricity Code provides for payments directly to customers for certain breaches of the code, including for slow reconnection, wrongful disconnection, failure to acknowledge a query or complaint, failure to provide notice of planned interruption and supply interruptions exceeding 12 hours. Yet it appears that there are no financial penalties under the Gas Compendium when similar breaches in the gas sector occur.¹⁰

Households incur additional expenses when they are not provided a gas service and/or they forgo the ability to live in accordance with modern standards. For instance, a household without their gas supply may not:

- be able to cook wholesome meals, which could result in the household needing to order takeaway food, and if supply is not provided for some time, then this could result in food waste.
- be able to shower or bathe oneself or children.
- be able to keep warm during the colder parts of the year.

It is reasonable that if a household is impacted by the actions of the distributor and/or retailer the household be fairly compensated.¹¹

Provided that it is within the scope of the legislation that covers gas distribution and retailing across Western Australia, ECP members recommend that 'Service standard payments' that apply in the Electricity Code also be included in the Gas Compendium.¹²

¹⁰ ECP members understand that the Financial Counsellors' Association is undertaking a survey of its members to explore gas retailer compliance with the Compendium which will provide new insights into the effectiveness of hardship and other policies and compliance more generally.

¹¹ Note, ECP members' view is that service standard payment be made by the retailer, with the distributor compensating the retailer when the breach is a result of its action, as per the process in the Electricity Code

¹² If introducing service standards in the gas sector cannot occur due to there not being a legal head of power, then ECP members request this feedback be made available to them, which can occur through discussions with Energy Policy WA.

Future proofing the Compendium

The ERA may also want to consider introducing a requirement for retailers to provide clear, concise and standard information for customers when they enquire about cancelling their connection to the gas network, which should include information on abolishment costs and processes. The Compendium could outline that this information be developed with consumer representatives and provided in a standardised format to empower customers to make informed choices about their electricity and gas services into the future.

ECP members would be pleased to provide any further information to support this submission and look forward to continuing to engage with the ERA on consumer protections for retail gas services.

Yours sincerely,

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