Economic Regulation Authority

Final decision

2023 review of the Compendium of Gas Customer Licence Obligations

3 April 2024

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Executive summary

The Economic Regulation Authority has decided to amend the Compendium of Gas Customer Licence Obligations to substantially improve protections and increase access to assistance for gas customers.[1]

These amendments are modelled on those recently made to the *Code of Conduct for the Supply of Electricity to Small Use Customers 2022*, which came into effect on 20 February 2023. Amending the gas Compendium promotes consistency between customer protection frameworks for both gas and electricity customers. The ERA has made additional changes to the Compendium in response to issues that raised by stakeholders or identified since the last review.

Draft decision

In its draft decision published on 23 August 2024, the ERA proposed expanding the protections offered to gas customers under the Compendium, including[2]:

- Introducing new protections for customers experiencing family and domestic violence, such as privacy protections, a nine-month moratorium on disconnections, and a requirement for retailers to have a family violence policy to assist vulnerable customers.
- Setting a minimum bill debt of $300 before a residential customer can be disconnected for non-payment.
- Extending assistance measures, such as payment extensions and payment plans, to all customers who request them.[3]
- Requiring retailers to provide advance notice to customers of variations to tariffs, fees and charges so that customers can choose to make a timely decision to change their gas supplier.

Following the ERA's draft decision, stakeholders were given the opportunity provide feedback through public submissions and a roundtable meeting.

Final decision

While the ERA has retained most of the amendments proposed in its draft decision, the final decision has considered stakeholder feedback and includes some minor amendments. These are detailed in Chapter 4.

The new Compendium will commence on 1 July 2024. In response to stakeholder feedback, the Compendium allows three months for licensees to consult with consumer representatives on family violence policies and training before implementing those requirements.

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[1] The Compendium only applies to small use customers, who are residential and business customers that consume no more than one terajoule of gas per year.

[2] ERA's Draft decision, 2023 Review of the Compendium of Gas Customer Licence Obligations (online)

[3] Currently, only customers who have been assessed by their retailer as experiencing payment difficulties or financial hardship are entitled to this assistance.

1. Final decision

The ERA has decided to significantly amend the Compendium, with effect from 1 July 2024. The amended Compendium is included at Appendix 1 and a tracked changes version of the Compendium is at Appendix 2. Appendix 3 is the table of the amendments included in the amended Compendium.[4]

The Compendium will align with the Electricity Code to ensure both gas and electricity customers receive the same protections (to the extent possible) and includes additional amendments raised by stakeholders and the ERA. The substantive amendments to the Compendium are in Chapter 3 and Chapter 4.

The Compendium has also been redrafted in a modern format to improve readability and understanding. This has resulted in substantial changes to most clauses.

When making this final decision, the ERA had regard to the requirements of section 26 of the *Economic Regulation Authority Act 2003.* More information about the regulatory framework and the matters the ERA has had regard to in making its final decision are in Chapter 5.

[4] Red and blue text in Appendix 2 and 3 are the changes published in the ERA's draft decision. Text in teal in Appendix 2 and 3 are the changes made between the draft decision and the final decision.

2. Background

2.1 Review process

The Compendium regulates the conduct of retailers and distributors that supply gas to residential and small business customers and sets service standards covering a broad range of areas including billing, payments, financial hardship, disconnections, and complaints handling.

The ERA established the Compendium under section 11M of the *Energy Coordination Act 1994*, as a licence condition to protect the interests of gas customers who have little or no market power, in the same way that the Electricity Code protects electricity customers. All licensed gas retailers and distributors must comply with the Compendium as a condition of their licence.[5]

Following the Electricity Code's biennial statutory review, the ERA reviews the Compendium to align the provisions (to the extent possible) so that gas customers receive the same standards and level of protection as electricity customers.

After considering matters raised by stakeholders in a call for issues process in March 2023, the ERA published its draft decision in August 2023, seeking feedback on the proposed amendments and comments on specific issues that required further consideration. Eight submissions were received from stakeholders, including licensees and consumer representative organisations.

Stakeholders were provided with a further opportunity to contribute to the review during an ERA-facilitated roundtable meeting in November 2023. Table 1 lists the key milestones of the 2023 review process.

Table 1: 2023 Compendium review process

Milestones	Date
ERA invites licensees and other stakeholders to provide issues for consideration in the Compendium review	March 2023
ERA considers amendments made to the Electricity Code and stakeholder issues for inclusion in the Compendium	July 2023
ERA publishes draft decision and Compendium on the ERA website	August 2023
Stakeholder's submissions on draft decision published on the ERA website[6]	September 2023
ERA facilitates a stakeholder roundtable meeting to discuss outstanding issues	November 2023
ERA publishes final decision and new Compendium.	April 2023
New Compendium takes effect	1 July 2024

5 The ERA established the Compendium because *the Energy Coordination Act 1994* does not provide for a gas equivalent of the Electricity Code.

6 ERA, Compendium of Gas Customer Licence Obligations, 2023 review, Public submissions (online)

3. Substantive Compendium amendments

The substantive amendments recommended in the ERA's draft decision and included in this final decision are set out below. Substantive amendments made by the ERA after its draft decision are in Chapter 4.

3.1 Family violence – clause 63

The ERA has introduced new provisions in the Compendium to align with the Electricity Code and support residential gas customers affected by family violence.[7]

3.1.1 Family violence policy – clause 49(1)(d) and 63(2)

The amended Compendium requires retailers to develop and publish a family violence policy.[8] The policy must cover:

- Staff training: Retailers must provide training for their staff on family violence issues, including how to recognise and assist customers impacted by family violence. This training should be developed in collaboration with relevant consumer representatives.[9]
- Account protection: Retailers are required to safeguard a customer's account information from third persons. This includes establishing secure communication channels with the customer and prioritising the agreed method of communication, over any method specified in the Compendium.
- Customer support: Retailers must establish a procedure that avoids the need for a customer to repeatedly discuss or refer to their experience of family violence.
- Debt management: Retailers must evaluate the potential impact on the customer, before initiating debt recovery actions, including the consideration of the involvement of other individuals in the debt. Retailers must also consider reducing and or waving fees, charges and debt.
- Disconnection: Retailers are required to consider a customer's circumstances before disconnecting their services for non-payment of a bill.

3.1.2 Disconnection moratorium – clause 64

The amended Compendium prohibits retailers from disconnecting a customer affected by family violence for a period of nine months, allowing customers an ongoing gas supply to meet needs, such as heating and cooking to maintain a liveable environment.

The ERA introduced this prohibition in the Electricity Code so that a customer experiencing family violence could continue to operate necessary safety and security systems such as cameras and alarm systems. Retailers can still issue reminder notices as a prompt for customers to contact their retailer if they are having trouble paying a bill.

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7 Department of Communities, 2020, Path to Safety: Western Australia's strategy to reduce family and domestic violence 2020-2030, (online) [accessed12 March 2024].

8 Clause 49(1)(d) of the Compendium.

9 Retailers will have three months from 1 July 2024 to consult with consumer representatives on their family violence policy and training procedures. See section 4.1.

3.1.3 Evidence of family violence – clause 65

It is important that retailers do not discourage customers from seeking help by demanding excessive proof of their circumstances. The amended Compendium prohibits retailers from asking customers for written evidence of family violence, except in cases where they are considering debt recovery or disconnection, and the evidence is essential for determining the appropriate course of action.

The types of written evidence that a retailer can request is specified and limited to one piece of evidence, as listed in the *Residential Tenancies Act 1987* section 71AB(2).

3.1.4 Continued protections for former customers owing a debt to the retailer – clause 3

Former customers affected by family violence will continue to be supported while they have an outstanding debt. Important protections such as information privacy, safe methods of communication and the waiving of debt, will continue to be relevant after a customer has closed their account but still owes money to the retailer.

The amended Compendium defines a "vulnerable customer" and a "designated person" to include former residential customers owing a debt. The changes mean that important protections will continue to apply to former customers while they are needed.[10]

3.2 Minimum bill debt for disconnection – clause 43(1)(c)

A retailer must not disconnect a residential customer's supply address for failure to pay a bill if their outstanding amount is less than $300, provided the customer has agreed to repay the amount.

The ERA has set the minimum threshold at $300 in the amended Compendium to align with the Electricity Code and the eligibility amount for the State Government's Hardship Utilities Grant Scheme. This ensures that customers who do not meet the criteria for the grant scheme due to insufficient bill debt, are still protected from disconnection.

The Compendium provided that a retailer must not disconnect a customer's supply address for failure to pay a bill if their outstanding amount is below the threshold determined by the ERA. Until now, the ERA had not established a specific minimum disconnection amount.

3.3 Payment difficulties and financial hardship

3.3.1 Assistance for all customers – clause 35

All residential customers can access financial assistance, such as extensions and payment plans, without the need to be assessed as experiencing financial hardship. Limitations apply so that retailers will only have to offer one payment extension or payment plan per bill, and if the customer has had two payment plans cancelled for non-payment in the previous 12 months, the retailer does not have to make another payment plan available to the customer.

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[10] Compendium clause 3 defines a *vulnerable customer* as a "*designated person who has advised the retailer they are affected by family violence or who the retailer believes is affected by family violence*." A "*designated person"* includes the customer, another person named on the account and a former residential customer who owes a debt to the retailer.

Retailers are now prevented from altering payment plans without a customer's consent and all residential customers have the right to request a review of their plan. Access to payment plans and payment extensions will benefit all customers experiencing payment difficulties and assist customers struggling to communicate payment issues with their retailer.

3.3.2 Assessments – clause 34

The financial hardship assessment process will remain in place to provide additional assistance for those customers experiencing financial hardship. Retailers must make an assessment within five business days of a customer applying for financial hardship status; however, previous assessments can be relied on if the customer's circumstances have not changed since the previous assessment was made.

The changes to the assessment process mean that vulnerable customers will not have to repeatedly disclose personal circumstances where their situation has not changed.

As retailers no longer need to assess all customers who are experiencing payment difficulties for the customer to receive assistance, waiting times for accessing additional assistance by customers that are in financial hardship will be reduced. The changes also provide social benefits by freeing up financial counsellors who have had much of their time taken up by performing assessments.

3.4 Bill delivery – clause 24

Customers on a standard form contract can choose their preferred bill delivery method, including alternative methods such as online accounts or mobile applications (where available). To protect customers with limited or no access to digital technology, customers can still choose to receive a paper bill.

Previously, retailers were required to issue bills to customers at their nominated address, either physical or by email. Given the increasing trend of businesses offering services online and through mobile platforms, these changes will make information more accessible to customers and allow more flexibility for retailers on how they provide bills.

The ERA has introduced a prohibition on retailers charging a fee for a paper bill issued to customers on concessions, those experiencing financial hardship or vulnerable customers (see section 4.2).

3.5 Contract variations – clauses 6 and 7

The Compendium has been amended to include two separate variation clauses, which list the provisions that retailers and customers can agree to contract out of, either under a standard form contract or a non-standard contract.

The instances where a customer can contract out of clauses in a standard form contract have also reduced, to ensure that customer protections are maintained. Where a customer can agree to contract out of a protection in exchange for a benefit, it should only be allowed in non-standard contracts, otherwise it erodes the value of a standard form contract.

The term "unless a customer agrees otherwise" has been removed from individual provisions and all clauses that a customer can contract out of are listed in the variation clauses. The changes provide clarity on which clauses can be contracted out of and if they can be varied verbally or in writing.

4. Changes since the draft decision

The following amendments are the substantive changes that the ERA has made to the Compendium following feedback from stakeholders.

4.1 Transitional period to consult– clause 63

The Compendium has been amended so that retailers with existing family violence policies and training procedures are required to have these reviewed by consumer representatives, in the same way as retailers developing new family violence policies and training.[11]

Retailers will have three months from 1 July 2024 to consult with appropriate consumer representatives on their family violence policy and staff training procedures; however, all retailers will still be required to publish their existing policies online from 1 July 2024.[12]

The ERA's draft decision introduced new family violence provisions requiring:

- Consultation with appropriate consumer representatives on the development of a retailer's family violence policy or when it is being reviewed because of a direction by the ERA.
- Staff training procedures to be developed in conjunction with or provided by appropriate consumer representatives.

Retailers operating outside of Western Australia expressed concerns that the draft decision did not expressly allow for their use of established family violence policies and training procedures and that they would be required re-develop them. There were also concerns that the time required to consult with appropriate consumer representatives may prevent them from meeting the commencement date of 1 July 2024.

The changes mean that retailers can retain existing policies and the additional three months will allow sufficient time for retailers to consult with appropriate consumer representatives.

4.2 Paper billing charges – clause 25

Retailers are now prohibited from charging a fee for providing a paper bill to vulnerable customers and customers receiving concessions or experiencing financial hardship.[13]

While many customers have the option to receive their bills electronically, this choice isn't always available. Paper bills remain essential for customers with limited or no access to digital technology, serving both as a payment reminder and facilitating easy bill review and access to contact details for queries.

Many retailers impose fees for paper bills to cover the expenses of printing and mailing bills and the practice provides encouragement for customers to opt for electronic bill delivery to reduce environmental impacts.

[11] Compendium clause 3 defines the term "appropriate consumer representatives."

[12] Compendium clause 63(7) does not come into operation until three months after the Compendium commences.

[13] Compendium clause 3 defines the terms "vulnerable customer" and "concession."

The ERA's draft decision sought feedback from stakeholders on prohibiting charges for paper bills. Gas retailers typically do not impose fees for providing bills electronically and many offer exemptions from paper billing fees to certain customer groups.

Most stakeholders expressed support for prohibiting paper billing charges for specific subsets of customers, such as those experiencing financial hardship or receiving concessions.

The ERA has introduced this provision so that vulnerable customers can obtain the benefits of receiving a bill in physical form but are protected from being charged any fees for choosing to do so.

4.3 Providing the basis of an estimate within a timeframe – clause 15(3)

A retailer must give a customer an estimated bill if the retailer is unable to base a bill on an actual reading of the meter. Upon request, a retailer is required to inform the customer of the basis and reason for the estimate, within five business days of the customer making the request.

If the retailer requires additional information from the distributor to provide this, a retailer must then provide the reason and basis of the estimate to the customer, within five business days of receiving that information from the distributor.

In its draft decision, the ERA sought feedback on what a reasonable timeframe would be, for a retailer to provide the reason and basis of an estimate once a customer has requested it. Retailers advised that in most instances, they can provide the information to the customer within five business days of a request, as the distributor provides a reason code with the estimate.[14]

Where the distributor has not provided a specific reason code or provides insufficient information, the retailer may need to obtain further information from the distributor. When this occurs, the retailer has five business days from receiving the information from the distributor, to satisfy the request.

When distributors provide estimated readings, accurate reason codes will assist the retailer to respond to a customer's request within the five business days.

4.4 Providing notice of tariff variations to customers – clauses 51 and 52

Retailers must give notice no later than the next bill in the customer's billing cycle for any variation to a customer's tariffs, fees or charges that are:

- Set by the State Government.
- Set by the retailer in reference to tariffs, fees or charges set by the State Government (such as a discounted price based on the set tariff).

  or

[14] Reason codes are contained in AEMO's Retail Market Procedures WA – Technical documents FRC B2B System Interface Definitions (online), accessed 12 March 2024.

- Directly passed on to the customer by the retailer and are the same amount as charged by the distributor.

Retailers are required to provide a customer, at least five business days' notice before the variation of any other price takes effect.[15]

Prior to the changes, notification of any variation to a customer's tariffs, fees or charges was required by the next bill in the customers billing cycle. The draft decision proposed aligning with the Electricity Code to require five business days' notice for any variation to non-regulated tariffs, fees and charges. Additional changes were made to the wording to provide further context for gas retailers.

Following stakeholder feedback, the Compendium has been amended to clarify notification provisions. Concerns were raised on how much notice was required for distributor changes directly passed on to customers (such as meter reading and testing) and for customer prices that are set in reference to regulated tariffs (such as a discount off the regulated amount).

The changes mean that customers can make informed decisions about their gas supply when their prices change because a decision by their retailer.

4.5 Disconnection for planned interruption – clauses 46 and 64

Amendments have been made to ensure a distributor is permitted to disconnect a customer's supply address where planned maintenance activities are required.

The Compendium outlines specific circumstances where retailers and distributors are not permitted to disconnect a customer's supply address in relation to a complaint. For example, if the customer complains about the reason for a proposed disconnection and that complaint has not been resolved. However, disconnection is permitted in a limited number of circumstances, including where there is an emergency or health or safety reason warranting disconnection.

In the process of aligning with the Electricity Code, the ERA inadvertently removed the ability for the distributor to disconnect a customer to perform routine maintenance in the draft decision.[16] Additionally, the introduced nine-month moratorium to protect customers affected by family violence did not allow for disconnection where planned maintenance by the distributor is required.

The changes to permit disconnection, where the disconnection is a planned interruption in clauses 46 and 63 will ensure that the distributor can continue to carry out necessary planned maintenance activities when required.

4.6 Minor typographical errors

The Compendium has been amended for minor typographical errors since the draft decision. These are detailed in the marked-up version and the amendment table at Appendices 2 and 3.

[15] The *Energy Coordination (Customer Contracts) Regulations 2004*, clause 13, (online) requires between 20 – 40 days' notice of a change to a benefit.

[16] The Electricity Code has other electricity specific provisions that allow for the distributor to disconnect a customer for planned maintenance.

5. Regulatory framework

5.1 Gas licence requirements

The requirement for a gas licence is established under section 11G of the *Energy Coordination Act 1994*, which requires a person to hold a gas licence to:

- Construct a distribution system and transport gas through the system. or
- Transport gas through an existing distribution system, and if required for that purpose to make alterations to the system, and to operate and maintain the system; or
- Sell to small use customers gas transported through a distribution system.

5.2 ERA functions and powers

Section 11AA of the *Energy Coordination Act 1994* gives the ERA the function of administering the licensing scheme. Under section 27 of the ERA's Act, the ERA may do all things necessary for or in connection with the performance of its functions and may produce and publish information on matters relating to its functions.

In its administration of the gas licensing framework, the ERA produces the Compendium and all gas retailers and distributors that supply small use customers are required to comply with the Compendium as a condition of their licence.

5.3 Matters the ERA has had regard to

Through this review process, the ERA has had regard to the requirements of section 26 of the *Economic Regulation Authority Act 2003*, including:

- **The need to promote regulatory outcomes that are in the public interest:**

  Although it is often in the retailer or distributor's interest to assist customers, regulatory intervention is sometimes required to ensure outcomes that are in the public interest, for example:

  - New protections for customers affected by family violence are aimed at assisting vulnerable customers by providing them with an entitlement to safe, supportive, and flexible assistance from their retailer.
  - Changes to financial hardship assessments will free up valuable time and resources for financial counsellors, who currently undertake many of the assessments.
  - Reducing the ability of customers on a standard form contract to contract out of certain minimum protections in exchange for a benefit will ensure customer protections are maintained. The customer also has the option of entering a non-standard form contract instead of a standard form contract if they prefer a different level of protection in exchange for a discounted tariff.
- **The long-term interests of consumers in relation to the price and quality of services:**

  The regulation of the supply of gas plays a crucial role in safeguarding the long-term interests of consumers. Effective regulation ensures that providers operate in a fair and competitive market and promote consumer choice. This can involve setting standards for safety, reliability, prices and services:

- Changes to billing requirements will enable retailers to provide customers with more convenient choices on ways they receive their bills and information and increase retailer flexibility as technology advances.
- Prohibiting retailers from charging for a paper bill to vulnerable customers, ensures that customers can still receive the benefits of receiving a paper bill without the added financial cost.
- Providing advanced notification of changes to certain charges within the retailer's control will ensure that customers can make informed choices on their gas supplier and pricing that will best meet their needs and budget.
- Requiring retailers to make payment assistance available to all residential customers will help customers who are struggling to pay their bill.

- **The legitimate business interests of retailers and distributors:**

  The regulation of the supply of gas is an essential part of ensuring a fair and efficient retail market. While it is important to protect the interests of customers in a competitive market, it is equally important to consider the legitimate business interests of retailers and distributors. Regulation often results in costs for industry, and it is important to ensure a balance between these objectives.

  The ERA considers that, for various protections, the same objective can be achieved without regulation, or the benefits of regulation do not outweigh the costs. Accordingly, the Compendium will align with the Electricity Code to remove several existing regulatory obligations, such as the maximum timeframes for providing certain information and direct debit requirements. Retailers and distributors will no longer have to post or email certain information to customers, instead, they can direct customers to a website for easier access to information.

- **Transparent decision-making processes that involve public consultation:**

  Decision-making processes that incorporate public consultation are essential in safeguarding the interests of both customers and gas suppliers. Transparent decision making enables stakeholders to understand the rationale behind regulatory actions and promotes fairness and equity in the distribution and retail of gas.

  Stakeholders have had opportunity to provide input during this review through a public consultation period in response to the draft decision and at a roundtable meeting. This input has been invaluable to understand diverse perspectives and address the concerns and needs of retailers and customers.

Appendix 1 – Compendium of gas customer licence obligations (clean)

Appendix 1 is published separately.

Appendix 2 – Compendium of gas customer licence obligations (marked-up copy)

Appendix 2 is published separately.

Appendix 3 – Table of proposed amendments

Appendix 3 is published separately.