

WACOSS Submission to

The Electricity Code Consultative Committee, Review of the Code of Conduct for the Supply of Electricity to Small Use Customers



wacoss

Western Australian
Council of Social Service Inc

*Ways to make
a difference*

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INTRODUCTION

The Western Australian Council of Social Service Incorporated (WACOSS) is the peak body of the community services sector across Western Australia. Since 1956, WACOSS has been developing and strengthening the non-government community services sector's capacity to assist all Western Australians. With over 350 members, WACOSS has strong relationships with the community services sector and seeks to represent their interests, and those of the disadvantaged individuals and families they assist at a service level. Given this relationship, WACOSS is in a unique position to comment on issues in our society that socially impact upon disadvantaged members of the community.

WACOSS is respected within both government and non-government arenas as being an authoritative voice for consumers with regard to energy market reform in Western Australia. WACOSS has developed a strong network with utility policy workers across Australia, as a part of the National Energy Consumers Roundtable, which provides us with information and expert opinion on these issues. In January 2005, WACOSS commenced the Consumer Utilities Project. Building upon the utility and essential service policy work WACOSS had undertaken over the previous four years, the Consumer Utilities Project continues to work with consumers and representative organisations to achieve better outcomes in the provision of essential services such as energy and water.

In identifying the needs of consumers, WACOSS has direct access to the issues of disadvantaged consumers who are living on low incomes through our Consumer Reference Group, which includes representatives from the Emergency Relief sector, Unions, Tenants Advocates, Financial Counsellors and Community Legal Centres. These agencies provide us with policy information and direction in relation to our work and look to us to represent the interests of their clients with regard to utility issues. WACOSS, through the Consumer Utilities Project has had to adopt the role of advocating in regards to essential service provision in Western Australia. This has been due to the level and severity of the utility issues being raised by community agencies and the absence of any other resourced body in Western Australia representing these consumer issues.

Providing a response to the Electricity Code Consultative Committee's Review of the Code of Conduct (for Supply of Electricity to Small Use Customers) (hereafter, the Code) is an important process for WACOSS to engage in. We have been an active member of the Electricity Code Consumer Committee and view this as an opportunity to make public our policies in relation to the need for consumer protection in essential service markets and our views on the proposed changes to the Code.

EXECUTIVE SUMMARY

The Code of Conduct (for Supply of Electricity to Small Use Customers) is an important regulatory tool essential in protecting the rights of West Australian electricity consumers. It defines standards of conduct and appropriate service levels in regards to the marketing of electricity, protecting customers and providing for compensation payments when standards are not met. The Code provides for the recording and collection of important data. Collection, reporting and publication of data provides a necessary means of assessing the performance of electricity providers and consumer access to an essential service. It also aids in the formation of essential service policy and consumer protection.

Compliance with the Code is required as part of the licence conditions of all electricity retailers. The agency in charge of monitoring and enforcing compliance is the Economic Regulation Authority (the Authority), which is also responsible for collecting information and reporting publicly on the customer service performance of electricity licence holders. As a participating member of the Electricity Code Consultative Committee (ECCC) WACOSS has been actively involved in the process, outcomes and recommendations put forward in the ECCC's Review of the Code. As part of the ECCC process WACOSS agreed to the recommendations of the ECCC being released for public consultation and provided rationale along the way. We have provided comment to recommendations suggested by the ECCC as well as proposed our own recommendations to be considered.

For further information regarding this submission or the ECCC process please contact Linda Goncalves at Linda@wacoss.org.au or 08 9 420 7232.

IMPORTANCE OF THE CODE FOR PROTECTING CONSUMERS

Electricity is an essential domestic service and disconnection from it can have severe social and economic ramifications for individuals, families and communities. There is an abundance of research from around the country and the world that demonstrates the importance of access to an affordable supply of electricity. Electricity supports fundamental human needs including food, hygiene and shelter. It supports equipment that is critical to wellbeing and independence and enables and supports community engagement and family life. Recent work undertaken by the Committee of Melbourne has shown that utility bills and debt can significantly contribute to severe personal debt spirals and poverty.¹ “Except in rare and exceptional circumstances, a regular connection to electricity supply is not discretionary or optional. In most instances there is no alternative to electricity. A reliable, safe, affordable supply of electricity is now a matter of right rather than privilege and access must be guaranteed as far as reasonably possible”.²

Fundamental to ensuring access to a reliable, safe, affordable supply of electricity is effective regulation developed on principles of best practice consumer protection. An appropriate regulatory environment is important to creating consumer confidence and ensuring integrity in an essential service market. Legislative codes are an appropriate way of delivering consumer protection in an essential service market where the conduct of licensees has a direct bearing on people’s well being. They operate as a means of articulating the relationship and conduct between industry and consumers and safeguard the interests of consumers.

WACOSS commends the Economic Regulation Authority’s Code review process and its commitment to delivering meaningful protection to consumers in the electricity market. We are confident that significant improvements can be made to the Code and believe that this review offers an opportunity to further improve consumer protection for electricity consumers. WACOSS has been monitoring the effectiveness of the Code through various mechanisms including:

- The Consumer Utilities Project Telephone Hotline
- Surveying financial counsellors and emergency relief agencies on a range of utility related topics
- Feedback from WACOSS Consumer Utilities Project training
- The establishment of a Consumer Utilities Project Reference Group comprising of representatives from across the sector
- Consultation with Western Power, the Office of Energy, the Energy Ombudsman and the Economic Regulation Authority.

WACOSS considers that consumer advocates and community agencies (such as financial counselling services and emergency relief agencies) are uniquely placed to identify the underlying factors of both acute and chronic disadvantage and locate them in the policy framework.

¹ 2004, Utility Debt Spiral Project. Utility Debt Spiral Study, a joint community, government and business initiative designed to explore the relationship between utility debt and poverty, and to identify social and regulatory frameworks and policies to assist people at risk.

² 2006. The National Consumers Roundtable on Energy. Charter of Principles for Energy Supply.

RECOMMENDATIONS AND RESPONSES

RESPONSE TO ECCC RECOMMENDATIONS

WACOSS agrees with all of the recommendations in the Review of the Code of Conduct for the Supply of Electricity to Small Use Customers 2008 other than Recommendation 25. WACOSS would like to take this opportunity to put forward other recommendations to the Review for the ECCC to consider as well as an alternative to Recommendation 25.

RECOMMENDATIONS

WACOSS RECOMMENDATIONS

Part 4- Billing, Division 2-Contents of a bill Historical Billing

By differentiating between historical debt and current consumption, customers are given the opportunity to budget payments that would see them meet their current consumption charges and make payments on their historical debt.

Currently on electricity bills, there is no reference on amounts that have been built up from another premise that they are historical debts. Feedback we have received from consumers and consumer representatives has shown that if a distinction is made which helps customers to understand their debt, separately from their current consumption costs, they are more likely to make smaller and more regular contributions. This would assist customers to pay off any historical debt without it impacting on their ability to service their current bill.

This approach would go some way towards preventing disconnections for customers as it would allow them to prioritise the payment of current consumption and give them the ability to see a reduction in their historical debt with regular payments.

The Government Utilities Essential Services Hardship Working Group (GUESHWG) was investigating the issue of historical debt. It has not released its report and may not do so for another three months, therefore it is imperative that the issue of historical debt is addressed.

WACOSS Recommendation One

WACOSS proposes the following amendment:

Recommendation 34

Amend clause 4.4 (3) (now clause 4.5(3)) by adding the following words to the end of the clause: *and in relation to a bill which includes a historical debt (or part thereof) in the amount billed, the bill must separately identify the basis of the current and historic debts, including the addressor addresses at which the electricity was consumed and date/s of consumption.*

Part 5-Payment, Clause 5.6

Customers in Financial Hardship having late fees waived

For those in financial hardship, late fees have an excessive impact and compound the debt that the customer is already having difficulty paying.³ WACOSS believes that as electricity is an essential service, customers should remain connected even if financial hardship is affecting their capacity to pay. Hardship policies are intended to assist customers to take control of their financial situation. Charging late fees to people having problems meeting their financial commitments simply makes it harder for them to fulfil their obligations to the retailer, therefore making it more likely they will be disconnected.

The code specifies that if a customer is under an instalment plan, receives a pension, or has made a complaint, they are exempt from late fees. The intent of the clause is to shield those most vulnerable to disconnection from having their debt consolidated further, as well as to prevent disconnection. Seventeen per cent of residential customers who were disconnected in the past year were disconnected more than once in the past twenty four months, fifteen per cent of residential customers were disconnected while receiving a concession and eighteen per cent of residential customers disconnected were previously undertaking an instalment plan.⁴ This shows that there are customers who are experiencing financial hardship that are falling through the cracks in regard to hardship policies.

The majority of the seventeen per cent of customers who have been disconnected more than once in the past twenty-four months would have received two or more reminder notices within twelve months; therefore the Code in its current form offers them no protections from late fees (see below, emphasis added).

5.6 Late Payments

- (1) A retailer must not charge a residential customer a late payment if-
- (a) the residential customer receives a concession, **provided the residential customer did not receive two or more reminder notices within the previous twelve months;...**

This clause works against the intention of exempting late fees for customers experiencing financial hardship. Many Customers most in need of assistance are denied the protection or which Clause 5.6 is intended. These include consumers who:

- have been disconnected more than once in the past twenty-four months; and
- have received more than one reminder notice within the past twelve months

A customer should not be penalised for receiving a reminder notice, which can be sent out as soon as thirteen days from the date of the original bill. As a customer receives a bill on average once every two months, it would be very easy for a customer experiencing financial hardship to receive more than one reminder notice in the previous twelve months. A customer should be able to receive six reminder notices before having to pay late fees, as this would be the average amount received for a customer experiencing financial hardship who may need more time to pay their bills.

³ 2004, Consumer Utilities Advocacy Centre, <http://www.cuac.org.au/database-files/view-file/2279/> Submission to the Draft Energy Code, p 3.

⁴ 2009, ERA '2007/08 Annual Performance Report, Electricity Retailers', March, p 8

WACOSS Recommendation Two

In line with the intent of the clause for exemption of late fees for customers experiencing financial hardship, WACOSS proposes the following amendment:

5.6 Late Payments

(1) A retailer must not charge a residential customer a late payment if-

(a) the residential customer receives a concession; ~~provided the residential customer did not receive two or more reminder notices within the previous twelve months; or~~

Part 5-Payment, Clause 5.6 Customers Experiencing Financial Hardship

WACOSS believes that clause 6.6 and 6.10 (2) (d) (iv) serve important functions for assisting customers in financial hardship.

Clause 6.6 requires the retailers to consider requests for a reduction of the customer's fees, charges or debt;

6.6 Reduction of fees, charges and debt

- (1) A retailer must give reasonable consideration to a request by a customer, or a relevant consumer representative organisation, for a reduction of the customer's fees, charges or debt.
- (2) In giving reasonable consideration under clause 6.6(1), a retailer should refer to the guidelines in its hardship policy referred to in clause 6.10 (2)(d).

Clause 6.10 requires retailers to include in the financial hardship policy details about the waiver of any fees, charges and debt;

6.10 Obligation to develop hardship policy

- (2) The hardship policy must-
- (d) include guidelines-
- (iv) on the reduction and/or waiver of fees, charges and debt;

The intention of both of these clauses is clear, to prevent fees being charged to customers in financial hardship. However, no such waiver is actually required by the Code. It is also difficult to monitor or enforce compliance with either of these clauses.

Anecdotal evidence from WACOSS members shows in fact retailers are not providing such exemptions, with customers already under financial stress not having their fees waived even when under a payment plan.

The new proposed National Energy Consumer Framework (NECF) has provision for a consumer defined as experiencing financial hardship being exempt from late fees.⁵ The waivers need to occur to stop the consolidation of debt to the outstanding account. One way to ensure this is to have a customer defined as experiencing financial hardship under code to have their fees waived. This will cover all of the situations already expressed in the clause and also aligns the code with the NECF.

WACOSS suggests that no such fees should be charged to a customer in financial hardship, as it only exacerbates the financial hardship and payment difficulties and further risks spiralling debt.

⁵ 2008, Ministerial Council on Energy Standing Committee of Officials (MCESCO), 'A National Framework for Regulating Electricity and Gas (Energy) Distribution and Retail Services to Customers', Policy Response Paper, June p 61

WACOSS Recommendation Three

WACOSS proposes the following amendment:

5.6 Late Payments

(1) A retailer must not charge a residential customer a late payment if-

(a) the residential customer receives a concession; or

(b) the residential customer and the retailer have agreed to-

(i) a payment extension under Part 6, and the residential customer pays the bills by the agreed (new) due date; or

(ii) an instalment plan under Part 6, and the residential customer is making payment in accordance with the instalment plan; or

(c) the residential customer has made a complaint directly related to the non-payment of the bill to the retailer or to the electricity ombudsman and the complaint remains unresolved or is upheld. If the complaint is resolved in favour of the retailers, any late payment shall only be calculated from the date of the electricity ombudsman's decision; or

(d) if the customer is experiencing financial hardship

Part 5-Payment, Clause 5.6
Waving of already levied fees

Late fees that have already been levied before a customer agrees to a payment plan, makes a complaint to the retailer or Ombudsman, or before the customer receives a concession, currently remain on the customer's bill. For reasons discussed in the previous recommendation, not waiving late fees exacerbates the financial hardship and payment difficulties and further risks spiralling debt.

In NSW and Victoria, already levied fees are waived.⁶ This should also occur in WA, as this cancellation of the late fees could act as a means of encouragement for customers to start an instalment plan or to resolve the issues they have with timely payment. For those in financial hardship, late fees have an excessive impact and compound the debt that the customer is already having difficulty paying.⁷

WACOSS Recommendation Four

WACOSS proposes the following amendment:

5.6 Late Payments

(1) A retailer must not charge a residential customer a late payment if-

(a) the residential customer receives a concession; or

(b) the residential customer and the retailer have agreed to-

(i) a payment extension under Part 6, and the residential customer pays the bills by the agreed (new) due date; or

(ii) an instalment plan under Part 6, and the residential customer is making payment in accordance with the instalment plan; or

(c) the residential customer has made a complaint directly related to the non-payment of the bill to the retailer or to the electricity ombudsman and the complaint remains unresolved or is upheld. If the complaint is resolved in favour of the retailers, any late payment shall only be calculated from the date of the electricity ombudsman's decision; or

(d) if the customer is experiencing financial hardship

(2) If the customer is charged a late fee before a, b, c or d occurs; the retailer must waive and re-credit the fees already charged for the bill in question.

⁶ Ibid, p 46.

⁷ 2004, Consumer Utilities Advocacy Centre, <http://www.cuac.org.au/database-files/view-file/2279/> Submission to the Draft Energy Code, p 3.

**Part 6-Payment Difficulties and Financial Hardship,
Division 1-Assessment of Financial Situation
Identification of customers experiencing hardship**

It is in the interests of not only the customers involved but also the retailers, to identify clients experiencing financial hardship. This allows the assistance outlined in hardship policies to be activated, and for customers to be empowered to take control of their finances.

Unfortunately, many customers who would benefit from the services offered to clients experiencing financial hardship miss out, as they do not self-identify their financial stress. There are many reasons for this, including feelings of shame for not being able to pay bills, to problems with articulating their situation to the retailers due to language or cultural barriers.

Retailers have the payment history of customers, as well as information on the customer's current income status that a customer is living in if they are receiving Centrelink benefits and are accessing rebates. They may have information on hand that displays that the customer may be having trouble meeting their payment obligations.

As stated in the ECCC Review, QLD, SA and Victoria all place an obligation on the retailer to provide assistance to consumers who they believe to have payment difficulties.⁸ It is in the interest of the retailers to identify customers with problems paying their bills as soon as possible to prevent a further decline into debt. This will allow for a quick referral to the relevant program that will be most suitable for their situation, be it bill smoothing or payment via instalments. This does not absolve the consumer or consumer representative from being proactive and contacting the retailer, rather it recognises that in some instances the retailer may be aware of a possible financial situation before a customer contacts them for assistance.

Consumer representatives are experiencing an unprecedented amount of pressure from clients needing assistance. A significant number of clients are being turned away from agencies. As the Australian Council of Social Service (ACOSS) Australian Community Sector Survey discovered, "In 2006-07 respondent agencies turned away 9750 people, which is an increase of 7% on the number of people who were turned away in 2005-06 (9,112)".⁹ Consumer representatives should not be the only outlet to be relied upon to identify consumers experiencing financial hardship.

A simple change to the Code would be sufficient, based on the proposed NECF¹⁰ (see below underlined).

WACOSS Recommendation Five

WACOSS proposes the following amendment:

6.1 Assessment

If a residential customer informs a retailer that the residential customer is experiencing payment problems, or if it becomes apparent to the retailer that the customer is experiencing payment difficulties, the retailer must (subject to clause 6.2) within 3 business days, assess whether the residential customer is experiencing payment difficulties or financial hardship.

⁸ Ibid, p 49

⁹ 2008, ACOSS Community Sector Survey, p 89

¹⁰ Ibid, p 49

Part 6- Payment Difficulties & Financial Hardship
6.2 Temporary suspension of actions

6.2.(2) Does not specify the type of days the temporary suspension of actions applies for. This needs to be stated.

WACOSS Recommendation Six

WACOSS proposes the following amendment:

Amendment is:

6.2 (2) A temporary suspension of actions must be for at least 10 business days.

Part 6- Payment Difficulties and Financial Hardship Bill Smoothing

There is reference in the code to the option of Bill Smoothing under Part 4-Billing, Division 1-Billing Cycles, Clause 4.3; it is up to the discretion of the utilities to provide it. Retailers are not obliged to suggest bill smoothing as a part of their Payment Difficulties & Financial Hardship responsibilities.

WACOSS understands that during the 2007 Review, retailers requested time to develop their information technology systems to be able to offer bill smoothing. We now would expect that enough time has been provided for the changes to have taken place.

WACOSS suggests that Bill Smoothing is an option that should be offered to clients as it may provide help to some consumers in budgeting their finances, particularly if they are on fixed incomes. Centrepay, a payment system run by Centrelink, will, upon request from the customer, take out a set amount of money each fortnight and send it to the nominated utility to be put towards the consumer's account. This payment is made before the client receives their benefit, making it much easier for people to manage their bills. In effect, it is a service similar to bill smoothing. The working poor, who in this economic climate are increasing in population, have no access to the Centrepay service. Bill smoothing is a way of assisting these customers. Bill smoothing helps customers by averaging the cost of their bills over a whole year, it evens out the costs so there is no 'peak' during higher usage seasons such as summer and winter.

WACOSS Recommendation Seven

WACOSS proposes the following amendment:

6.4-Alternative payment arrangements

(1) A retailer must offer a residential customer who is experiencing payment difficulties or financial hardship at least the following payment arrangements-

- (a) additional time to pay a bill; and
- (b) an interest-free and fee-free instalment plan or other arrangement under which the residential customer is given additional time to pay a bill or to pay arrears (including any disconnection and reconnection charges) and is permitted to continue consumption *and*
- (c) bill smoothing

Part 6- Payment Difficulties and Financial Hardship
6.8 Provision of information

Customers experiencing financial difficulty usually have a range of concessions and rebates that can be accessed to help pay their electricity bill. While the utilities have an obligation to inform customers of concessions that they may be applicable for, many customers at risk of disconnection do not know how to access their entitlements. The Hardship Utilities Grants Scheme (HUGS) Hotline, currently administered by WACOSS, helps customers experiencing financial hardship by providing access to small grants to pay part of a customer's bill.

In the six month period from 4th August 2008 to 4th February 2009, the HUGS hotline recorded that 50% of applicants were not accessing a rebate or concession that they were eligible for. This is a significant number of customers, who have already been assessed by the retailer as experiencing financial hardship and referred to the HUGS hotline. WACOSS asserts that there is more that can be done by the retailer in notifying and assisting customers to access their entitlements.

WACOSS Recommendation Eight

WACOSS proposes the following amendment to clause 6.8 (c):

6.8-Provision of information

A retailer must advise a customer of the-

- (a) customer's right to have the bill redirected at no charge to a third person;
- (b) payment methods available to the customer;
- (c) concessions available to the customer, and how to access them

Part 6- Payment Difficulties and Financial Hardship

6.8 Provision of information

Hardship Efficiency Program

Clause 6.8 (e) refers to energy efficiency information being made available to customers experiencing financial hardship, including the possibility of an energy efficiency audit. The Hardship Efficiency Program (HEP) is a free service for customers experiencing financial hardship, aimed at assisting customers to achieve a more energy efficient home. A more energy efficient home will significantly reduce the cost of customers' electricity accounts.

WACOSS believes that to keep this clause in line with the Hardship Efficiency Program, that it must include the fact that the audit is free of charge. WACOSS believes this clause will provide further encouragement for customers to undertake an audit as well as encourage retailers to discuss with customers the option of participating in the HEP scheme.

WACOSS Recommendation Nine

WACOSS proposes the following amendment:

6.8-Provision of information

A retailer must advise a customer of the-

- (a) customer's right to have the bill redirected at no charge to a third person;
- (b) payment methods available to the customer;
- (c) concessions available to the customer,
- (d) different types of meters available to the customer,
- (e) energy efficiency information available to the customer, including the option to arrange for an energy efficiency audit, at no cost to the customer.

Part 6- Payment Difficulties and Financial Hardship

6.8 Provision of information

Information regarding financial assistance

In addition to rebates and concessions being available to the customer to help cover the cost of their electricity, there are a number of grant schemes available such as the Hardship Utilities Scheme (HUGS), Power Assist and Power on Payment. These schemes should be encouraged by the utilities as they help ensure that the customer's debt is paid off. When a customer is experiencing financial hardship, it is crucial that they are aware of the assistance available, so the debt can be cleared quickly and there is not a consolidation of debt.

WACOSS Recommendation Ten

WACOSS proposes an amendment to clause 6.8:

6.8-Provision of information

A retailer must advise a customer of the-

- (a) customer's right to have the bill redirected at no charge to a third person; ...
- (b) payment methods available to the customer;
- (c) concessions available to the customer,
- (d) different types of meters available to the customer,
- (e) energy efficiency information available to the customer, including the option to arrange for an energy efficiency audit,
- (f) independent financial and other relevant counselling services available to the customer; and
- (g) the availability of any other financial assistance and grants schemes, and how to access them.

Part 6- Payment Difficulties and Financial Hardship
Subdivision Two-Hardship Policy
6.10 Obligation to develop hardship policy
Utilities Staff

Under clause 9.10 utilities are required to provide training to staff on the retailer's obligations to customers. Synergy has provided financial hardship and social exclusion training to their staff in the past; this has made a considerable difference to the service offered by call centre operators. However the clause does not specify which staff should be trained, nor that they should be trained in with dealing with customers facing financial hardship.

It is not only call centre staff who deal with customers' experiencing financial hardship. Field officers and energy efficiency auditors also would benefit greatly by being trained to provide services to consumers experiencing financial hardship.

WACOSS Recommendation Eleven

WACOSS proposes the following amendment to clause 6.10:

(2) The hardship policy must-

(a) be developed in consultation with relevant consumer representative organisations;

(b) provide for the training of staff:

(i) including call centre staff, all subcontractors employed to engage with customers experiencing financial hardship, energy efficiency auditors and field officers.

(ii) on issues related to financial hardship and its impacts, and how to deal with consumers in an socially appropriate manner.

Part 6- Payment Difficulties & Financial Hardship
Subdivision 2- Hardship Policy
Regulation of Hardship Policies

The prevalence of Utility Hardship in WA is a critical concern to WACOSS. WA has amongst the highest rate of disconnections in the country, complaints to the Energy Ombudsman continue to rise,¹¹ and pressures on consumer representatives in the community services sector for financial and representative assistance continue to grow. Despite commendable improvement in the past twelve months by retailers, issues of Utility Hardship remain very live.

WACOSS believes that the current regulatory provisions for customers experiencing financial hardship do not afford WA consumers adequate protection, nor meet best practice regulation in Australia.

The Code currently requires retailers to develop a Hardship Policy, but the content of those policies and their application is not regulated.

The ERA Guidelines on Financial Hardship policies serve as a useful tool for retailers, but do not afford vulnerable consumers in the WA market with adequate regulatory protection.

Complaints to the Energy Ombudsman involving disconnections have increased by ten per cent over the past three years.¹² 1123 consumers were disconnected more than once in the past two years.¹³ Consumers in financial hardship are being charged late fees despite the good intentions, but lack of authority, of the current Code, and WACOSS experience with the HUGs hotline shows that a significant number of consumers are not accessing all available rebates.

Furthermore, the Code requires retailers to develop their Hardship Policies in consultation with relevant consumer representative organisations. However, there is no definition or enforcement of 'consultation' in the Code and the consultation can be as thorough or as weak as the utility chooses. This creates the risk of consumer representative organisations being used to in effect 'rubber stamp' poor policy development and review processes. There are suggestions in the ERA's Financial Hardship Policy Guidelines on how the utilities should consult, but again, they are not enforceable.

WACOSS suggests that WA consumers will continue to be at a disadvantage unless the regulatory protections concerning Financial Hardship policies are improved, through the enforcement of the ERA. Current Australian best practice is for a regulatory body to approve retailers hardship policies. In Victoria, the *Energy Legislation (Hardship, Metering and Other Matters) Act 2006*, empowers the Essential Services Commission (Victoria's regulatory body) to approve utilities hardship policies against guidelines set by the Commission.¹⁴ This allows the Commission to publish compliance audits of the utilities to ensure the application of their hardship policies is monitored, reported and enforced. WACOSS suggests that WA consumers should be afforded a similar level of regulatory consumer protection.

¹¹ 2006, Energy Industry Ombudsman (Western Australia) Limited, *Annual Report Energy Industry Ombudsman (Western Australia) Limited 2005-2006*,

2007, Energy Industry Ombudsman (Western Australia) Limited, *Annual Report 2007*; and
2008, Energy Industry Ombudsman (Western Australia) Limited, *Annual Report 2007-08*

¹² *ibid*

¹³ 2009, ERA '2007/08 Annual Performance Report, Electricity Retailers', March, p 8

¹⁴ 2008, Essential Services Commission, 'Summary Report- Compliance Audit Retailer Financial Hardship Policies', October, Preface.

WACOSS Recommendation Twelve

WACOSS proposes the following amendment:

6.10 Obligation to develop hardship policy

(1) a retailer must develop a hardship policy to assist customers in meeting their financial obligations and responsibilities to the retailer.

(2) The hardship policy must-

(a) Comply with the guidelines set and be approved by the Economic Regulatory Authority.

**Part 7-Disconnection, Division-Conduct in relation to disconnection, Subdivision 1-Disconnection for failure to pay
Information for customers regarding disconnection**

Customers should be provided with as much information as possible as to the grounds of their disconnection. This can help the customer identify why they may be disconnected if payment is not made, or identify potential errors by the utility in some instances. In NSW and the ACT, the reminder notice and disconnection warning informs consumers of the grounds that authorise disconnection¹⁵. This addition to the notices is crucial for consumers to understand why they are being disconnected and the best method for them to rectify the situation. It also can prevent unlawful disconnection, therefore saving the retailer from having to pay service standard payments. They should also be included in Synergy and Horizon Power disconnection warnings.

WACOSS Recommendation Thirteen

WACOSS proposes the following amendment:

7.1 General Requirements

(1) Prior to arranging for disconnection of the customer's supply address for failure to pay a bill, a retailer must-

(a) give the customer a reminder notice, not less than 13 business days from the date of dispatch of the bill, including-

- (i) the retailer's telephone number for billing and payment enquiries; and
- (ii) advice on how the retailer may assist in the event the customer is experiencing payment difficulties or financial hardship

(b) use its best endeavours to contact the customer,

(c) give the customer a disconnection warning, not less than 18 business days from the date of dispatch of the bill, advising the customer-

- (i) the grounds authorising the disconnection
- (ii) that the retailer may disconnect the customer on a day no sooner than 5 business days after the date of receipt of the disconnection warning; and
- (iii) of the existence and operation of complaint handling processes including the existence and operation of the electricity ombudsman and the Freecall telephone number of the electricity ombudsman.

¹⁵ Ibid, pp 57-58

Part 7-Disconnection, Division 1-Conduct in relation to disconnection, Subdivision 1-Disconnection for failure to pay bill

Disconnection of an essential service should be avoided wherever possible. Contacting a customer before disconnection takes place may prevent the need for the disconnection to occur, therefore best efforts must be made to ensure contact is made where possible. The code provides no examples of what 'best endeavours' to connect the customer could entail. Being disconnected should be used as a last resort and all other options, including seeing the customer face-to-face, should be exhausted prior to disconnection

WACOSS Recommendation Fourteen

WACOSS proposes the following amendment:

7.1 (1) (b) use its best endeavours to contact the customer; including telephone, email, post and face-to face.

Part 14-Service Standard Payments, Division 1-Obligations particular to retailers

WACOSS does not believe disconnection should occur based on the lack of ability for consumers to pay. This is because electricity is an essential service, not an optional extra that people need to survive and function in our society. If a customer is disconnected wrongfully, the costs incurred by this error should be compensated by the retailer.

Estimates by WACOSS show that the cost to consumers of disconnection is significant.

Electricity cut-off impact assessment model For one day cut-off

Expense	Single	Family (4)
Accommodation+	\$120	\$180
Food replacement (one weeks' worth)*	\$65	\$195
Medical (1 visit)#	\$50	\$100
Eating out++	\$35	\$100
Incidentals^	\$50	\$50
Total	\$320	\$625

+ Based on 3.5 star, standard room in Perth metropolitan area

* Figures derived from WACOSS Cost of Living Report 2008

Figures derived from WACOSS Cost of Living Report 2008

++ Based on dining out a low-mid priced family restaurant

^ Incidentals may include purchasing alternative heating methods such as candles, matches, wood

Taking out the cost of a visit to the General Practitioner, which may be necessary, particularly for children or seniors not being able to cool or heat their home, still means for a single person it would cost on average of \$270 for a one day cut off of electricity.

Currently, the amount paid to customers who are unlawfully disconnected and apply for a service standard payment is \$50, well short of the \$270 on average it would cost the customer, without factoring in other impacts (such as inconvenience).

The customer was disconnected wrongfully; therefore the utilities should compensate the customer for the error made. WACOSS would like to see the current figure of \$50 a day (proposed to be \$60) increased to a minimum of \$250 a day as it is in Victoria.

Victoria's Wrongful Disconnection Payment was introduced on 8 December 2004 specifically for cases of disconnection in breach of the Energy Retail Code. The rationale was a disincentive for retailers, but it also provides compensation for affected customers. The amount is \$250 per day (pro rata for parts of a day).

The Energy and Water Ombudsman Victoria (EWOV) reported a substantial drop in disconnection cases during 2005 and the new low was maintained through the first half of 2006. By June 06 electricity disconnection cases (dealt with by the Ombudsman) were down 76% and gas 68% from the second half of 2004. The amount of cases dealing with disconnection in 2003, compared with

2008, show a 37% reduction. From September 2005 to June 2008, the Western Australian Energy Ombudsman had an increase of 10% of disconnection cases being dealt with.¹⁶

WACOSS Recommendation Fifteen

WACOSS proposes the following amendment:

14.1 Facilitating customer reconnections

(1) Subject to clause 14.5, where a retailer is required to arrange a reconnection of a customer's supply address under Party 8-

(a) but the retailer has not complied with the time frames prescribed in clause 8.1 (2); or

(b) the retailer has complied with the time frames prescribed in clause 8.1(2) but the distributor has not complied with the time frames prescribed in clause 8.2 (2),

The retailer must pay the customer \$250 for each day that it is late ~~up to a maximum of \$250.~~

¹⁶ 2006, Energy Industry Ombudsman (Western Australia) Limited, *Annual Report Energy Industry Ombudsman (Western Australia) Limited 2005-2006*,
2007, Energy Industry Ombudsman (Western Australia) Limited, *Annual Report 2007*; and
2008, Energy Industry Ombudsman (Western Australia) Limited, *Annual Report 2007-08*

CONCLUSION

The WACOSS Consumer Utility Project represents and advocates for the interests of consumers in essential service markets such as electricity, gas and water.

As a participating member of the Electricity Code Consultative Committee (ECCC) WACOSS has been actively involved in the process, outcomes and recommendations put forward in the ECCC's Review of the Electricity Code of Conduct Report.

As a consumer representative our aim has been to represent and advocate the interests of consumers in the electricity market. It is in this capacity that WACOSS has provided this submission to the ECCC.

It is vital that consumers are able to access a reliable, safe, affordable supply of electricity. An appropriate regulatory environment is important to creating consumer confidence and ensuring integrity in an essential service market and it is essential that regulation such as the Electricity Code of Conduct is developed on principles of best practice consumer protection.

The Code Review has provides an opportunity for the Authority and consumer representatives, together with industry, to consider the effectiveness of the regulation in the electricity market. The Code offers clear standards of conduct to utility providers and safeguards the interests of consumers in Western Australia's electricity market. WACOSS commends the Authority for its commitment to the first guiding principle of developing best practice consumer protection during the review of the Code.

WACOSS has found the review process to be valuable and trust that the consumer voice we have put forward is recognised and acknowledged, leading to an improvement to consumer protection in Western Australia's electricity market.