

Our Ref: 050049

5 April 2007

Mr Paul Kelly  
ECCC Chairman  
c/o Level 6  
197 St Georges Terrace  
PERTH WA 6000

Dear Mr Kelly

### Review of the Code of Conduct (for the Supply of Electricity to Small Use Customers)

Reference is made to the Electricity Code Consultative Committee (ECCC) Draft Review Report and the invitation for comments on that report. The following comments are submitted for the consideration of the ECCC. Comments are provided about the general findings of the Draft Review Report including the Discussion Points raised and in response to the recommendations in the Report.

#### General Findings including Discussion Points

##### Divergence from the Code (Discussion Point 1.1)

The scope for small use customers (including business customers) to agree to deviate from the Code should be limited otherwise the value of the Code as a consumer protection mechanism could be compromised.

##### Duplication of Marketing Provisions

The proposed deletion of provisions covered in other legislation and the amalgamation of various clauses with similar content is supported.

##### Shortened Billing Cycles (Discussion Point 4.1)

Payment in advance facilities appear to provide an acceptable alternative to shortened billing cycles.

##### Bill Smoothing (Discussion Point 4.2)

Accounts based on estimates often lead to complaints to the Energy Ombudsman. For this reason bill smoothing may result in more complaints to the Energy Ombudsman.

### Separate Bills (Discussion Point 4.3)

Historical debt and the basis for the charges including the address or addresses at which the electricity was consumed should be shown separately and clearly on any invoice that also includes current charges.

### Alternative Tariffs (Discussion Point 4.4)

The Code should require retailers to give customers adequate prior notice of tariff increases.

### Payment Plans for Business Customers (Discussion Point 6.1)

This clause should be retained otherwise small use customers that are businesses may have their electricity disconnected for non payment and be unable to operate.

### Priority Reconnection Register (Discussion Point 7.1)

A priority reconnection register should be kept and maintained by each retailer and an up to date copy be kept by the relevant distributor.

### Pre-payment Meters

Pre-payment meters should only be used with the agreement of the customer and in the absence of such agreement a standard meter should be installed. Prior to agreeing to use pre-payment meters consumers should be provided with information about all installation and reversal costs and all tariffs, fees and charges that apply to both standard meters and pre-payment meters so that consumers can make informed choices as to the type of meter they prefer. Customers using pre-payment meters should be given information by their retailers about any relevant concessions that customers may be eligible for. Adequate consumer protection mechanisms and reporting regimes should be established to protect consumers.

- Geographical Limitations (Discussion Point 9.1) - Operation of pre-payment meters outside the existing prescribed areas should only occur in accordance with the general principles outlined above.
- Costs (Discussion Point 9.2) - Provided consumers are given the information outlined above there should be no objection to consumers paying for the installation and reversal costs associated with pre-payment meters.
- Independent Research (Discussion Point 9.3) - Research by the Economic Regulation Authority both prior to and following any extension of the operation of pre-payment meters beyond the existing prescribed areas would be welcomed. In particular, research to assist deciding whether the benefits to consumers of introducing pre-payment meters outweigh problems or hardship for consumers caused by pre-payment meters would be beneficial.
- National Consistency (Discussion Point 9.4) - If pre-payment meters are introduced beyond existing prescribed areas provisions similar to those contained in the ACT and SA Pre-payment Meter System Codes should be added to Part 9 of the WA Code of Conduct except some of the provisions

- relating to trial periods. Provided consumers have made an informed choice a mandatory trial period should not be necessary.
- Provision of Information (Discussion Point 9.5) - All small use customers should be treated equally and in the absence of strong arguments to the contrary ARCPSP and TRRP communities should not be exempt.
  - Information on PPM (Discussion Point 9.6) - If pre-payment meters are introduced beyond existing prescribed areas, Clause 9.4(3) should be amended to ensure it is consistent with the ACT and SA Pre-payment Meter System Codes including ensuring pre-payment meters display current consumption information.
  - Credit Retrieval (Discussion Point 9.7) - Unless consumers were/are advised prior to agreeing to use a prepayment meter that unused credit will be lost such credit should be refunded or be able to be transferred to a new account with the same retailer.
  - Record Keeping (Discussion Point 9.8) - The requirements under the WA Code of Conduct should be consistent with the ACT and SA Pre-Payment Meter System Codes.

Historical Billing and Consumption Data (Discussion Point 10.1) - Clause 10.2 of the Code should be extended to include contestable customers and consumption data.

Complaints Handling Processes (Discussion Point 12.1) - Clause 12.1 (2)-(4) should not be amended. However, subclause 12.1(3)(b)(ii) should be amended to add the words “and provide the Freecall telephone number of the electricity ombudsman” after the word “body”.

Complaints Relating to Marketing Activities (Discussion Point 12.2) - Each retailer should be responsible for dealing with relevant complaints against marketers engaged by that retailer. This should act as an added incentive for retailers to ensure they only employ marketers who behave in accordance with industry best practice. However, marketers should still be required to provide information to assist a customer or potential customer to make a complaint and therefore the reference to marketer should not be removed from clause 12.3.

Delineating Complaints from Queries (Recommendation 12.7) - The proposal to adopt the Utility Regulator’s Forum guideline is supported. However, the Economic Regulation Authority may wish to consider separating the complaint category of Billing into Billing and Credit issues.

## Record Keeping

- Additional Time to Pay a Bill (Discussion Point 13.1) - The need to keep this data is questioned. However, policy makers and stakeholders could benefit from knowing how many customers inform their retailer that they are experiencing payment problems and how many of those customers are assessed as experiencing “payment difficulties” or “financial hardship as defined by the Code.
- Shortened Billing Cycles (Discussion Point 13.2) - Shortened billing cycles are considered unnecessary provided payment in advance facilities exist. Please see comments under Discussion Point 4.1 above.

- Service Standard Payments (Discussion Point 13.3) - Data on average amounts of payments made under clauses 14.2 and 14.3 of the Code would be useful.

### Service Standard Payments

- Application: Non-Contestable Customers (Discussion Point 14.1) - Part 14 should be extended to all small use customers.
- Application: Retailers Other than Synergy and Horizon Power (Discussion Point 14.2) - Service Standard payments should be available to all small use customers (including contestable customers) regardless of their retailer.
- Facilitating Reconnections (Discussion Point 14.3) - There should be no cap on payments if a retailer fails to arrange a timely reconnection.
- Wrongful Disconnections (Discussion Point 14.4) - The existing service standard payment of \$50 per day if a retailer fails to follow prescribed disconnection procedures is adequate but there should be no cap.
- Application for Payment (Discussion Points 14.5 and 14.6) - Customers should not have to apply for service standard payments. It is recommended that the payments be made direct to the eligible customer and not be deducted from an eligible customer's next bill.
- By Agreement (Discussion Point 14.7) - Non-contestable customers should not be permitted to contract out of Part 14.
- New Service Standards (Discussion Point 14.8) - Current service standard payments should remain and in addition there should be a payment made by the retailer if a customer is not connected within the prescribed timeframe. (Clause 3.1 of the Code and the Electricity Industry (Obligation to Connect) Regulations 2004 applies.) It is recommended that the payment be \$50 for each day that the connection is delayed beyond the prescribed time and there should be no cap. If such a retailer is liable and makes such a payment due to an act or omission of the relevant distributor the distributor should be required to compensate the retailer for the payment.

### Recommendations Contained in the Draft Report

The recommendations in the draft report (particularly recommendation 7.9 regarding clause 7.6 of the Code) are supported except for the following:

Recommendation 1.18 - The addition of the reference to the Economic Regulation Authority in the definition of "electricity ombudsman" is supported. However, the proposed wording of the new definition appears incorrect. It is suggested that the proposed wording should be:

"electricity ombudsman" means the ombudsman appointed under the scheme approved by the Minister under Schedule 3, clause 4 of the Act, or by the Authority under section 92 of the Act.

Recommendation 4.15 - It is recommended that the notes under clauses 14.13(1) and 4.13(2) be retained as they alert readers to other important clauses relating to undercharging and overcharging.

Recommendation 5.4 - It is recommended that the note under clause 5.4(3) be retained. It is a useful reminder that consultation is required when residential customers are experiencing financial hardship.

Recommendation 5.5 - It is recommended that the note under clause 5.5 be retained.

Recommendation 5.7 - It is recommended that the note under clause 5.8(3) be retained. This issue is the source of a significant number of complaints to the Energy Ombudsman.

Recommendation 5.9 - It is recommended that clause 5.2 be amended so that minimum payment methods include direct debit.

Recommendation 5.13 - Whilst the recommendation is supported as far as it goes it is recommended that new subclause (4) be amended to delete the word "residential" so that all customers including small business customers are covered.

Recommendation 6.1 - It is recommended that the objectives and most of the notes under Part 6 - Payment Difficulties and Financial Hardship be retained. Many complaints received by the Energy Ombudsman relate to matters covered by Part 6 of the Code.

Recommendation 6.2 - It is recommended that the note under clause 6.1(4) be retained.

Recommendation 6.3 - It is recommended that the note under clause 6.3(1)(a)(ii) be retained but in an amended form. It is recommended that the note read "A retailer should make a customer aware that more help may be available if necessary."

Recommendation 6.4 - It is recommended that the note under clause 6.3(2) be retained.

Recommendation 6.5 - It is recommended that the note under clause 6.4(2)(h) be retained.

Recommendation 6.7 - It is recommended that the note under clause 6.7(b) be retained.

Recommendation 6.8 - It is recommended that the note under clause 6.8(a) be retained.

Recommendation 6.9 - It is recommended that the note under clause 6.8(b) be retained.

Recommendation 6.15 - It is recommended that proposed clause 6.9(2) be amended to replace the word "different" with the word "lower" and by replacing the words "and other customers" with the words "than those minimum amounts applied to other customers".

Recommendation 7.1 - It is recommended that the objectives and most of the notes under Part 7 - Disconnection be retained. Many complaints received by the Energy Ombudsman relate to disconnection.

Recommendation 7.2 - It is recommended that the note under "Division 1 - Conduct in relation to disconnection" be retained.

Recommendation 7.3 - It is recommended that the note under clause 7.1(c)(ii) be retained.

Recommendation 7.4 - It is recommended that the note under clause 7.2(1)(a) be retained.

Recommendation 7.5 - It is recommended that the note under clause 7.2 (1)(f) be retained.

Recommendation 7.6 - It is recommended that clause 7.1(c)(ii) be amended by deleting the words "including the existence and operation" and replacing with "existence, operation and Freecall telephone number".

Recommendation 8.1 - It is recommended that the objectives under Part 8 - Reconnection be retained. A significant number of complaints received by the Energy Ombudsman relate to reconnection delays.

Recommendation 10.10 - The Code should require retailers to give customers adequate prior notice of tariff increases.

Recommendation 13.9 - It is recommended that the Code require retailers to report on how many customers inform their retailer that they are experiencing payment problems and how many of those customers are assessed as experiencing "payment difficulties" or "financial hardship as defined by the Code.

Yours sincerely

Wayne Mann  
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