Dear Mr Rowe

Advice – ERA Proposed Amendments as a result of ECCC Code Review 2011

I write to provide the advice of the Electricity Code Consultative Committee (ECCC) concerning the amendments to the Code of Conduct for the Supply of Electricity to Small Use Customers (Code) proposed by the Economic Regulation Authority, as a result of deliberations on the ECCC Final Review Report 2011 (Final Review Report).

The ECCC received the Authority's request for advice on these amendments by letter dated 1 May 2012.

The ECCC, as required by the Electricity Industry Act 2004, provided an opportunity for interested parties to comment between 4 May 2012 and 17 May 2012.

The ECCC received a total of 7 submissions from the following parties:

1. Clear Energy (t/a EMC Power);
2. Energy Retailers Association of Australia Limited (ERAA);
3. Horizon Power;
4. Public Utilities Office;
5. Synergy;
6. Western Australian Council of Social Service Inc (WACOSS); and
7. Western Power.

A copy of each of these submissions is attached (as Attachments 1 to 7).

The ECCC considered the submissions received and provides this advice to the Authority in response to the Authority’s Draft Decision. The advice represents the majority decision of the ECCC.

In the absence of any advice to the contrary in this letter, the Authority should assume that the original advice of the ECCC remains unchanged from the Final Review Report.

The following issues were raised specifically in the submissions and/or deliberated by the ECCC:
1. Authority's Additional Recommendation A – Disconnections/Reconnections by Retailers

Concern was raised in the submissions regarding the Authority’s proposed amendment to clause 8.2. The ECCC unanimously considers that the proposed amendment is not required for the following reasons:

- In the Code, “disconnect” has been defined to mean “de-energise the customer’s supply address”. “De-energise” is defined to mean “the removal of the supply voltage from the meter at the premises while leaving the premises attached” (our emphasis). “Attach” is defined to have the same meaning as in the Obligation to Connect Regulations, which define “attach” to mean “do all that is needed to connect premises to a distribution system except energise the premises”.

- To physically disconnect (or remove the physical connection) may involve handling the metering equipment which is the property of Western Power and which the Metering Code reserves the control of metering equipment to. However, to de-energise all a person has to do is to remove a fuse from the premises. It does not involve physically moving or tampering with the meter.

- However, under the Electricity Networks Access Code 2004, particularly the Electricity Transfer Access Contract (ETAC) between a retailer and Western Power (which is mandated by the Access Code), a retailer must request Western Power to prevent the transfer of electricity through a connection point (i.e. de-energise), or to remove a connection point completely (see clause 3.6). The ETAC reserves the right to physically disconnect and de-energise to Western Power.

- Therefore, the ECCC considers that a retailer cannot, on its own, disconnect (whether physically disconnect or de-energise) a customer.

Accordingly, the ECCC considers that Additional Recommendation A and the proposed changes to clause 8.2 of the Code should not be implemented as they are not necessary and would not result in any further protection for customers as envisaged by the Authority.

2. Authority’s Additional Recommendation B – Information to be provided to customers regarding retailer’s assessment of the customer’s financial situation

No issues were raised in the submissions regarding Additional Recommendation B proposed by the Authority. This amendment will make it clear that customers are entitled to be informed of the outcome of a retailer’s assessment of their financial situation and alleviate any surrounding confusion.

Accordingly, the ECCC supports the Authority’s proposed amendment to clause 6.1(3) of the Code.

3. Recommendation 10 – Requirement to inform customers of contractual options

Concern was raised regarding the proposed amendment to clause 2.3(1) as the amendment restricted the application of the whole clause to only apply to Synergy and Horizon Power. The ECCC considers that any retailer (not just Synergy and Horizon Power), should be required to
advise customers of how and when the terms of the contract will be made available to the customer, and that the customer is entitled to a written copy of the contract upon request.

The ECCC considers that the restriction on what an electricity marketing agent must provide to a customer should only be limited to Synergy and Horizon Power with respect to sub-clauses 2.3(1)(a) and (b) (situations which only affect Synergy and Horizon Power due to the obligation on them to offer a standard form contract) and not subclauses (c) and (d). Whilst sub-clauses (a) and (b) are unique to Synergy and Horizon Power, the remainder of clause 2.3(1) is applicable to all retailers.

Further, given the proposed amendment to clause 2.3(1)(b), the ECCC considers it necessary to make it clear that the marketing agent is only required to explain the difference between a standard form contract and a non-standard contract where a non-standard contract is actually open to the customer. This will ensure consumers are not provided with irrelevant information which does not apply to their situation, and accordingly will prevent confusion.

The ECCC therefore proposes that clause 2.3(1) of the Code be amended to read as follows [amendments to draft Code as attached to the Final Review Report are shown in track changes]:

2.3 Information to be given before entering into a contract

(1) Before arranging a contract, an electricity marketing agent acting on behalf of Electricity Retail Corporation or Regional Power Corporation must give a customer the following information –

(a) if acting on behalf of Electricity Retail Corporation or Regional Power Corporation, that the customer is free to choose the standard form contract offered by the retailer;

(b) if acting on behalf of Electricity Retail Corporation or Regional Power Corporation and a non-standard contract is being offered to the customer, the difference between a standard form contract and a non-standard contract;

(c) how and when the terms of the contract will be given or made available to the customer; and

(d) that the customer is entitled to a written copy of the contract when requested.

All amendments proposed by the ECCC are included in the further draft Code attached to this letter as Attachment 8.

4. Recommendation 15 – Time of use tariff information

(a) Purpose behind Recommendation 15

The ECCC notes that the drafting of Recommendation 15 may create confusion, and wishes to clarify the rationale behind the recommendation.

Recommendation 15 from the Final Review Report was as follows:

"Recommendation 15 – That the Authority amend the Code to require retailers to include on the bill for customers on a time of use (TOU) tariff the current meter reading or estimate for each register and the consumption or estimated consumption for each register, but restricted to customers who have an accumulation meter."
The ECCC wishes to clarify that the restriction regarding accumulation meters should only apply in relation to the requirement to include the current meter reading or estimate for each register or time band on the bill. The restriction to accumulation meters should not apply to the requirement to include the consumption or estimated consumption for each register/time band on the bill (i.e. customers on a time of use tariff should receive the consumption or estimated consumption for each register/time band on their bill regardless of whether they are on an accumulation meter or interval meter).

The Authority should note that while the wording of Recommendation 15 was misleading, the correct intention of the recommendation was reflected in the draft code that formed Attachments 2 and 3 of the Final Review Report.

(b) Replacement of the term “register” in clause 4.5(1) with “time band”

Consistent with the above clarification of the intent of Recommendation 15, the ECCC recommends that the word “register” be replaced with “time band” throughout clause 4.5(1) of the Code.

The term “time band” is generally preferred by industry, and (if defined as suggested below) the ECCC considers the clause will better reflect the intent of Recommendation 15, and avoid potential confusion and interpretation issues. As the term is only used in clause 4.5(1), there are no issues with simply replacing it in this clause and including new definitions in clause 1.5 as proposed.

The ECCC proposes that “time band” be defined in clause 1.5 as follows:

“time band” refers to a period of time within a time of use tariff to which a given tariff rate applies.

Further, the ECCC recommends that the definition of “time of use tariff” in clause 1.5 be amended to read as follows [amendments to draft Code as attached to the Final Review Report are shown in track changes]:

“time of use tariff” means a tariff under which the price of electricity changes depending on the time of use structure in which some or all of the tariff varies according to the time at which electricity is supplied.

The ECCC notes that these definitions are currently being considered with the proposed amendments to the Metering Code. The Public Utilities Office has advised that whilst the drafting of the Metering Code amendments have not been finalised and may change prior to gazettal, it is unlikely that this definition will change. The ECCC considers it preferable that terminology be as consistent as possible across the relevant legislation.

Further, the ECCC wishes to make it clear in the drafting of clause 4.5(1) that the consumption applicable to each time band is the aggregated consumption for each time band over the supply period, as opposed to each individual time band within the supply period. The ECCC considers it important for this to be made clear to retailers and customers, particularly given it has a major impact on billing. Accordingly, the ECCC recommends that the phrase “the total of” be inserted before the reference to “time band” in subclauses 4.5(1)(c), (d) and (e) of the Code.

The full version of the proposed drafting (including additional changes proposed to clause 4.5(1)) is included in the further draft Code attached to this letter (Attachment 8).
5. Recommendation 17 – Reference to “net” and “gross” export and consumption

Issues were raised regarding the use of the terms “net consumption” and “net export” within the drafting of clause 4.5(1). The ECCC considers that the meaning of “gross” and “net” with respect to electricity consumption and export can be interpreted differently, and therefore the inclusion of these terms will cause unnecessary confusion. Further, the term “net” does not add to the intended operation of the clause and is not required to properly interpret the clause.

The ECCC recommends that the term “net” be removed and be replaced with simply “consumption” and “export”. The ECCC has received legal advice that this amendment can be made without changing the intended meaning of clause 4.5(1). Further, the retailers have confirmed that they can comply with these alternative terms.

Accordingly, the ECCC considers that the draft Code should be amended to remove the reference to “net consumption” and “net export” and replace it with “consumption” and “export” respectively. The ECCC also recommends that definitions of “consumption” and “export” be inserted into clause 1.5 to make it clear what the Code is referring to in this regard, and alleviate any potential interpretation issues.

Finally, the ECCC recommends that clause 4.5(1) be amended to make it clearer what information is required to be included on a customer’s bill depending on the meter type and whether or not the customer has entered into an export purchase agreement with the retailer;

A full version of the amended drafting of clause 4.5(1) and the proposed definitions to be inserted into clause 1.5 is included the further draft Code attached (Attachment 8).

6. Recommendations 14, 20 and 21 – “undercharging”, “overcharging” and “bill smoothing”

Issues were raised regarding the proposed drafting of the overcharging, undercharging and bill smoothing provisions in the draft Code. In particular, concern was raised regarding the fact that:

1. an adjusted bill would be treated as the correction of an error (i.e. an overcharge/undercharge);
2. a retailer would be required to determine whether an undercharge had occurred each time an estimated bill was produced; and
3. the amendments would result in inconsistency given that clause 4.9 currently requires a bill to be adjusted on the next bill after an actual reading is obtained. The proposed amendment to clause 4.9 would mean a retailer would be held to a conflicting set of requirements under clause 4.18 (e.g. to use best endeavours to inform the customer within 10 business days of the adjustment).

The ECCC sought legal advice on the issues raised in the submissions. In accordance with that advice and as a result of those submissions, the ECCC recommends that the following amendments be made to the undercharging, overcharging and bill smoothing provisions to address the concerns and further improve the drafting:

1. Clarify within the drafting that a bill adjustment is not classified as an overcharge/undercharge;
2. Reject the proposed new clauses 4.19 and 4.20 (undercharging/overcharging in a bill smoothing arrangement) and create a new clause that deals specifically with adjustments;

3. Clarify within the drafting that if a bill adjustment covers a period greater than 12 months, the retailer must only adjust the bill for the previous 12 months (this amount will need to be estimated);

4. Include a corresponding definition of “adjustment” in clause 1.5;

5. Amend the definitions of “overcharging” and “undercharging” in clause 1.5 to make it clearer that the act or omission referred to therein is a result of an error by the retailer or distributor as opposed to the customer. The inclusion of the words “responsible or contributed to” in the definitions ensures that retailers and distributors will be held accountable whether they are solely responsible for the error, or whether they have played a part; and

6. Amend the bill smoothing provisions to remove reference to overcharging and undercharging and replace these terms with “adjustment.”

Accordingly, the ECCC recommends that the drafting of clauses 1.5 (definitions), 4.3 (bill smoothing), 4.9 (adjustments to subsequent bills), 4.17 (undercharging), 4.18 (overcharging), 4.19 (undercharging as a result of a bill smoothing arrangement) and 4.20 (overcharging as a result of a bill smoothing arrangement) as set out in the draft Code attached to the Final Review Report be amended. The full version of the amended drafting of these clauses is included in the further draft Code attached to this letter (Attachment 8).

Whilst the majority of the ECCC supports the above drafting, Synergy and the Public Utilities Office objected to clause 4.19(1)(a) which deals with bill adjustments after an actual meter reading is obtained following an estimated bill. In particular, Synergy did not support the amendments to clause 4.19(1)(a) as Synergy considers it cannot comply with the clause because it requires Synergy to re-estimate any estimate previously provided by a network operator in a situation where a meter read is subsequently received. Synergy also considers that the new drafting impacts on its ability to offer a commercially viable bill-smoothing product.

The Public Utilities Office is concerned about the practicality of clause 4.19(1)(a) because it considers that it is not possible to determine what amount of the adjustment relates to the previous 12 months, and that this will result in increased complaints and an onerous burden on the retailer in carrying out estimations.

Further detail regarding these objections is contained in the submissions by the Public Utilities Office (Attachment 4, at pages 7-8) and Synergy (Attachment 5, at pages 5-7).

7. **Recommendation 22 – Requirement to advise customers of the outcome/status of bill reviews**

Issues were raised regarding the potential for confusion to arise from the drafting of clause 4.16(2) of the Code (clause 4.17 in the current Code). As drafted in the draft Code attached to the Final Review Report, clause 4.16(2) includes two related requirements within the same sub-clause. Upon further consideration, the ECCC considers this may lead to interpretation issues.
The ECCC recommends that any potential for confusion be alleviated by separating current sub-clause 4.16(2) into two new sub-clauses as follows:

(Clause (1) as per draft Code)

(2) The retailer must inform a customer of the outcome of the review as soon as practicable;

(3) If the retailer has not informed a customer of the outcome of the review within 20 business days from the date of receipt of the request for review under clause 4.15, the retailer must provide the customer with notification of the status of the review as soon as practicable.

These changes do not affect the intended meaning of the clause. The changes do however provide clarification regarding the procedure to be followed when conducting bill reviews, and alleviate any potential confusion surrounding the drafting of the clause.

8. Recommendation 27 – Clarification that clause 7.6 relates to disconnection for failure to pay a bill or for denying access to the meter

Concern arose over the unintentional removal of customer protections surrounding the proposed amendment to clause 7.6. Whilst the original recommendation aimed to provide clarification that retailers could still disconnect customers who use electricity in an unauthorised manner, in effect the proposed amendments will reduce the protections for customers facing disconnection for other reasons. This was not the intention of the ECCC.

Accordingly, the majority of the ECCC consider that the second part of Recommendation 27 – namely that clause 7.6 be expressly stated to relate to disconnection for failure to pay a bill or for denying access to the meter – should not be implemented.

The ECCC proposes that the proposed additions to the heading of clause 7.6 and following sub-clause 7.6(b) (as shown in the draft Code attached to the Final Review Report) be rejected. However, the ECCC still recommends that the words “except in the case of a planned interruption” be deleted from clause 7.6(f) as proposed in the ECCC’s Final Review Report.

The amended drafting of clause 7.6 is included in the further draft Code attached to this letter (Attachment 8).

I note that whilst the majority of the ECCC supports the above decision, the decision was not unanimous, with Alinta, Synergy and Western Power objecting to the removal of the proposed amendments from the draft Code. These parties consider that retailers and distributors should not be restricted from disconnecting customers where a customer uses electricity in an unauthorised manner, for example by failing to open an account with a retailer or interfering or tampering with network equipment. Concern was also raised by Synergy regarding the business interests of the retailer, and the potential for losses to be borne by customers through increased tariffs.

9. Proposed amendments to clause 14.2 – Wrongful disconnection by a retailer for a reason other than failure to pay a bill (Recommendations 56 and 57)

The ECCC considers that clause 14.2(1)(a) should refer to a retailer “arranging for disconnection of” a customer so that it is consistent with sub-clause 14.2(1)(b). The ECCC considers this to be a minor amendment which is both necessary and will contribute to the overall readability of the clause.
Accordingly, the ECCC proposes that clause 14.2(1) be amended to read as follows:

(1) Subject to clause 14.6, if a retailer—

(a) fails to comply with any of the procedures prescribed under Part 6 (if applicable and other than clauses 6.8, 6.9 and 6.10) and Part 7 (other than clauses 7.4, 7.5, 7.6, 7.7(1)(a), 7.7(1)(b), 7.7(2)(a) and 7.7(2)(c)) of the Code prior to arranging for disconnection or disconnecting a customer for failure to pay a bill; or

(b) arranges for disconnection or disconnects a customer in contravention of clauses 7.2, 7.3, 7.6 or 7.7 for failure to pay a bill,

the retailer must pay to the customer $100 for each day that the customer was wrongfully disconnected.

10. Life support issues

Whilst the drafting of clause 7.7 of the Code was overwhelmingly supported by the ECCC, I note that a number of members wish to continue discussions regarding life support issues, particularly those relating to registration and de-registration of life support customers. It is apparent that the issues are complex and that there are differing views as to what extent the Code should prescribe obligations regarding the registration and de-registration of life support customers. Further research and consultation with external bodies is likely required to resolve the issues.

Accordingly, the ECCC proposes to consider life support issues further in a separate forum to commence shortly, with a view to advising the Authority on the results of those deliberations and any proposed amendments following that forum. If the ECCC’s deliberations are concluded prior to the commencement of the next review of the Code (in the second part of 2013), the ECCC will present the results of its deliberations to the Authority and request it consider the issues prior to the next code review.

Further information regarding life support issues is contained in the submissions by the Public Utilities Office (Attachment 4) and Synergy (Attachment 5).

Please find attached (as Attachment 8) a copy of the proposed new Code including all of the amendments recommended as a result of this advice.

Yours sincerely

Cathryn Greville
ACTING ECCC CHAIRPERSON
ATTACHMENTS 1 TO 7 – SUBMISSIONS

1. Clear Energy (t/a EMC Power)
2. Energy Retailers Association of Australia Limited (ERAA)
3. Horizon Power
4. Public Utilities Office (PUO)
5. Synergy
6. Western Australian Council of Social Service Inc (WACOSS)
7. Western Power
16 May 2012

Mr Paul Kelly
Chairman ECCC
Level 4 Albert Facey House
469 Wellington Street
PERTH WA 6000

Dear Mr Kelly

SUBMISSION ON AMENDMENTS PROPOSED BY THE ECONOMIC REGULATION AUTHORITY TO THE CODE

We refer to the call for submissions on the amendments proposed by the Economic Regulation Authority (the ERA) to the Code of Conduct for the Supply of Electricity to Small Use Customers (the Code). We would like to make a submission on the proposed amendment to the definition of customer in section 1.5 of the Code.

1. Proposed Amendment

The current version of the Code contains the following definition:

"customer" means a customer who consumes not more than 160 MWh of electricity per annum.

The ERA has proposed the following draft amendment:

"customer" means a customer who consumes not more than 160 MWh of electricity per annum.

It appears that this minor amendment has been made in order to make this definition less ambiguous.

2. Importance of the definition of 'customer'

The entire scope of operation of the Code is defined by the definition of customer in section 1.5. Furthermore, the consequences of misclassifying a customer are potentially dire for a retailer. It is therefore critical that a clear, unambiguous definition be provided in the Code.
3. Uncertainty of the definition

The current definition of *customer* is circular and ambiguous. We therefore support the removal of the italics, however, as a result of recent comments made by the ERA as to the scope of this definition, we submit that the definition of *customer* remains uncertain.

The removal of the italics would indicate that the word customer should now take on an ordinary natural meaning, as opposed to a defined meaning. We submit that, the ordinary natural meaning of the word ‘customer’ is *‘a person (or business) that purchases a commodity or service for consumption’*.

On the basis of this amendment, the definition of *customer* would mean a person (or business) purchasing electricity for consumption who consumes not more than 160MWh of electricity per annum.

The definition of *customer* seems to focus on the amount of electricity consumed rather than the amount of electricity supplied. We would therefore submit that a person (or business) purchasing electricity from two retailers would ‘consume’ the sum of the electricity purchased.

It is useful to compare the definition of *customer* to the definition for *contestable customer*, which states:

*contestable customer means a customer at an exit point where the amount of electricity transferred at the exit point is more than the amount prescribed under the Electricity Corporations (Prescribed Customers) Order 2007 made under the Electricity Corporations Act 2005 or under another enactment dealing with the progressive introduction of customer contestability.*

Whether a *customer* is a *contestable customer* is clearly dependent on the amount of electricity ‘transferred at the exit point’ rather than the total amount of electricity consumed by a *customer*. If the intention was to define *customer* by the amount supplied at an exit point, similar wording would have been adopted. The lack of any reference in the definition of *customer* to ‘amounts transferred’, ‘amount prescribed’ or ‘exit points’, indicates that a different method is to be used.

This is further supported by the definition of the ‘amount prescribed’ under the *Electricity Corporations (Prescribed Customers) Order 2007* (the Order). The ‘amount prescribed’ under the Order is used when determining whether a particular *customer* is a *contestable customer*. The definition of *customer* itself makes no reference to the amount prescribed.

Section 3 of the Order states:

*The class consists of each customer who consumes, or could reasonably be expected to consume, not more than 50 MWh of electricity per annum at each exit point through which electricity is supplied to that customer.*

[emphasis added]
Unlike the definition of customer, the description of the prescribed amount under the Order is specifically linked to the amount supplied at each exit point.

As a result of discussions with the ERA, Clear Energy understands that the ERA’s current interpretation of the definition of customer is that it is defined by reference to the amount supplied by an individual retailer at an exit point. On the basis of this interpretation, if a customer is supplied with 1000 MWh at the main exit point, the retailer supplying that electricity will not be subject to the Code; however, if a second retailer supplies the same customer, at the same premises, with an additional 120 MWh directly from equipment installed on the customer’s property, the supply from that retailer would be subject to the Code.

Clear Energy has been advised that a retailer supplying 120MWh (direct from equipment installed on the premises) would be subject to the Code (in respect of that supply), even if the same retailer, already (or subsequently) supplied the same customer, at the same premises, with 1000MWh through the main exit point.

We submit that this interpretation is not supported by the wording of the definition of customer. We would submit that this interpretation is also contrary to the purpose and intention of the Code.

4. Purpose of the Code

Section 18 of the Interpretation Act 1984 (WA) states:

In the interpretation of a provision of a written law, a construction that would promote the purpose or object underlying the written law (whether that purpose or object is expressly stated in the written law or not) shall be preferred to a construction that would not promote that purpose or object.

In determining the purpose of a written law, a court may consider both intrinsic and extrinsic material: s19 Interpretation Act 1984 (WA). Our position is supported by the following intrinsic and extrinsic material:

Intrinsic Material

(i) The choice of the word ‘use’ (i.e. ‘Small Use Customers’) in the title of the Code indicates that this Code is intended to cover customers using small amounts of electricity. Customers are ‘small use’ because they use a small amount of electricity, not because they purchase large amounts of electricity to use at the same premises, albeit in smaller amounts from multiple retailers.
Extrinsic Material

(i) The Explanatory Memorandum to the Electricity Industry Bill 2003 states in relation to the use of *customer* in section 90 that:

The definition of "customer" in this Part is defined as a customer who consumes not more than 160 MWh of electricity per annum, as this customer protection mechanism is directed at residential and small use customers. [emphasis added]

(ii) The ERA website:

"The Code was developed to protect the interests of customers who generally have little or no market power. For this reason, the Code only applies to residential and small business customers who consume no more than 160 MWh of electricity per annum. This equates to an annual electricity bill of approximately $40,000."\(^1\)

"Under the Electricity Industry Act 2004, any retailer who supplies electricity to small use customers (i.e. residential customers and small business customers who consume less than 160 MWh of electricity per year) must develop a standard form contract."\(^2\)

(iii) The ECCC Final Review Report:

"The Code was developed to protect the interests of customers who have little or no market power. For this reason, the Code only applies to customers who consume no more than 160 MWh of electricity per annum."\(^3\)

5. The meaning of Customer

For the reasons outlined above, Clear Energy submits that the purpose of the Code is to provide protection to persons or small businesses using small amounts of electricity as there is a perceived vulnerability within this class of consumers.

We would therefore submit that the threshold is an aggregate one, so that a customer that consumes in excess of 160 MWh per annum (in total) is not a customer for the purposes of the Code (Small Use Customer) even if it acquires less than 160 MWh from a given retailer.

This interpretation is supported by recent legal advice obtained by Clear Energy.

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Clear Energy's position is also supported by the ECCC's final recommendation to the ERA on clause 13.14:

"Western Power has raised concerns with the ECCC that this clause does not account for situations where a customer owns multiple properties. For example, there may be 900,000 customers and 915,000 connections to the network.

In addition, distributors are unable to identify who the "customer" is and therefore are unable to identify the number of customers connected - that information is held by the retailer.

Therefore, it is not possible for a distributor to meet the current requirement. The ECCC proposes that a solution to this issue would be for the Authority to change the requirement to require that a distributor report on the number of "exit points" held by customers (as defined by the Code). This data would indicate the number of premises where consumption is less than 160MWh. A corresponding definition of "exit point" should also be included in the Code.\(^4\)

This recommendation, and the amendment proposed by the ERA to clause 13.14, support Clear Energy's submission that the term customer is not intended to be defined by the amount of electricity supplied by a retailer at an exit point, but rather, by the total amount of electricity consumed.

6. Conclusion

We appreciate that the proposed definition mirrors the definition of customer provided in section 47 of the Electricity Industry Act 2004 (WA) (the Act) and therefore may not be easily amended. If a further amendment is not possible, we would request that the ERA provide some formal clarification to retailers to alleviate the current uncertainty.

Thank you for the opportunity to make a submission on the Authority's Draft Amendments to the Code.

Yours sincerely,

Tom Blake
Corporate & Project Compliance
Clear Energy Pty Ltd t/a EMC Power

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18 May 2012

Mr Paul Kelly
Chairman
Electricity Code Consultative Committee
PO Box 8469
PERTH BC WA 6849

By email: eccc@erawa.com.au

Dear Mr Kelly

RE: Economic Regulation Authority Draft Decision on the Code of Conduct for the Supply of Electricity to Small Use Customers

The Energy Retailers Association of Australia (ERAA) is the peak body representing the core of Australia's energy retail organisations. Membership is comprised of businesses operating predominantly in the electricity and gas markets in every state and territory throughout Australia. These businesses collectively provide electricity to over 98% of customers in the NEM and are the first point of contact for end use customers of both electricity and gas.

The ERAA is pleased to provide input into the Economic Regulation Authority's (ERA) draft decision on its proposed amendments to the Western Australian Code of Conduct for the Supply of Electricity to Small Use Customers (Code of Conduct).

Under and over payments / adjusted bills

The ERAA considers the amendments to clauses 4.9, 4.17 and 4.18 and associated definitions of overcharging and undercharging in clause 1.5 to be unworkable from a retail market perspective as they could result in barriers to retail market entry in Western Australia.

Estimated meter readings commonly occur for two reasons. Firstly, as a result of customers restricting access to the meter which prevents a network operator obtaining a meter reading. Secondly, if meter readings obtained by a network operator fails validation against high or low thresholds prescribed in metrology procedures. The key customer impact in this situation occurs where an estimated bill is subsequently adjusted following an actual meter reading after a long period of estimations.

The ERA's proposal for a retailer to adjust a bill based on "the amount that would have been charged if the amount of the bill was determined in accordance with an actual meter reading by a distributor or metering agent's reading" is impossible for a retailer to comply with for accumulation metered premises, as it requires a retailer to determine what the meter reading would have been had it taken place in the past. If the retailer possessed this more accurate data it would have already been billed on that basis.
In the absence of an actual meter reading the best approximation a retailer could provide in a non-interval meter situation would be a weighted average adjusted for seasonality between two actual meter readings, if they existed. However, even this is not in accord with the ERA’s proposed legislative changes as it would result in one estimate being replaced by another. A customer could legitimately dispute the revised estimate on the basis that it did not equate to a meter reading if it had taken place. Combined with the ERA’s proposal to legislate an adjusted bill as an overcharge in a situation where a bill based on an actual meter reading is less than the previously estimated bill, this will now be deemed to be a bill issued in error. This will encourage bill disputes by customers. Rather than providing for regulatory certainty with respect to adjusted bills this will have the opposite effect for both customers and retailers.

Furthermore, this methodology would require the withdrawal and reissuing of multiple bills to adjust values for each bill individually and/or to calculate a financial adjustment independently. This is effectively duplicating cost and/or resources to account for every invoice that contains an estimation. The ERAA notes that the ERA’s draft decision did not demonstrate the benefits to customers of doing this would outweigh costs.

An alternative to this revised billing methodology is the installation of interval meters which could store meter readings at half hourly intervals. While this would improve meter data quality it would come at significant cost to customers requiring a meter replacement, or a lesser cost (but a cost nonetheless) for an interval-capable meter which requires reprogramming. In addition, there would also be increased retailer and network operator costs in relation to data storage and processing. However, if a customer prevented meter access the data would still not be retrievable in all instances given the meters have data capacity limitations, meaning interval metering without remote communications would not eliminate the need for estimated meter readings.

In Western Australia a network operator currently has a reasonable endeavours obligation to obtain a meter reading annually, whereas the ERA will impose an absolute obligation on a retailer to obtain an actual reading from a network operator under the Code of Conduct from 1 July 2012.

The ERAA is aware of the Western Australian government’s intention to change state metering laws to impose an absolute obligation on a network operator to obtain a meter reading annually, however it is likely this change will not occur until after the Code of Conduct amendments take effect. In the interim this means a retailer will have more onerous obligations than a network operator with respect to provision of metering data. It is noted that the provision of metering data is a regulated network monopoly activity in Western Australia.

The ERAA recognises the impact of estimated and adjusted bills on customers. However, the solution proposed by the ERA to introduce a new billing regime, combined with making the retailer accountable under regulation for obtaining metering data without a corresponding level of obligation on a network operator to provide that data to a retailer, is unworkable from a retail market perspective as it does not:

- promote regulatory outcomes that are in the public interest
- encourage investment in retail markets
• consider the legitimate business interests of market participants in retail markets

• promote competitive and fair market conduct.

Rather than establishing an unworkable billing regime in an attempt to minimise the customer impacts of adjusted bills following long periods of estimations, the ERAA recommends that the ERA should encourage:

1. retailers to offer instalment plans to pay any undercharge commensurate with the period in which estimations previously occurred

2. the Western Australian government to enact changes as a priority to state metering laws to mandate a distributor undertaking an actual meter reading once a year.

Under and over payments / adjusted bills

The ERAA does not understand how the under and overcharging provisions proposed by clauses 4.19 and 4.20 are intended to work and notes the proposed amendments inconsistency with the regulatory approach in the NEM. Before the ERA legislates on the matter, the ERAA strongly encourages the ERA, consistent with its functions to promote regulatory outcomes that are in the public interest and transparent decision making, to demonstrate to Western Australian electricity retailers that its requirements can actually be implemented and complied with. Otherwise this may have the unintended consequence of retailers not electing to offer bill smoothing products.

Disconnections and reconnections by a retailer

The ERAA notes the ERA’s draft decision with respect to clause 8.2 of the Code of Conduct imposes an obligation on a retailer to physically reconnect a customer in the event that a retailer has disconnected or arranged disconnection of a customer’s supply address on the request of a customer, to occur within prescribed timeframes.

The ERA has cited the reason for the changes is that it is aware that retailers in some instances are performing reconnection or disconnection a customer’s supply address or instructing customers to carry out the reconnection themselves. The ERAA has a number of concerns with this activity and the ERA’s proposed legislative response:

• If this activity is occurring, whether it is a lawful as a retailer or a customer would need to be legally qualified to perform network disconnections or reconnections.

• A retailer who is acting in its own right would arguably require a distribution licence to perform a network disconnection or reconnection. Furthermore, it could not perform the activity on an electricity network without the network operator’s consent. A retailer would need to be legally and commercially authorised to undertake this activity.
The manner in which the provision has been drafted appears to also make a retailer liable for a distributor's failure to reconnect a customer's supply address within prescribed time periods following a retailer having arranged for disconnection and subsequently requested reconnection. The ERAA considers this is a network activity and the ERA should monitor and enforce that sector accordingly not impose network operator obligations on a retailer as a means of ensuring a network operator complies with its obligations.

For the above reasons the ERAA considers the amendments to clause 8.2 to be inappropriate.

Should you wish to discuss the details of this submission further, please contact me on (02) 9241 6556 and I will be happy to facilitate such discussions with my member companies.

Yours sincerely

Cameron O'Reilly
Chief Executive Officer
Energy Retailers Association of Australia
17 May 2012

Mr Paul Kelly
Chairman ECCC
PO Box 8469
Perth BC WA 6849

Dear Paul,

ECCC CONSULTATION - CODE OF CONDUCT FOR THE SUPPLY OF ELECTRICITY TO SMALL USE CUSTOMERS.

Horizon Power has reviewed the Economic Regulation Authority’s (Authority) proposed amendments to the Code of Conduct for the Supply of Electricity to Small Use Customers and has no concerns.

Horizon Power thanks the Authority for the opportunity to comment on this document.

Yours sincerely,

DAVID TOVEY
COMPANY SECRETARY
MANAGER, EXTERNAL AFFAIRS
DEPARTMENT OF FINANCE – PUBLIC UTILITIES OFFICE SUBMISSION TO THE DRAFT DECISION ON PROPOSED AMENDMENTS TO THE ELECTRICITY CUSTOMER CODE

Thank you for the opportunity to comment on the Economic Regulation Authority's (the Authority) Draft Decision on proposed amendments to the Code of Conduct for the Supply of Electricity to Small Use Customers (the Code).

According to section 79(2) of the Electricity Industry Act 2004 (the Act), the Code has the object of “defining standards of conduct in the supply and marketing of electricity to customers and providing for compensation payments to be made to customers when standards of conduct are not met; and protecting customers from undesirable marketing conduct”.

In light of these objects, the Department of Finance – Public Utilities Office (PUO) considers that the Code should set out certain minimum standards of conduct for electricity retailers and distributors in order to protect customers without imposing unduly onerous requirements on retailers and distributors. Further, the PUO considers that the Code should do so in a way that is clear and unambiguous about the rights and obligations of small use customers, retailers and distributors.

The PUO considers that recommendations 11, 19 and 27 of the Draft Decision do not provide sufficient levels of customer protection, and the PUO therefore does not support these recommendations. Further details of the PUO’s reasons for not supporting these recommendations are set out in the attached document.
In addition, the PUO sees this review as an opportunity to refine the provisions of the Code to clarify any ambiguous or unclear provisions to ensure compliance obligations are transparent and to give certainty to retailers and distributors about their obligations. The PUO considers that certain areas of the Code would benefit from further refinement from the draft Code presented in the Draft Decision in order to be clear, unambiguous and effective.

The PUO's comments in relation to the Draft Decision are attached. If you have any questions in relation to the PUO's comments, please direct them to Sarah Woenne, Projects Officer at the Public Utilities Office on 6551 4650 or sarah.woenne@finance.wa.gov.au

Yours sincerely

Michael Kerr
A/DEPUTY DIRECTOR GENERAL, PUBLIC UTILITIES OFFICE

17 May 2012

Enc: Public Utilities Office submission to the Draft Decision
PUBLIC UTILITIES OFFICE SUBMISSION TO THE DRAFT DECISION ON
AMENDMENTS TO THE CODE OF CONDUCT FOR THE SUPPLY OF ELECTRICITY
TO SMALL USE CUSTOMERS

Note: Where the Public Utilities Office (PUO) has not made any comments in relation to
a recommendation, it may be assumed that the PUO supports that recommendation.

Recommendation 6 – Supported
The PUO notes this recommendation and its relevance to legislation administered by
the Minister for Energy through the PUO.

Recommendation 10 – Not supported
The PUO is currently undertaking a review of the Electricity Industry (Customer
Contracts) Regulations 2005. In the course of that review, the PUO intends to consult
publicly on whether all retailers (not just Synergy and Horizon Power) should be obliged
to offer small use customers the choice of their standard form contract.

The PUO asks that the proposed amendment to the Code is deferred until the review of
the Regulations is completed.

If Recommendation 10 is to go ahead, the PUO notes that the proposed drafting of
clause 2.3(1) of the draft Code does not accurately reflect the recommendation.
Recommendation 10 only refers to restricting the requirement to inform the customer of
the option to choose a standard form contract; the proposed amendments to the draft
Code restrict a much broader range of information-provision requirements (see clause
2.3(1)(b) through (d)).

Recommendation 11 – Not supported
The PUO does not support removing the requirement for the retailer to bill at least once
every three months in situations where the network operator has not provided metering
data.

The PUO understands that the majority of small use electricity customers are on a two-
month billing cycle, in line with the meter read schedule in Western Power’s model
service level agreement. Under clause 5.6 of the Electricity Metering Code 2005 (the
Metering Code), a distributor must provide metering data to the retailer by the end of
the first business day after the date of the scheduled meter reading (or two business
days after if the data fails validation).

The requirement for a bill at least once every three months therefore gives the retailer
an additional month to obtain metering data, or calculate its own estimate if necessary¹,
if the distributor fails to comply with its obligations to provide metering data. Clause 4.8

¹ For example, based on the householder’s previous bills, or on average consumption data.
of the Code explicitly requires the retailer to provide an estimated bill if it is unable to reasonably base a bill on a reading of the meter.

Nothing in the Code or the Metering Code prevents the retailer from making its own estimation of consumption if the distributor has failed to provide metering data. It is not unreasonable to expect that a retailer would be able to estimate consumption in order to issue a bill. This is supported by the Code itself in a number of clauses. For example, clause 4.3(2)(a)(i) requires a retailer to estimate a customer’s consumption over a 12 month period in relation to setting up a bill smoothing arrangement. Also, the retailer’s obligations under clause 4.8 to issue an estimated bill if it is not able to base a bill on a meter reading is not dependent on the estimate having been provided by the distributor.

The PUO considers that it is preferable for the retailer to issue a bill at regular intervals, even if that bill is based on an estimate of consumption, than for the customer to be exposed to the risk of “bill shock” from a bill covering an excessively long period.

The PUO also wishes to reiterate the points it made in its submission (as the Office of Energy) to the Electricity Code Consultative Committee (ECCC) Draft Review Report:

- As drafted, the clause may introduce a perverse lack of incentive for a retailer to address a customer’s late bill if the distributor has not provided data within three months, as after that point the requirement for the retailer to issue bills within prescribed timeframes appears to lapse. While it is generally not in the retailer’s interests to not bill a customer for an extended period of time, there may be an incentive for retailers to address potential late bills (where a bill has not been issued for close to three months) in preference to addressing actual late bills. In the former case, the retailer may face a Code breach, whereas in the case of late bills due to the distributor not providing timely data, the retailer no longer has to provide a bill to the customer within a certain timeframe even after it has received data from the distributor in relation to that customer.

- This amendment reduces the transparency of a customer’s rights. If a customer does not receive a bill within three months, they have no way of knowing if the retailer or distributor is the cause of the delay, and therefore whether or not the Code has been breached.

- The National Energy Customer Framework does not provide retailers with an exception from issuing bills regularly as contemplated in this amendment.

The PUO proposes that clause 4.1(b)(ii) is removed from the draft amended Code.

**Recommendation 15 – Not supported**

Recommendation 15 is ambiguously worded and does not appear to align with the amendments put forward in clause 4.5(1) of the draft Code. As such, the PUO does not support the recommendation. The PUO supports the following alternate recommendation:

“That the Authority amend the Code to require on the bill for customers on a time of use (TOU) tariff the consumption or estimated consumption for each time band and, if the customer has an accumulation meter, the current meter reading or estimate for each time band.”
The PUO notes that this alternate recommendation is consistent with the amendments in the draft Code, and with the requirements for customers who are not on a TOU tariff. Customers on a TOU tariff should receive the same information as customers who are not on a TOU tariff, as well as additional information in relation to the time bands in the TOU tariff. In summary:

- Customers with an accumulation meter should receive bills with both the consumption (or estimated consumption) and the meter read (or estimate). If they are on a TOU tariff, then they should also receive this data for each time band.
- Customers with an interval meter should receive bills with just the consumption (or estimated consumption). If they are on a TOU tariff, they should also receive this data for each time band.

The PUO proposes that the term "time band" is used rather than "register" in clause 4.5(1) to put the focus on the information that the bill needs to contain, rather than the way in which it is recorded in the meter. Different types of meter will have a range of registers, and defining "register" for the purposes of the Code may be unnecessarily complex.

In addition, the PUO considers that the proposed drafting of clause 4.5(1) of the draft Code is confusing and the structure of the clause is not consistent between subclauses. This obscures the transparency of compliance obligations. See the PUO's further comments on this in relation to Recommendation 17, below.

**Recommendation 17 – Partially supported**

If there is sufficient head of power to do so, then the PUO supports giving customers useful information about the amount of electricity they export. However, the PUO does not support the way "net consumption" and "net export" are defined in the draft Code, and considers that clause 4.5(1)(e)(ii) as drafted does not achieve a useful outcome for consumers.

A standard accumulation meter with bi-directional functionality will have a register for electricity imported from the network and a register for electricity exported into the network. A customer may be generating electricity at a time when they are not consuming an equivalent amount of electricity, which will result in the excess being exported to the grid.

The units imported from the network are priced differently to the units exported under the Renewable Energy Buyback Scheme (REBS) and the feed-in tariff (if applicable). Therefore a customer may have imported more electricity from the network than they have exported to the network over a billing cycle, but they still need data about both their import and their export in order to verify their bill.

Providing only the net of the import and export on the bill is not useful to the customer, and would be of less use than the information Synergy currently provides to its REBS customers. At present, Synergy includes both import data and export data on bills to REBS customers.

The PUO therefore recommends defining "net export" as the amount of electricity exported into the distributor's network as recorded by the meter. The PUO
recommends defining "net consumption" as the amount of electricity supplied by the retailer to the customer's premises as recorded by the meter.

Clause 4.5(1)(e)(ii)(A) of the draft Code requires a retailer to include on a bill the customer's net consumption or net export. Assuming the above changes to the definitions of "net consumption" and "net export" are adopted, the PUO considers that clause 4.5(1)(e)(ii)(A) should read "...net consumption AND net export..." to ensure the customer receives all the relevant information necessary to verify their bill.

An additional issue with clause 4.5 in relation to bi-directional supply is that clause 4.5(1)(b) requires the retailer to include the current meter reading or estimate on the bill of a customer with an accumulation meter. Neither 4.5(1)(b) nor 4.5(1)(e)(ii)(A) require a bill to include a current meter reading from the meter's export register. REBS customers currently receive this reading if it is available (we understand that Western Power is not able to estimate export data).

The PUO considers that, in order for customers to be able to validate the net export data they receive under 4.5(1)(e)(ii)(A), they also require a current reading from the export register (equivalent to what they receive under 4.5(1)(b) for the import register). A solution would be to add a subclause to 4.5(1) to require a retailer to include on a bill a current export meter reading for customers with an accumulation meter if the reading has been provided by the distributor (this caveat needs to be included due to an estimate not being available in this situation).

Further to the PUO's comments under Recommendation 15, above, the PUO considers that the proposed drafting of clause 4.5(1) of the draft Code is unclear and not logically set out. The PUO proposes that the requirements for what a retailer must include on each bill are laid out within a logical structure, for example

- if the customer has an accumulation meter installed:
  - the current meter reading or estimate; and
  - if the customer is on a TOU tariff: the current meter reading or estimate for each time band in the TOU tariff;

- if the customer has not entered into an export purchase agreement with a retailer:
  - the customer's net consumption or estimated consumption; and
  - if the customer is on a TOU tariff: the customer's net consumption or estimated consumption for each time band;

- if the customer has entered into an export purchase agreement with a retailer
  - the customer's net consumption and net export; and
  - if the customer is on a TOU tariff: the customer's net consumption and net export for each time band in the TOU tariff; and

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2 Given the PUO's proposal in relation to the definition of "net consumption", there is no need to differentiate between net and total consumption in the Code. For customers who do not have an export purchase agreement with the retailers, their total consumption and net consumption will be the same.
- 7 -

- if the customer has an accumulation meter installed and the current meter reading has been obtained by the retailer: the current export meter reading.

Note that the example above reflects the PUO's comments and proposals in relation to Recommendations 15 and 17.

**Recommendation 19 – Not supported**

The PUO does not support the second part of this recommendation, to remove the absolute requirement for a retailer to obtain an actual meter reading at least once every 12 months after the amended Metering Code has come into effect. However, the PUO does support replacing clause 4.7(2) with a “best endeavours” obligation to issue a bill to a given customer at least once every 12 months in accordance with clause 4.6(1)(a).

Under clause 5.8 of the Metering Code, a distributor must provide a retailer with whatever data it has that is necessary for the retailer to comply with its obligations under the Code. If the retailer is under a “best endeavours” obligation to bill based on an actual meter reading at least once every 12 months, then there is an incentive for the retailer to communicate with the distributor if a customer is approaching 12 months on estimated bills.

Without back-to-back obligations on retailers and distributors, there is less incentive for retailers and distributors to communicate effectively to ensure a customer's meter is read at least once every 12 months.

The PUO considers that the Code should place a positive obligation on a retailer to issue a bill based on an actual reading(s) at least once every 12 months to ensure the retailer has an appropriate incentive to ensure the benefits of the amendment to the Metering Code will be passed on to the customer.

The PUO also reiterates the following points it made (as the Office of Energy) in its submission to the ECCC Draft Review Report:

- Customers should have certainty that they will not receive estimated bills for an indefinite amount of time, and back-to-back obligations on distributors and retailers will help deliver that certainty.
- A requirement on retailers to issue a bill at least once every 12 months (as opposed to a requirement to obtain metering data) more accurately reflects the supply chain to the customer.

**Recommendation 20 – Supported, but definitions themselves not supported**

The PUO supports clarifying the provisions relating to overcharging and undercharging, and removing any ambiguities about what the terms “overcharging” and “undercharging” refer to. The PUO therefore supports inserting definitions for these terms.

However, the terms “overcharging” and “undercharging” have been defined in the draft Code to explicitly include adjustments following an estimated bill. The PUO does not support the inclusion of estimates in the definitions of overcharging and undercharging.
Overcharging and undercharging (due to an error) should be dealt with differently, using different terminology, to an adjustment following an estimated bill.

This is not to say that the PUO does not support customer protections for customers who receive a series of estimated bills. However, this is a different situation to an overcharge/undercharge, and should be dealt with separately.

The principle of an overcharge/undercharge is that it has occurred due to an omission or error. An estimate is not the result of an omission or error. An estimate is a valid means to provide data to the market, in particular for billing purposes. There are provisions in the Metering Code and the Code to adjust estimates with actual readings. In this case, estimates are not being treated as 'wrong'. Rather, they are being treated as less accurate than data from an actual reading and being replaced with better data (the actual reading). Treating estimates as an overcharge/undercharge will also add a significant extra process to the billing framework, when the benefits to the market do not readily appear to outweigh the costs to the retailer in managing that extra process.

Practically, it is not possible to treat overcharge/undercharges and estimates the same under the current clauses. Clause 4.17(2)(a) requires the retailer, in the event of an undercharging that was not attributable to the consumer, to limit the amount recovered to no more than the amount undercharged in the previous 12 months. This protection is not practicable in relation to a customer who has received a series of estimated bills for longer than 12 months.

In that situation, it is not physically possible to determine how much of the amount undercharged was accrued in the previous 12 months, and how much accrued more than 12 months ago. The only data available to the retailer will be the meter reads before and after the period of estimated bills. It would be impossible to estimate how much of the undercharging was accrued in which billing period with any confidence, as a range of factors could have affected the customer's consumption profile over that period (e.g. seasonal factors, whether the customer was absent for a period of time, whether appliances were installed or removed, whether the customer's use of appliances changed materially).

Instead, the PUO proposes the following:

- It is clarified that an adjustment after a series of estimated bills is not an overcharge or undercharge for the purposes of the Code.

- To avoid confusion, the terminology in clauses 4.19 and 4.20 of the draft Code is changed such that an adjustment following a bill smoothing arrangement is not referred to as an overcharge or undercharge, as it is more similar to an adjustment after estimated bills.

- A new provision is inserted that applies to the situation where a retailer issues a bill to a customer that includes an adjustment for a series of estimated bills. Where the estimate was less than actual consumption (i.e. the customer owes money to the retailer to cover their actual consumption), then the retailer must give the customer the equivalent time to pay as the amount of time during which the customer was receiving estimated bills. That is, if a customer receives estimated bills for 12 months before an actual meter read, then they will be given 12 months to pay any difference between the estimated bills and their actual consumption over that period.
Recommendation 22 – Supported

The PUO supports the intent of the recommendation, but considers that the current drafting may allow the provision to be gamed. For example, a retailer could notify the customer that the review is in progress as soon as the review is requested, and meet the requirements of the provision. The PUO understand that the intent is that customers who have not been notified of the outcome of their review within 20 days should at least receive a status update at that time.

The PUO proposes that clause 4.16 be amended along the following lines:

(2) The retailer must inform a customer of the outcome of the review as soon as practicable.

(3) If the retailer has not informed a customer of the outcome of the review within 20 business days from the date of receipt of the request for review under clause 4.15, the retailer must provide the customer with notification of the status of the review as soon as practicable.

Recommendation 27 – Not supported

The PUO supports the first part of this recommendation, but does not support the second part on the basis that it unnecessarily removes customer protections. The PUO does not consider that it is a matter of “clarifying” that clause 7.6 relates to disconnection for failure to pay a bill or for denying access to the meter; the PUO instead considers this to be a restriction of the scope of clause 7.6.

There is no prohibition on retailers disconnecting a customer for a reason other than those explicitly dealt with in the Code. Retailers may choose to include in their customer contracts other reasons for disconnecting a customer. For example, if Synergy’s proposed replacement Standard Form Contract is approved by the Authority as drafted, then clause 12.5(b) would permit Synergy to arrange for disconnection of a customer if Synergy is unable to verify that life support equipment is required at the customer’s premises.

The PUO considers that retailers should not be permitted to disconnect customers outside the timeframes prescribed in clause 7.6 of the Code except in specific cases, such as an emergency. There should be minimum standards of customer protection in place in relation to all other reasons for disconnection. The PUO strongly recommends, therefore, that clause 7.6 should remain as general limitations on disconnection. The PUO strongly disagrees with the removal of customer protections in cases where a customer is disconnected for a reason which is not explicitly dealt with in the Code.

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4 The PUO (as the Office of Energy) has made a separate submission to the Authority in relation to Synergy’s proposed replacement Standard Form Contract. This example is used for demonstration only.
Additional Recommendation A – Not supported

Clause 7.6 of the Code, as currently in force, appears to contemplate either a retailer or a distributor disconnecting a customer. In the draft Code, disconnection involves “the removal of the supply voltage from the meter at the premises while leaving the premises attached”. However, the meter is owned by the distributor, and only the distributor (or their agent) is permitted to access the distributor’s infrastructure.

The PUO considers that the Code should not imply that a retailer is permitted to interfere with the distributor’s infrastructure, or that a retailer should be carrying out disconnections of customers (unless acting as an agent of the distributor). Regulation 10 of the Electricity Industry (Customer Contracts) Regulations 2005 requires that a customer contract prohibits the customer from tampering with, or permitting anyone else to tamper with, the meter at the premises.

The PUO therefore does not support Additional Recommendation A, and instead recommends that clause 7.6 is clarified to read “…a retailer must not arrange for disconnection and a distributor must not disconnect a customer’s supply address…”.

However, if the Authority decides to approve Additional Recommendation A, the PUO notes that the proposed drafting of clause 8.2(1)(b) needs refinement. As drafted, if a retailer has arranged for the distributor to disconnect a customer’s supply address following request by the customer, then the provision appears to imply that the retailer itself must reconnect the customer. It does not appear to provide for the retailer arranging for the distributor to reconnect the customer.

In addition, clause 8.2(1)(b) is not clear as to the circumstances when the retailer must reconnect the customer under clause 8.2(1)(b). As drafted, it appears that the retailer must automatically reconnect the customer’s supply address if it has been disconnected at the request of the customer, which is nonsensical. The clause needs to specify when the obligation to reconnect (or arrange reconnection) takes effect.

Finally, the PUO suggests that amendments also need to be made to clause 8.1 to support Additional Recommendation A. Specifically, clause 8.1(1) should be amended along the following lines (suggested insertions underlined):

"If a retailer has disconnected or arranged for disconnection of a customer’s supply address... the retailer must reconnect or arrange for reconnection"

Similarly, it may be necessary to amend clause 8.1(2) along the following lines:

“For the purposes of subclause (1), where a retailer has arranged for reconnection of the customer’s supply address, the retailer must forward the request…”

Other comments – Definition of life support equipment

The draft Code defines “life support equipment” as “the equipment designated under the Life Support Equipment Electricity Subsidy Scheme” (the Scheme). There is currently no scope for other equipment to be designated as life support equipment for the purposes of the Code.

The list of equipment designated under the Scheme has not been updated for several years and there is no formal review process for the list of equipment. As such, there is a risk that new life support technologies will not be included on the list.
The PUO notes that the Scheme list is not entirely consistent with the equivalent list for the National Energy Customer Framework (see definition of "life support equipment" in the National Energy Retail Rules (NERR)). In addition, the NERR allows for "in relation to a particular customer - any other equipment that a registered medical practitioner certifies is required for a person residing at the customer's premises for life support".

In order to protect genuine life support customers who use equipment that is not listed in the Scheme list, the definition of "life support equipment" in the Code should also give the flexibility for a medical specialist to provide certification for equipment that is not listed in relation to the Scheme.

The PUO proposes that the definition be broadened, as in the NERR, to also include other equipment used by a customer which has been certified by a medical specialist as life support equipment in relation to that customer. The certification would need to set out some details, such as the type of equipment. One option would be simply to link the definition of "life support equipment" in the Code to the definition in the NERR. However it is defined, the definition needs to be flexible enough to cover equipment that may not be specialist medical equipment, but is required as life support equipment by the customer in relation to which it is certified. For example, a customer with thermoregulatory dysfunction may require an air conditioner and/or heater as life support equipment.

Other comments – Deregistering life support equipment customers

Clause 7.7(5) of the draft Code provides for when a retailer's obligations in relation to registering a supply address as a life support equipment address terminate. However, the Code is silent on how a retailer demonstrates that the requirements of 7.7(5) have been met. This renders 7.7(5) largely impotent as a means to allow retailers to deregister a life support equipment address.

For example, consider a situation where the retailer seeks confirmation from the customer that life support equipment is still at the premises, but receives no response from the customer. No matter how many times the retailer attempts to obtain confirmation from the customer that life support equipment is no longer required, it cannot demonstrate that clause 7.7(5) has been satisfied if the customer does not respond. Therefore, if the customer refuses to respond to requests for information a cautious retailer may leave their supply address on the life support register indefinitely, even though they may no longer be eligible to be on the register. This is not in the best interests of other life support customers, as it dilutes the distributor's ability to respond quickly if a life support customer is disconnected in an emergency or unplanned interruption.

The Code should be explicit regarding what a retailer needs to do in order to be permitted to deregister a supply address from the life support register. It would provide certainty to retailers to add a clause to allow retailers to deregister a supply address from the life support register if they are unable to obtain confirmation from the customer that the supply address still meets the requirements of the Code in relation to being registered as a life support equipment address.

The PUO considers that, in the interests of customer protection, such a clause should prescribe the minimum requirements that a retailer must meet to show it has attempted
to obtain confirmation from the customer that the supply address still meets the Code's requirements for registration as a life support equipment address before it deregisters the address.

The PUO proposes the following:

- A retailer may deregister an address as a life support address if they obtain the customer's verifiable consent that the person who requires life support equipment has vacated the supply address or no longer requires the life support equipment; or
- A retailer may deregister an address as a life support address if the retailer has
  - tried to obtain confirmation from the customer that the address still belongs on the life support register using at least two methods of communication (e.g. in writing, by telephone, in person, by email); and
  - has tried to obtain that confirmation on at least four occasions; and
  - has given the customer at least eight weeks to respond from the date of the first request for confirmation; and
  - the retailer must give reasonable consideration to a request from the customer for an extension of time to provide confirmation.
- A retailer may not request confirmation from a customer more than once in a 12 month period, and may not require recertification by a medical specialist more than once in a 3 year period.

**Other comments – Wrongful disconnection by a retailer for a reason other than failure to pay a bill**

Clause 14.2 deals with service standard payments if a retailer wrongfully disconnects a customer for failure to pay a bill. The new clause 14.5 deals with service standard payments if a distributor wrongfully disconnects a customer other than as authorised by the Code or a retailer.

There remains a gap whereby customers who are wrongfully disconnected by a retailer for a reason unrelated to failure to pay a bill are not entitled to a service standard payment – for example, if they are disconnected due to an administrative error. The PUO considers that if disconnection is wrongful (i.e. other than as permitted by the Code or the retailer's contract with the customer) then the affected customer should be eligible for a service standard payment.

The PUO proposes amending clause 14.2 to provide for service standard payments for wrongful disconnection by the retailer, regardless of the reason. For example, an additional subclause (c) could be added to clause 14.2(1) along the following lines:

(c) otherwise arranges for disconnection [or disconnects] a customer other than as permitted by this Code, the retailer's contract with the customer, or otherwise by law,

The PUO notes that if Additional Recommendation A is adopted, clause 14.2(1)(a) may need to refer to a retailer "disconnecting or arranging for disconnection of" a customer.
Other comments – Details of complaints handling procedures on disconnection notices

The PUO, in its submission (as the Office of Energy) to the ECCC Draft Review Report, proposed that disconnection notices issued in relation to denying access to the meter should contain the same complaints handling information as disconnection notices issues in relation to failure to pay a bill. The PUO reiterates this proposal. Specifically, both kinds of disconnection notices should advise the customer of the existence and operation of complaint handling processes, including the energy ombudsman.

The PUO recognises that disconnection for failure to pay a bill involves different circumstances to a disconnection for denying access to the meter – for example, denying access to the meter is more likely to be deliberate on the part of the customer.

However, the retailer and distributor have certain obligations towards the customer, as set out the retailer's customer contract, the Code, and other laws. Regardless of the reason for disconnection, the customer should be given the information to be able to effectively make a complaint if the customer feels that the retailer or distributor has not fulfilled their obligations.
SUBMISSION TO THE ELECTRICITY CODE CONSULTATIVE COMMITTEE (ECCC)

REGARDING

THE ECONOMIC REGULATION AUTHORITY'S DRAFT DECISION TO AMEND THE CODE OF CONDUCT FOR THE SUPPLY OF ELECTRICITY TO SMALL USE CUSTOMERS

17 May 2012
# Executive Summary

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<td>Following its consideration of the Electricity Code Consultative Committee (ECCC) 2011 Final Review Report the ERA has decided to exercise its power under the Electricity Industry Act 2004 (Act) to make amendments to the Code of Conduct (draft decision).</td>
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<tr>
<td>Scope</td>
<td>The ERA is required under the Act to refer its draft decision to the ECCC for its advice and have regard to any advice given by the committee</td>
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</tbody>
</table>
| Summary of key issues | 1. **Under and over payments - adjusted bills.** Synergy cannot comply with the ERA’s proposed amendments in relation to its proposed calculation methodology for under and overcharges. Furthermore, the ERA’s proposed amendments to the adjusted bill provisions creates a new billing regime which encourages disputes and increases retailing and customer costs which is a regulatory outcome not in the public interest.  
2. **Under and over payments – bill smoothing.** Synergy does not understand how the new legislative arrangements can be developed and implemented at an operational level. Until the matter is addressed it will impact on Synergy’s ability to introduce a new bill smoothing product.  
3. **Network reconnection.** The ERA has imposed network obligations on a retailer, which it cannot comply with as a licensed retailer. This is a regulatory outcome that is not in the public interest and negatively affects Synergy’s legitimate business interests.  
4. **Life support.** The Code of Conduct life support equipment provisions are currently inconsistent with state government’s life support equipment electricity subsidy scheme. Failure to address the inconsistency will dilute assistance measures to persons who genuinely require life support equipment. This regulatory outcome is not in the public interest.  
5. **Obligation to obtain a meter reading from a network operator.** The ERA has imposed an absolute obligation on a retailer to obtain a meter reading from a network operator at least once a year as a means of ensuring a meter reading is obtained. However, the ERA has not imposed a corresponding obligation on a network operator to undertake the meter read and provide it to the retailer. Synergy considers this to be inconsistent with the intent of the Act which is to regulate and control the conduct of a network operator as well as a retailer. Furthermore, the lack of a corresponding obligation on a network operator who is a monopoly service provider does not promote fair market conduct by the ERA and by doing so does not promote regulatory outcomes which are in the public interest and negatively affects the legitimate business interests of a retailer. |
6. **Implementation timeframes.** The ERA proposes to implement amendments to the Code of Conduct on and from 1 July 2012. Synergy cannot implement arrangements to comply with the Code of Conduct requirements with respect to matters 1-3 either because the requirements cannot be complied with or it will be given insufficient time to do so. As a result it will be placed in a licence breach situation. Synergy considers this is a regulatory outcome which is not in the public interest and will negatively affect its legitimate business interests.

<table>
<thead>
<tr>
<th>Synergy Recommendations</th>
<th>1. Synergy recommends clauses 1.5, 4.17 and 4.18 should be amended as per Attachment 1.</th>
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<tbody>
<tr>
<td></td>
<td>2. Synergy recommends clauses 4.18 and 4.19 should be deleted.</td>
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<td>3. Synergy recommends the amendments to clause 8.2 should be deleted.</td>
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<td>4. Synergy recommends the life support equipment provisions should be amended as per the principles detailed in item 4.</td>
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<td>5. Synergy recommends clause 4.7 should be amended as per Attachment 1 as a transitional arrangement until such time as the Electricity Industry Metering Code 2005 is amended.</td>
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<tr>
<td></td>
<td>6. Synergy recommends the Code of Conduct amendments should not take affect until the matters detailed in sections 1-3 of this submission have been addressed.</td>
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</table>
Background

Synergy has six material concerns with respect to proposed amendments to the Code of Conduct. These are detailed in sections 1-6 of this submission.

In performing its functions given under the Act, the ERA must have regard to the matters specified under section 26(1) of the Economic Regulation Act 2003. Synergy has formed its views expressed in this submission based on a review of the matters specified by section 26(1) of the Economic Regulation Act 2003.

Synergy has provided this submission to the ECCC for the purpose of the Committee providing feedback to the ERA with respect to its draft decision. Synergy respectfully requests the ECCC Secretariat to provide this submission to the ERA for the purposes of section 87(1)(d) of the Act.

SIMON THACKRAY
MANAGER RETAIL REGULATORY AND COMPLIANCE
1. Under and over payments - adjusted bills

Synergy considers the ERA’s draft decision with respect clauses 4.9, 4.17 and 4.18:

- results in regulatory outcomes not in the public interest and will negatively affect Synergy's legitimate business interests as a number of the changes cannot be complied with such as the calculation of an under or overcharge or will encourage billing disputes as a result of an adjusted bill now being deemed a bill issued in error with respect to an overcharge;

- are not in the long term interests of customers in relation to prices as the system changes and operational costs to change Synergy’s billing practices to comply with the amendment that now deems an adjusted bill to be a bill issued in error which requires repayment in accordance with clause 4.18 will be borne by customers. A metering solution could be implemented that significantly reduces the incidence of estimated bills but the cost of doing so would be excessively prohibitive and would be borne by customers; and

- do not encourage investment in retail markets as they are a barrier to retail entry.

Currently, under the Code of Conduct an adjusted bill is a lawful adjustment to a bill which has previously been determined correctly in accordance with the Code of Conduct and the Electricity Industry Metering Code 2005 (Metering Code). In contrast, an under or overcharge is a charge made in error and therefore needs to be rectified. If it is found that an adjustment has been made in error then in Synergy's view it is required to be corrected in accordance with the existing under or overcharging mechanisms.

However, the proposed amendment to clause 4.9 (and associated definitional changes) is not a clarification to existing billing arrangements as stated in the ECCC final report – it is a fundamental change in the way in which the Code of Conduct deems a bill adjustment. This is a significant retail market change where estimated bills are a legitimate transaction issued in accordance with law. In the absence of an estimated bill or a bill based on an actual meter read the market will fail to transact. Going forward, an adjusted bill will no longer be deemed to be a lawful and proper adjustment, but treated as the correction of an error. This will increase the number of estimated billing disputes between a retailer and a customer.

The proposed definition of undercharging specifies that:

"**undercharging** includes, without limitation:

(a) the failure to issue a bill in accordance with clause 4.1 or clause 4.2 or to issue a bill under a bill smoothing arrangement; or

(b) the amount by which the amount charged in a bill or under a bill smoothing arrangement is less than the amount that would have been charged if the amount of the bill was determined in accordance with clause 4.6(1)(a)."

Synergy cannot comply with, nor modify its billing system, to determine whether an undercharge has occurred each and every time an estimated bill is produced by determining whether the estimate equated to or was more or less than the consumption actually recorded on the meter at any point in time.

Under the Metering Code, the ERA is a “code participant” and approves the metrology procedure under that Code. One of the objectives of the Metering Code is to “promote access to and confidence in data of parties to commercial transactions”. The ERA’s action under the Code of Conduct to require a retailer to retrospectively derive an amount charged in a bill or under a bill smoothing arrangement which is more or less than the amount that would have been charged if the bill was based on a meter reading at the time of the estimate, is contrary to the Metering Code objective.
Furthermore, the Metering Code legally permits a retailer to bill on estimated data (refer clause 5.17) and to treat it as the best quality data available unless it is replaced with better quality data for that point in time. The Code of Conduct currently recognises this and requires an adjustment to occur between an estimate and actual meter reading over a single billing period (i.e. typically 60 days) from the date of the previous estimated bill to the date in which an actual meter reading has occurred.

Clause 4.9 of the Code of Conduct is currently structured on the basis of the adjustment occurring on the next bill and not retrospective replacement of each and every previous estimated bill. The amendments contained in the ERA's draft decision is inconsistent with Metering Code as the amendments effectively require a retailer to retrospectively derive an estimate of what a meter reading would have been if it occurred at the time of the estimate. Clause 5.24 of the Metering Code provides for the replacement of energy data by the network operator with better data if that data is available. It does not require the derivation of a further estimate to replace an initial estimate.

A retailer cannot determine what a meter reading would have been in the past. At best it could adjust an estimated bill with another estimate such as a weighted average between meter readings. However, a customer could legitimately dispute a weighted average is not “the amount that would have been charged if the amount of the bill was determined in accordance with clause 4.6(1)(a)” but a further estimate.

To effectively comply with the proposed amendments to clauses 4.9, 4.17 and 4.18 Synergy could request installation of an interval meter with remote communications at each customer's premises the subject of an estimated bill. The cost of doing this would be prohibitive and would be passed to affected customers. It would also not entirely eliminate the need for estimate bills in situations of meter failure.

Approximately, 1,500 estimated bills are issued each day. The cost of a new three phase interval capable meter plus communications is approximately $1,150. In addition, Synergy would be required to increase its storage capacity to accommodate the additional interval data (as would the network operator). The cost to Synergy of providing this additional storage capacity and processing meter requests would be in excess of $750,000. Western Power would also incur additional costs to roll out the meter changes and associated data management as a result.

The amendment to clause 4.9 results in inconsistency of Code provisions. Clause 4.9 currently requires a bill to be adjusted on the next bill after an actual reading is obtained. However, as a result of the proposed amendment to clause 4.9 a retailer will now be required under the proposed clause 4.18 to:

- use its best endeavours to inform the customer accordingly within 10 business days of the retailer becoming aware of the error and, subject to subclause 4.18 (6), ask the customer for instructions as to whether the amount should be –
  - (a) credited to the customer's account; or
  - (b) repaid to the customer.
- If a retailer receives instructions under subclause 4.18 (2), the retailer must pay the amount in accordance with the customer's instructions within 12 business days of receiving the instructions.
- If a retailer does not receive instructions under subclause 4.18(2) within 20 business days of making the request, the retailer must use reasonable endeavours to credit the amount overcharged to the customer's account.

It is therefore unclear under the proposed legislation as to whether the retailer is required to make an adjustment on the next bill in accordance with clause 4.9 or repay an overcharge in accordance with clause 4.18(2). If it is the latter this will require Synergy to modify its billing system and standard operating procedures with the costs being passed to customers. These changes cannot be delivered by 1 July 2012.
Synergy recommends the definitions of under and over charging should be explicit under the Code of Conduct and the under and over recovery of charges should occur as a result of an error not an adjusted bill which has been issued in a legal and proper manner. The ERA draft decision combines the two both into a single concept of a billing error which is inappropriate.

Synergy's current practice to minimise any impact of an adjusted bill is to provide customers with a period of time to repay a bill adjustment consistent with the period in which a bill was estimated.

The issue of customers receiving long periods of estimated bills will reduce significantly during the second half of 2012 following changes the Metering Code and the ability for customers to provide self read cards by electronic means, telephone or mail. In the interim Synergy is concerned about the creation of an unworkable billing regime. Consequently, Synergy does not support the proposed amendments to clause 4.9 (and clauses 1.5, 4.17 and 4.18 relating to under and overcharging).

Attachment 1 details proposed amendments to the Code of Conduct that Synergy considers to be a workable arrangement from a retailer's perspective whilst maintaining customer service standards and minimising billing costs to customers.

2. Under and over payments – bill smoothing

Synergy considers the ERA's draft decision with respect clauses 4.19 and 4.20:

- do not result in regulatory outcomes which are in the public interest as it is unclear how the requirements are to be developed, implemented or complied with; and

- are not in the long term interests of Synergy's customers as the changes limit Synergy's ability to offer a commercially sustainable bill smoothing product.

An under or overcharge does not result from a charge which is more or less that what the amount would have been had it been if it was based on an actual meter reading but a charge that has occurred due to some defect, error or default. However, the proposed bill smoothing under and over charging provisions effectively provide that any adjusted charge that results from anything other than a bill based on a meter reading is a charge in error which in the case of a recovery of an undercharge is to be limited to 12 months.

As the Code is currently drafted it provides a financial incentive for a bill smoothing customer to deny meter access for the purpose of obtaining an actual meter reading for 12 month reconciliation purposes. A delay in obtaining a meter reading beyond 12 months will require a retailer to write off any undercharge beyond 12 months notwithstanding the undercharge was due to the actions of the customer. Another problem with the under and over-charging provisions involving estimated bills is the requirement to determine whether the estimate equated to or was more or less than the consumption than would have been the case if a meter was read. This is issue was covered in more detail in section 1.

Synergy recommends the definition of an under and overcharge should be amended as per Attachment 1. This combined with the amendments to clauses 4.17 and 4.18 makes the need for specific under and over charging provisions with respect to bill smoothing redundant as the provisions would equally apply to any billing situation i.e. standard bill, adjusted bill, estimated bill or bill smoothing which resulted in an incorrect charge to a customer due to defect, error or default.

3. Network reconnection

The ERA's draft decision with respect to clause 8.2 of the Code of Conduct imposes an obligation on a retailer to physically reconnect a customer in the event a retailer has disconnected or arranged disconnection of a customer's supply address at the request of a customer within prescribed timeframes. In effect the Code changes will require a retailer to perform the actions of a licensed
distributor. These are functions Synergy is not legally permitted to undertake. The ERA's draft decision is a regulatory outcome that is not in the public interest and negatively affects Synergy's legitimate business interests. As Synergy cannot comply with the requirements and is not legally entitled to perform reconnection functions the obligations imposed on retailer should be deleted.

4. Life support

Material differences currently exist between the Code of Conduct life support equipment provisions and the state government’s life support equipment electricity subsidy scheme (subsidy scheme) administered by the Office of State Revenue (OSR). Synergy seeks to have the Code of Conduct aligned to the state government’s subsidy scheme to provide for consistency of life support equipment arrangements.

The state government currently requires a subsidy scheme recipient to periodically renew their eligibility. If a person does not provide OSR with annual confirmation they require life support equipment or triennial medical certification within a two month period following a request they no longer qualify for the subsidy.

In contrast the Code of Conduct does not provide for periodic confirmation of life support equipment use nor does it explicitly specify the circumstances in which life support registration can be removed other than when a person vacates a supply address or no longer requires life support equipment. However, the Code provides no certainty, nor guidance with respect to how matters are to be administered.

In some instances a customer will advise Synergy that life support equipment is no longer required at a supply address or alternative confirmation will be provided. However, in many cases a customer will not respond to Synergy’s request to confirm life support equipment use at the supply address. Synergy has been reluctant in the post to take action to remove life support equipment registration when a customer fails to respond to its request.

This has resulted in more customers being registered as requiring life support equipment than entitled. This situation is placing genuinely entitled life support equipment persons at risk as it dilutes Western Power’s capability to provide restoration assistance in planned and unplanned outages to those in genuine need. This outcome is not in the public interest. Synergy has previously requested this matter be recognised and addressed through the Code of Conduct review. To date this has not occurred.

Synergy recommends the Code of Conduct be amended consistent with state government life support equipment policy to specify a retailer’s (and a distributor’s) life support equipment registration obligations under the Code of Conduct do not apply in the event a customer fails to provide life support equipment registration confirmation when requested. Synergy considers it appropriate for the Code of Conduct to prescribe the circumstances in which this request can be made as follows:

- A retailer should have the ability to request a customer or person requiring life support equipment to provide periodic life support equipment confirmation (confirmation request) including medical certification for a designated supply address.

- Confirmation requests should be made no more frequently than 12 months after receipt of the previous confirmation unless a retailer has reason to believe the circumstances of an existing life support equipment registration have materially changed such as the person requiring life support equipment making a full recovery. Medical certification should be requested no more frequently than every three years consistent with OSR requirements.
A retailer must provide a customer or a person requiring life support equipment with at least three separate confirmation requests unless the customer or person requiring life support equipment has responded to an earlier confirmation request by either:

(i) providing life support equipment confirmation; or

(ii) advising life support equipment is no longer required at the supply address.

A retailer must make a confirmation request by mail, electronic means, telephone or another method. In the event all three separate request notices are given at least one confirmation request must be made by registered mail to the customer's supply address and if applicable, the customer's nominated postal address.

In the event a customer or a person requiring life support equipment has not responded to an earlier confirmation request a retailer must give a customer or a person requiring life support equipment a minimum of twelve weeks to provide the requested confirmation commencing from the date of dispatch of the first confirmation request.

If a customer or a person requiring life support equipment requests additional time to provide the life support equipment confirmation a retailer must give reasonable consideration to the request.

If a retailer makes a confirmation request in accordance with the above requirements to a customer in respect of any person at the customer's supply address and the customer fails to provide confirmation in response to that request, the retailer's obligations under clauses 7.7(1), (3) and (4) of the Code (as amended) in respect of that life support equipment status at that supply address, terminates.

5. **Obligation to obtain a meter read**

The ERA has imposed an absolute obligation on a retailer to obtain a meter reading from a network operator at least once a year as a means of ensuring a meter reading is obtained. However, the ERA has not imposed an obligation on a network operator to undertake the meter reading and provide that reading to the retailer.

Synergy considers the ERA's draft decision will:

- not promote fair market conduct as the monopoly service provider has less onerous obligations than the retailer who requires the meter reading to bill customers;

- not promote regulatory outcomes which are in the public interest as there is no requirement under the Code of Conduct for the network operator to provide a meter reading to a retailer within a 12 month period; and

- negatively affect the legitimate business interests of a retailer as a retailer is being held financially and regulatory accountable to obtain a meter reading from a network operator within 12 months.

The Authority's amendment to clause 4.9 in conjunction with the proposed amendment to clause 4.7(2) without a corresponding obligation on a network operator to provide a retailer with an actual meter reading once a year leaves a retailer financially exposed to claims that a recovery of an undercharge beyond 12 months is due to act or omission of a retailer and hence limited in recovery beyond 12 months even if the customer denies access to the meter, as the retailer has failed in its absolute obligation to obtain a meter reading.
This situation currently exists with a number of Energy Ombudsman complaints whereby Synergy is required by the Energy Ombudsman to demonstrate it has used best endeavours to obtain an actual meter reading from Western Power within 12 months notwithstanding the reason for the lack of a meter reading can be due to the customer denying access to the meter. This situation can be expected to occur more frequently following the proposed Code amendments if a retailer has an absolute obligation to obtain a meter reading within from the network operator within 12 months.

If the ERA intends to proceed with the amendments to clauses 4.7(2) and 4.9 prior to the changes to the Metering Code occurring then it should similarly impose an obligation under the Code of Conduct on a network operator to provide a metering reading to a retailer for billing purposes so it can facilitate compliance with its obligation to obtain a meter reading from a network operator at least once a year.

Attachment 1 provides suggested wording that reflects the above.

6. Implementation timeframes

The ERA proposes to implement amendments to the Code of Conduct on and from 1 July 2012. Synergy cannot implement arrangements to comply with the Code of Conduct requirements with respect to matters 1-3 either because the requirements cannot be complied with or it will be given insufficient time to do so.

The ERA has sought to implement its amendments to the Code of Conduct on and from 1 July 2012. Synergy’s material concerns with respect to implementation timeframes relate to matters 1-3 of this submission. The Code of Conduct drafting changes for these matters were released for public comment for the first time on 4 May 2012.

As it currently stands the ERA has not made a final decision on the new Code. Until a market participant has certainty of the regulator’s decision it cannot legitimately incur the costs of implementing system, standard operating, education and training to comply with the new Code of Conduct requirements. If the ERA publishes its final decision on the Code of Conduct amendments on 1 June 2012 (or later) this will provide Synergy with only 4 weeks (or less) to be Code compliant.

The ERA’s draft decision does not:

• promote regulatory outcomes that are in the public interest as it will create unreasonable expectations that new service standards will apply on and from 1 July 2012 and will result customer disputes when they are not delivered;

• adequately consider the legitimate business interests of Synergy as it has been given an unreasonable timeframe to implement system, standard operating procedures, education and training for a small use customer base of more than 950,00; and

• provide for fair market conduct as it places Synergy in a breach situation by providing it insufficient time to be Code of Conduct compliant.

Synergy’s recommendations with respect to matters 1-3 (refer executive summary) addresses its concerns with respect the Code of Conduct 1 July 2012 implementation date.
Clause 1.5 - Definitions

"overcharging" means charging more than the amount that should properly be charged in accordance with this Code as a result of some defect, error or default and includes, without limitation, the amount by which the amount charged in a bill or under a bill smoothing arrangement is greater than the amount that would have been charged if the amount of the bill was determined properly in accordance with this Code. To avoid clause 4.6(1)(a), any doubt on adjustment to a bill made in accordance with this Code is not overcharging unless the amount of the adjustment is more than should properly be charged in accordance with this Code because of some defect, error or default.

"undercharging" means charging more than the amount that should properly be charged in accordance with this Code as a result of some defect, error or default and includes, without limitation:

(a) the failure to issue a bill properly in accordance with clause 4.1 or clause 4.2 or to issue a bill properly under a bill smoothing arrangement; or

(b) the amount by which the amount charged in a bill or under a bill smoothing arrangement is less than the amount that would have been charged if the amount of the bill was determined properly in accordance with this Code. To avoid clause 4.6(1)(e), any doubt on adjustment to a bill made in accordance with this Code is not undercharging unless the amount of the adjustment is more than should properly be charged in accordance with this Code because of some defect, error or default, with clause 4.6(1)(a).

4.3 Bill smoothing

(1) Despite clause 4.1, in respect of any 12 month period, on receipt of a request by a customer, a retailer may provide a customer with a bill which reflects a bill smoothing arrangement.

(2) If a retailer provides a customer with a bill under a bill smoothing arrangement pursuant to subclause (1) the retailer must ensure -

(a) the amount payable under each bill is initially the same and is set out on the basis of -

(i) the retailer's initial estimate of the amount of electricity the customer will consume over the 12 month period;

(ii) the relevant supply charge for the consumption and any other charges related to the supply of electricity agreed with the customer;

(iii) any adjustment undercharging or overcharging from a previous bill smoothing arrangement (after being adjusted in accordance with clauses 4.19 or 4.20 if applicable); and

(iv) any other relevant information provided by the customer.

(b) that the initial estimate is based on the customer's historical billing data or, where the retailer does not have that data, the likely average consumption at the relevant tariff calculated over the 12 month period as estimated by the retailer;

(c) that on or before the seventh month in respect of any 12 month period of a bill smoothing arrangement-

(i) the retailer re-estimates the amount under subclause (2)(a),(i)-taking into account any meter readings and relevant seasonal and other factors agreed with the customer and any adjustments;
To the relevant supply charge or other agreed charges referred to in subclause 2(a)(ii); or

arising under subclause 2(a)(iii); and

(ii) unless otherwise agreed, if there is a difference between the initial estimate and the re-estimate of greater than 10%, the amount payable under each of the remaining bills in the 12 month period is to be reset to reflect that difference; and

(d) that, at the end of the 12 month period, or any other time agreed between the retailer and the customer and at the end of the bill smoothing arrangement, the meter an adjustment is included on the next bill to take into account of the meter reading is read any undercharging or overcharging is adjusted for under clauses 4.19 and 4.20 (as applicable); and

(e) the retailer has obtained the customer's verifiable consent to the retailer billing on that basis.

4.7 Frequency of meter readings

(1) Other than in respect of a Type 7 connection point, a retailer must use its best endeavours to ensure that metering data is obtained, as frequently as required to prepare its bills.

(2) A retailer must ensure that at least once every 12 months other than in relation of a Type 7 connection point it obtains metering data in accordance with clause 4.6(1)(a).

(3) A distributor must ensure at least once every 12 months other than in relation of a Type 7 connection point it obtains and provides to the retailer meter data in accordance with clause 4.6(1)(a) within a timeframe that enables a retailer to comply with its obligations under clause 4.7(2).

4.17 Undercharging

(1) Subject to clause 4.19, this clause 4.17 applies whether the undercharging became apparent through a review under clause 4.15 or otherwise.

(2) If a retailer proposes to recover an amount undercharged as a result of an error, defect or default for which act or omission by the retailer or distributor is responsible (including where a meter has been found to be defective), the retailer must –

(a) subject to subclause (b), limit the amount to be recovered to no more than the amount undercharged in the 12 months prior to the date on which the retailer notified the customer that undercharging had occurred;

(b) other than in the event that the information provided by the customer is incorrect, where a retailer has changed a customer to an alternative tariff in the circumstances set out in clause 4.13 and, as a result of that change, the retailer has undercharged a customer, limit the amount to be recovered to no more than the amount undercharged in the 12 months prior to the date on which the retailer notified the customer under clause 4.13.

(c) list the amount to be recovered as a separate item in a special bill or in the next bill, together with an explanation of that amount;

(d) not charge the customer interest on that amount or require the customer to pay a late payment fee; and

(e) in relation to a residential customer, offer the customer time to pay that amount by means of an instalment plan in accordance with clause 6.4(2) and covering a period at least equal to the period over which the recoverable undercharging occurred.
4.18 Overcharging

(1) Subject to clause 4.20, this clause 4.18 applies whether the overcharging became apparent through a review under clause 4.15 or otherwise.

(2) If a customer (including a customer who has vacated the supply address) has been overcharged as a result of an error, defect or default for which act or omission of a retailer or distributor is responsible (including where a meter has been found to be defective), the retailer must use its best endeavours to inform the customer accordingly within 10 business days of the retailer becoming aware of the error, defect or default; and, subject to subclause (6), ask the customer for instructions as to whether the amount should be -

(a) credited to the customer's account; or
(b) repaid to the customer.

(3) If a retailer receives instructions under subclause (2), the retailer must pay the amount in accordance with the customer's instructions within 12 business days of receiving the instructions.

(4) If a retailer does not receive instructions under subclause (2) within 20 business days of making the request, the retailer must use reasonable endeavours to credit the amount overcharged to the customer's account.

(5) No interest shall accrue to a credit or refund referred to in subclause (2).

(6) Where the amount referred to in subclause (2) is less than $75 the retailer may, notwithstanding clause 4.18(2), notify the customer of the overcharge by no later than the next bill after the retailer became aware of the error, and -

(a) ask the customer for instructions pursuant to subclause (2) (in which case subclauses (3) and (4) apply as if the retailer sought instructions under subclause (2)); or
(b) credit the amount to the customer's account (in which case subclause (3) applies as if the customer instructed the retailer to credit the customer's account).

4.19 Undercharging as a result of a bill-smoothing arrangement

(1) If a retailer proposes to recover an amount undercharged pursuant to clause 4.3(2)(d), the retailer must -

(a) limit the amount to be recovered to no more than the amount undercharged in the 12 month period the subject of the bill-smoothing arrangement;

(b) either include the amount undercharged -

(i) as part of a new bill-smoothing arrangement with the customer's consent; or
(ii) as a separate item in a special bill or in the next bill, together with an explanation of that amount;

(c) not charge the customer interest on that amount or require the customer to pay a late payment fee; and

(d) if the customer has not consented to including the amount undercharged as part of a new bill-smoothing arrangement under subclause (1)(b)(i), offer the customer to pay that amount by means of an instalment plan in accordance with clause 6.4(2) and covering a period of at least 12 months.

4.20 Overcharging as a result of a bill-smoothing arrangement

(1) If the meter is read pursuant to clause 4.3(2)(d), and the customer has been overcharged for the period of the bill-smoothing arrangement, the retailer must use its best endeavours to inform the customer accordingly within 10 business days of the retailer becoming aware of the overcharging and, subject to subclause (5), ask the customer for instructions as to whether the amount should be -
(a) included as part of a new bill smoothing arrangement; or
(b) credited to the customer’s account; or
(c) repaid to the customer.

(2) If a retailer receives instructions under subclause (1), the retailer must pay the amount in accordance with the customer’s instructions within 12 business days of receiving the instructions.

(3) If a retailer does not receive instructions under subclause (1), within 20 business days of making the request, the retailer must use reasonable endeavours to credit the amount overcharged to the customer’s account.

(4) No interest shall accrue to a credit or refund referred to in subclause (1).

(5) Where the amount referred to in subclause (1) is less than $75 the retailer may, notwithstanding clause 4.20(1), notify the customer of the overcharge by no later than the next bill after the retailer became aware of the error; and

(a) ask the customer for instructions pursuant to subclause (1), (in which case subclauses (2) and (3) apply as if the retailer sought instructions under subclause (1)), or

(b) credit the amount to the customer’s account (in which case subclause (2) applies as if the customer instructed the retailer to credit the customer’s account).
14 May 2012

Mr Paul Kelly
ECC Chairman
PO Box 8469
Perth BC WA 6849
Fax: (08) 9213 1999

Via Email: eccc@erawa.com.au

Dear Mr. Kelly

RE: Code of Conduct for the Supply of Electricity to Small Use Customers

The Western Australian Council of Social Service thanks the Economic Regulatory Authority for the opportunity to participate in the 2011 Review of the Code of Conduct for the Supply of Electricity to Small Use Customers and to comment on the amendments proposed by the ERA.

The Council values the opportunity to advocate on behalf of Western Australian consumers, particularly those experiencing financial hardship, that is offered by its participation in the Electricity Code Consultative Committee (ECCC). Chris Twomey, the Director of Social Policy at WACOSS actively participated on the Committee as a consumer representative.

The Council is generally supportive of the review’s process to date and would like to take this opportunity to reiterate some of the key issues and priorities for consumers for the Authority’s consideration.

The Council’s particular focus has thus far been, and will continue to be, on issues surrounding financial hardship assessments; alternative payment arrangements; waivers and reduction of fees, charges, or debt; and minimum requirements of retailer’s financial hardship policy. Given that a unanimous stance was not reached on Section 6 of the Code, which outlines details surrounding financial hardship policies, the Council welcomes the Authority’s decision to review Section 6 of the Code as a standalone and in depth review process.

The Council is extremely concerned by the combination of rising levels of utilities hardship across all of the major indicators (extensions, payment plans, HUGS grants, disconnections) and the prospect of significant further price increases to come. We believe that there is a pressing need to review state concessions, hardship policy and efficiency programs to address this convergence and to mitigate the likely increase in financial hardship in lower income households.

The Council is of the opinion that a significant piece of work is needed to investigate the likely impacts of rising prices on the energy use and financial hardship of Western Australian households and to model alternative approaches to concessions to ensure they are appropriately targeted and proportionately scaled. We recently discussed some of these issues
in a meeting about hardship policy reviews with the ERA's Cathryn Greville, and would be interested in engaging with you further to discuss how we might progress these issues in the future.

The Council has indicated our support for the recommendations, comments and suggestions put forward in the ECCC draft review report and will follow with interest any further public submissions in response.

The Council would like to once again thank the Authority for the opportunity to provide feedback and be engaged in the consultative process in response to the Code of Conduct for the Supply of Electricity to Small Use Customers.

Please do not hesitate to contact me, on 9420 7222 or via email on chris@wacoss.org.au should you have any queries or concerns in relation to the above or any other matter.

Sincerely

Irina Cattalini
CEO, WACOSS
Our ref: DM9358765

17 May 2012

Mr Paul Kelly
Chairman ECCC
PO Box 8469
Perth Business Centre WA 6849

Dear Paul,

CODE OF CONDUCT FOR THE SUPPLY OF ELECTRICITY TO SMALL USE CUSTOMERS – AMENDMENTS PROPOSED BY THE ECONOMIC REGULATION AUTHORITY

I refer to the Electricity Code Consultative Committee (ECCC) notice dated 4 May 2012 inviting interested parties to make submissions regarding the Economic Regulation Authority’s proposed amendments to the Code of Conduct for the Supply of Electricity to Small Use Customers (the Code).

Western Power recognises and appreciates the extensive review and consultation process undertaken by the ECCC to achieve the significant amendments made to the Code. Western Power therefore supports the proposed changes and would like to see them implemented as soon as practically possible.

However, as a future improvement, Western Power would like to recommend that the next review of the Code considers aligning retailers and distributors’ obligations relating to registering and de-registering a customer’s supply address as a life support equipment address to the State Government’s subsidy scheme administered by the Office of State Revenue. This would ensure consistency of life support equipment arrangements.

Should you have any queries or require any further information regarding Western Power’s submission, please do not hesitate to contact me on 9326 4535.

Yours faithfully,

MARGARET PYRCHLA
Manager, Risk & Compliance
Code of Conduct for the Supply of Electricity to Small Use Customers 2012
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Part 1
Preliminary

1.1 Title
The Code may be cited as the Code of Conduct for the Supply of Electricity to Small Use Customers 2012.

1.2 Authority
The Code is made by the Authority under section 79 of the Act.

1.3 Commencement
(1) The Code replaces the previous Code and comes into operation on 1 July 2014 upon the day prescribed by the Authority.

1.4 Interpretation
(1) Headings and notes are for convenience or information only and do not affect the interpretation of the Code or any term or condition set out in the Code.
(2) An expression importing a natural person includes any company, partnership, trust, joint venture, association, corporation or other body corporate and any governmental agency and vice versa.
(3) A reference to a document or a provision of a document includes an amendment or supplement to, or replacement of or novation of, that document or that provision of that document.
(4) A reference to a person includes that person’s executors, administrators, successors, substitutes (including, without limitation, persons taking by novation) and permitted assigns.
(5) Other parts of speech and grammatical forms of a word or phrase defined in the Code have a corresponding meaning.
(6) A reference to an electricity marketing agent arranging a contract is to be read as a reference to an electricity marketing agent entering into the contract on the retailer’s or customer’s behalf, or arranging the contract on behalf of another person (whichever is relevant).

1.5 Definitions
In the Code, unless the contrary intention appears –
“accumulation meter” has the same meaning as in clause 1.3 of the Metering Code Electricity Industry Metering Code 2005.
“adjustment” means the difference in the amount charged –
(a) in a bill or series of bills based on an estimate carried out in accordance with clause 4.8; or

(b) under a bill smoothing arrangement based on an estimate carried out in accordance with clause 4.3(2)(a)-(b),

and the amount to be charged as a result of the bill being determined in accordance with clause 4.6(1)(a) provided that the difference is not as a result of an defect, error or default for which the retailer or distributor is responsible or contributed to.

"alternative tariff" means a tariff other than the tariff under which the customer is currently supplied electricity.

"amendment date" means 1 July 2010.

"attach" has the same meaning as in the Obligation to Connect Regulations.

"Australian Consumer Law (WA)" means schedule 2 to the Competition and Consumer Act 2010 (Cth) as modified by section 36 of the Fair Trading Act 2010 (WA).

"Australian Standard" means a standard published by Standards Australia.

"Authority" means the Economic Regulation Authority established under the Economic Regulation Authority Act 2003.

"basic living needs" includes –

(a) rent or mortgage;

(b) other utilities (e.g., gas, phone and water);

(c) food and groceries;

(d) transport (including petrol and car expenses);

(e) childcare and school fees;

(f) clothing; and

(g) medical and dental expenses.

"billing/credit complaints" includes billing errors, incorrect billing of fees and charges, failure to receive relevant government rebates, high billing, credit collection, disconnection and reconnection, and restriction due to billing discrepancy.

"billing cycle" means the regular recurrent period in which a customer receives a bill from a retailer.

"business customer account" means an account for which a customer is eligible to receive a tariff other than a tariff for the supply of electricity for residential purposes.

"business customer" means a customer who is not a residential customer.

"business day" means any day except a Saturday, Sunday or public holiday in Western Australia.

"call centre" means a dedicated centre that has the purpose of receiving and transmitting telephone calls in relation to customer service operations of the retailer or distributor, as relevant, and consists of call centre staff and one or more information technology and communications systems.
designed to handle customer service calls and record call centre performance information.

"change in personal circumstances" includes –

(a) sudden and unexpected disability, illness of or injury to the residential customer or a dependant of the residential customer;
(b) loss of or damage to property of the residential customer; or
(c) other similar unforeseeable circumstances arising as a result of events beyond the control of the residential customer.

"Code" means the Code of Conduct for the Supply of Electricity to Small Use Customers as repealed and replaced by the Authority pursuant to section 79 of the Act.

"complaint" means an expression of dissatisfaction made to an organisation, related to its products or services, or the complaints-handling process itself where a response or resolution is explicitly or implicitly expected.

"concession" means a concession, rebate, subsidy or grant related to the supply of electricity available to residential customers only.

"connect" means to attach by way of a physical link to a network and to energise the link.

"consumption" means the amount of electricity supplied by the retailer to the customer's premises as recorded by the meter.

"contact" means contact that is face to face, by telephone or by post, facsimile or electronic means.

"contestable customer" means a customer at an exit point where the amount of electricity transferred at the exit point is more than the amount prescribed under the Electricity Corporations (Prescribed Customers) Order 2007 made under the Electricity Corporations Act 2005 or under another enactment dealing with the progressive introduction of customer contestability.

"contract" means a standard form contract or a non-standard contract.

"cooling-off period" in relation to a door to door contract or non-standard contract means the period of 10 days commencing on and including the day on which the contract is made.

"credit retrieval" means the ability for a pre-payment meter customer to recover any payments made for the supply of electricity.

"customer" means a customer who consumes not more than 160 MWh of electricity per annum.

"date of receipt", in relation to a notice (including a disconnection warning), means –

(a) in the case of –

(i) verbal communication, at the time of that communication;
(ii) hand delivery, on the date of delivery;
(iii) facsimile or email, on the date on which the sender's facsimile or email facilities recorded that the facsimile or email was successfully transmitted; and
(iv) post, on the second business day after posting; and
(b) if received after 5:00pm or on a day other than a business day, on the next business day.

"de-energise" means the removal of the supply voltage from the meter at the premises while leaving the premises attached.

"direct debit plans terminated" means a direct debit plan terminated as a result of a default or non payment in 2 or more successive payment periods.

"disconnect" means to de-energise the customer's supply address, other than in the event of an interruption.

"disconnection warning" means a notice in writing issued in accordance with clause 7.1(1)(c) or clause 7.4(1).

"distributor" means a person who holds a distribution licence or integrated regional licence under Part 2 of the Act.

"door to door marketing" means the marketing practice under which –

(a) an electricity marketing agent —

(i) goes from place to place;

(ii) makes telephone calls; or

(iii) uses electronic means;

seeking out persons who may be prepared to enter, as customers, into contracts; and

(b) the electricity marketing agent or some other electricity marketing agent then or subsequently enters into negotiations with those prospective customers with a view to arranging contracts on behalf of, or for the benefit of, a retailer or party other than the customer.

"dual fuel contract" means a non-standard contract for the sale of electricity and for the sale of gas by a retailer to a contestable customer.


"electricity ombudsman" means the ombudsman appointed under the scheme initially approved by the Minister or by the Authority for any amendments under section 92 of the Act.

"electricity marketing agent" means –

(a) a person who acts on behalf of the holder of a retail licence or an integrated regional licence –

(i) for the purpose of obtaining new customers for the licensee; or

(ii) in dealings with existing customers in relation to contracts for the supply of electricity by the licensee;

(b) a person who acts —

(i) on behalf of one or more customers; or

(ii) as an intermediary between one or more customers and a licensee,

in respect of the supply of electricity to the customer or customers;
(e) a person who engages in any other activity relating to the marketing of electricity that is prescribed for the purposes of this definition; and

(c) a representative, agent or employee of a person referred to in subclause paragraph (a) or (b) or (e); or

(d) not a person who is a customer representative.

"Electricity Retail Corporation" means the body corporate established as such by the Electricity Corporations Act 2005.

"Electronic Funds Transfer Code of Conduct" means the Electronic Funds Transfer Code of Conduct issued by the Australian Securities & Investments Commission.

"electronic means" means the internet, email, facsimile or other similar means but does not include telephone.

"emergency" means an emergency due to the actual or imminent occurrence of an event which in any way endangers or threatens to endanger the safety or health of any person, or the maintenance of power system security, in Western Australia or which destroys or damages, or threatens to destroy or damage, any property in Western Australia.

"energise" has the same meaning as in the Obligation to Connect Regulations.

"energy efficiency audit" means an audit for the purpose of identifying energy usage and opportunities for energy conservation within a premises.

"export" means the amount of electricity exported into the distributor's network as recorded by the meter.

"financial hardship" means a state of more than immediate financial disadvantage which results in a residential customer being unable to pay an outstanding amount as required by a retailer without affecting the ability to meet the basic living needs of the residential customer or a dependant of the residential customer.

"historical debt" means an amount outstanding for the supply of electricity by a retailer to a customer's previous supply address or supply addresses.

"instalment plan" means an arrangement between a retailer and a customer for the customer to pay arrears or in advance and continued usage on their account according to an agreed payment schedule (generally involving payment of at least 3 instalments) taking into account their capacity to pay. It does not include customers using a payment plan as a matter of convenience or for flexible budgeting purposes.

"interruption" means the temporary unavailability of supply from the distribution network to a customer, but does not include disconnection under Part 7.

"life support equipment" means the equipment designated under the Life Support Equipment Electricity Subsidy Scheme.

"local newspaper" for any place, means a newspaper circulating throughout Western Australia or in a part of Western Australia that includes that place.
"marketing" includes engaging or attempting to engage in any of the following activities by any means, including door to door or by telephone or other electronic means –

(a) negotiations for, or dealings in respect of, a contract for the supply of electricity to a customer; or

(b) advertising, promotion, market research or public relations in relation to the supply of electricity to customers.

"marketing complaints" includes advertising campaigns, contract terms, sales techniques and misleading conduct.

"marketing identification number" means a unique number assigned by a retailer or other party to each electricity marketing agent acting on its behalf.

"meter" has the meaning given to that term in the Metering Code Electricity Industry Metering Code 2005.

"metering agent" means a person responsible for reading the meter on behalf of the distributor.

"Metering Code" means the Electricity Industry Metering Code 2005 as amended or replaced.

"metrology procedure" has the same meaning as in the Metering Code.

"metropolitan area" means –

(a) the region described in Schedule 3 of the Planning and Development Act 2005;

(b) the local government district of Mandurah;

(c) the local government district of Murray; and

(d) the townsites, as constituted under section 26 of the Land Administration Act 1997, of –

(i) Albany;

(ii) Bunbury;

(iii) Geraldton;

(iv) Kalgoorlie;

(v) Karratha;

(vi) Port Hedland; and

(vii) South Hedland.

"National Interpreter Symbol" means the national public information symbol "Interpreter Symbol" (with text) developed by Victoria in partnership with the Commonwealth, State and Territory governments in accordance with Australian Standard 2342.

"non-contestable customer" means a customer other than a contestable customer.

"non-standard contract" means a contract entered into between a retailer and a customer, or a class of customers, that is not a standard form contract.
“not provided on or before the agreed date” includes connections not provided within any regulated time limit and connections not provided by the date agreed with a customer.

“Obligation to Connect Regulations” means the Electricity Industry (Obligation to Connect) Regulations 2005 (WA).

“other complaints” includes poor service, privacy consideration, failure to respond to complaints, and health and safety issues.

“overcharging” means the amount by which the amount charged in a bill or under a bill smoothing arrangement is greater than the amount that would have been charged if the amount of the bill was determined in accordance with clause 4.6(1)(a) as a result of some defect, error or default for which the retailer or distributor is responsible or contributed to, but does not include an adjustment.

“payment difficulties” means a state of immediate financial disadvantage that results in a residential customer being unable to pay an outstanding amount as required by a retailer by reason of a change in personal circumstances.

“payment problems” includes, without limitation, payment problems relating to a historical debt.

“permitted call times” are—

(a) for the purposes of telephone and personal contact other than at a customer’s premises between—

(i) 9.00 a.m. and 8.00 p.m. Mondays to Fridays (other than public holidays); and

(ii) 9.00 a.m. and 5.00 p.m. Saturdays;

(b) for the purposes of contact at a customer’s premises between—

(i) 9.00 a.m. and 7.00 p.m. Mondays to Fridays (other than public holidays); and

(ii) 9.00 a.m. and 5.00 p.m. Saturdays.

“premises” means premises owned or occupied by a new or existing customer.

“pre-payment meter” means a meter that requires a customer to pay for the supply of electricity prior to consumption.

“pre-payment meter customer” means a customer who has a pre-payment meter operating at the customer’s supply address.

“pre-payment meter service” means a service for the supply of electricity where the customer agrees to purchase electricity by means of a pre-payment meter.

“Priority Restoration Register” means a register established under clause 8.3 that determines the order of restoration in the event of an unplanned interruption.

“public holiday” means a public holiday in Western Australia.

“reconnect” means to **re-energise** the **customer’s supply address** following **disconnection**.

“re-energise” means to restore the supply voltage to the **meter** at the **premises**.

“recharge facility” means a facility where a **pre-payment meter customer** can purchase credit for the **pre-payment meter** including a disposable **pre-payment meter card**.

“regional area” means all areas in Western Australia other than the **metropolitan area**.

“Regional Power Corporation” means the body corporate established as such by the **Electricity Corporations Act 2005**.

“relevant consumer representative organisation” means an organisation that may reasonably be expected to represent the interests of **residential customers** who are experiencing **payment difficulties** or **financial hardship**.

“reminder notice” means a notice in writing issued in accordance with clause 7.1(1)(a).

“reporting year” means a year commencing on 1 July and ending on 30 June.

“residential customer” means a **customer** who consumes electricity solely for domestic use.

“residential customer account” means an account with a **retailer** for which a **customer** is eligible to receive a supply of electricity solely for residential purposes.

“residential pre-payment meter customer” means a **customer** who has a **pre-payment meter** operating at the **customer’s supply address** and who consumes electricity solely for domestic use.

“retailer” means a person who holds a retail licence or integrated regional licence under Part 2 of the **Act**.

“standard form contract” means a contract that is approved by the **Authority** under section 51 of the **Act** or prescribed by the Minister under section 55 of the **Act** prior to its repeal.

“supply address” means the **address premises** to which electricity was, is or may be supplied under a **contract**.

“telephone” means a device which is used to transmit and receive voice frequency signals.

“temporary suspension of actions” means a situation where a **retailer** temporarily suspends all **disconnection** and debt recovery procedures without entering into an alternative payment arrangement under clause 6.4(1).

“time band” refers to a period of time within a **time of use tariff** to which a given tariff rate applies.

“time of use tariff” means a tariff structure in which some or all of the tariff varies according to the time at which electricity is supplied.
“transfer complaints” includes failure to transfer customer within a certain time period, disruption of supply due to transfer and billing problems directly associated with the transfer (e.g., delay in billing, double billing).

“TTY” means a teletypewriter/telephone typewriter.

“Type 7” has the same meaning as in the Metering Code.

“undercharging” includes, without limitation –

(a) the failure to issue a bill in accordance with clause 4.1 or clause 4.2 or to issue a bill under a bill smoothing arrangement; or

(b) the amount by which the amount charged in a bill or under a bill smoothing arrangement is less than the amount that would have been charged if the amount of the bill was determined in accordance with clause 4.6(1)(a) as a result of some defect, error or default for which the retailer or distributor is responsible or contributed to, but does not include an adjustment.

“unsolicited consumer agreement” is defined in section 69 of the Australian Consumer Law (WA).

“verifiable consent” means consent that is given –

(a) expressly;

(b) in writing or orally;

(c) after the retailer or electricity marketing agent (whichever is relevant) has in plain language appropriate to that customer disclosed all matters materially relevant to the giving of the consent, including each specific purpose for which the consent will be used; and

(d) by the customer or a nominated person competent to give consent on the customer’s behalf.

“within the prescribed timeframe” means any applicable regulated time limit for reconnections.

1.6 Application

Subject to clauses 1.10 and 2.1A, the Code applies to –

(a) customers;

(b) retailers;

(c) distributors; and

(d) electricity marketing agents,
in accordance with Part 6 of the Act.

1.7 Purpose

The Code regulates and controls the conduct of electricity marketing agents, retailers and distributors.

1.8 Objectives

The objectives of the Code are to –
(a) define standards of conduct in the supply and *marketing* of electricity to *customers*; and
(b) protect *customers* from undesirable *marketing* conduct.

1.9 Amendment & Review

The process for amendment and review of the *Code* is set out in Part 6 of the *Act*.

1.10 Variation from the Code

A *retailer* and a *customer* may agree that the following clauses (marked with an asterisk and an annotation throughout) do not apply, or are to be amended in their application, in a *non-standard contract*—

(a) 4.1;
(b) 4.2;
(c) 5.15.1(1);
(d) 5.2;
(e) 5.4;
(f) 5.7; and
(g) 8.1.
Part 2
Marketing

NOTE: This Code is not the only compliance obligation in relation to marketing. Other State and Federal laws apply to marketing activities, including but not limited to the Australian Consumer Law (WA), the Spam Act 2003, the Spam Regulations 2004, the Do Not Call Register Act, the Telecommunications Industry Standard 2007 and the Privacy Act 1988.

Division 1 – Obligations particular to retailers

2.1 Retailers to ensure electricity marketing agents comply with this Part

A retailer must ensure that its electricity marketing agents comply with this Part.

2.1A Except to limited extent, customer’s agents not required to comply with this Part

Save for clauses 2.7 and 2.9(1), this Part does not apply to persons within sub-paragraph (b) of the definition of electricity marketing agents in clause 1.5 of this Code.

Division 2 – Contracts

2.2 Entering into contracts

(1) An electricity marketing agent must, in the course of arranging a standard form contract that is entered into as a result of door-to-door marketing or a non-standard contract other than in accordance with subclause (2), ensure that the contract is signed by the customer.

[Note: Under the Electronic Transactions Act 2003, any documents or signatures that must be provided under the Code may also be provided electronically (subject to the terms and conditions set out in the Electronic Transactions Act 2003).]

(2) If a customer initiates a request to a retailer or electricity marketing agent by telephone or electronic means for a non-standard contract the non-standard contract need not be signed but the retailer or electricity marketing agent must obtain and make a record of the customer's verifiable consent that the non-standard contract has been entered into.

(3) A standard form contract that is not entered into as a result of door-to-door marketing need not be signed by the customer but the date of the customer entering into the standard form contract must be recorded by the electricity marketing agent.

(4) The terms and conditions of a standard form contract that is not entered into as a result of door-to-door marketing must be made available to the customer on request at no charge.

(4)(5) Clauses 2.2(1) to (4) inclusive do not apply in relation to contracts that are unsolicited consumer agreements.
(5) A contract is entered into as a result of **door to door marketing** if the following conditions are satisfied—

(a) negotiations leading to the formation of the contract (whether or not they are the only negotiations that precede the formation of the contract) take place between the **electricity marketing agent** and the **customer** in each other's presence in Western Australia at a place other than at the trade-premises of the **retailer**; and

(b) the **electricity marketing agent** attends at that place—

(i) in the course of **door to door marketing**; and

(ii) otherwise than at the unsolicited invitation of the **customer**.

(6) For the purposes of subclause (5)(b), in determining whether an invitation is solicited or unsolicited—

(a) any solicitation by way of advertisement addressed to the public or a substantial section of the public is to be disregarded; but

(b) if an invitation arises from a communication initiated by the **electricity marketing agent** (other than as described in paragraph (a)) the invitation is not to be regarded as unsolicited.

**Division 3 - Information to be provided to customers**

2.3 Information to be given before entering into a contract

(1) Before arranging a **contract**, an **electricity marketing agent** must give a **customer** the following information—

(a) if acting on behalf of **Electricity Retail Corporation** or **Regional Power Corporation**, that the **customer** is free to choose the **standard form contract** offered by the **retailer**;

(b) if acting on behalf of **Electricity Retail Corporation** or **Regional Power Corporation** and a **non-standard contract** is being offered to the **customer**, the difference between a **standard form contract** and a **non-standard contract**;

(c) how and when the terms of the **contract** will be given or made available to the **customer**; and

(d) that the **customer** is entitled to a written copy of the **contract** when requested.

(2) For a **standard form contract** that is not an **unsolicited consumer agreement** or for entered into as a result of **door to door marketing** or a **non-standard contract** entered into in accordance with clause 2.2(2) above, the **electricity marketing agent** must obtain and make a record of the **customer's verifiable consent** that the information in subclause (1) has been given.

(3) For a **standard form contract** that is an **unsolicited consumer agreement** entered into as a result of **door to door marketing** or a **non-standard contract** entered into other than in accordance with clause 2.2(2) above, the **electricity marketing agent** must obtain the **customer's written acknowledgement** that the information in subclause (1) has been given.
2.4 Information to be given at the time of or after entering into a contract

(1) When a customer enters into a new contract that is not an unsolicited consumer agreement with a retailer or electricity marketing agent, the retailer or the electricity marketing agent must, at the time the contract is entered into, offer to give or make available to the customer a copy of the contract. If the customer accepts the offer, the retailer or electricity marketing agent must, at the time the contract is entered into, or as soon as possible thereafter, but no more than 28 days later, give or make available to the customer a copy of the contract.

(2) A retailer or electricity marketing agent must give the following information to a customer —

(a) how the customer may obtain —

(i) a copy of the Code; and

(ii) details on all relevant tariffs, fees, charges, alternative tariffs and service levels that may apply to the customer;

(b) the scope of the Code;

(c) that a retailer, distributor and electricity marketing agent must comply with the Code;

(d) how the retailer may assist if the customer is experiencing payment difficulties or financial hardship;

(e) with respect to a residential customer, the concessions that may apply to the residential customer;

(f) the distributor's 24 hour telephone number for faults and emergencies;

(g) with respect to a residential customer, how the residential customer may access the retailer's —

(i) multi-lingual services (in languages reflective of the retailer's customer base); and

(ii) TTY services;

(h) how to make an enquiry of, or complaint to, the retailer;

(i) general information on the safe use of electricity; and

(j) for contracts that are not unsolicited consumer agreements, the details of any right the customer may have to rescind the contract during a cooling-off period and the charges that may apply if the customer rescinds the contract.

(3) Subject to subclause (4)(6), the information in subclause (2) must be given for a standard form contract that is not entered into as a result of door-to-door marketing —

(a) for a standard form contract, the information in subclause (2) must be given no later than with or on the customer's first bill; and

(b) for a non standard form contract or a standard form contract that is an unsolicited consumer agreement, before the customer has entered into the contract and the electricity marketing agent must obtain the customer's written acknowledgement that the information in
subclause (2) has been given if requested by the customer, and if the customer has not previously been provided a written copy of the contract, a copy of the contract must be provided at no charge to the customer.

(4) Subject to subclause (5), for a standard form contract that is entered into as a result of door to door marketing or a non-standard contract—
(a) the information in subclause (2) and a copy of the contract must be given before the customer has entered into the contract;
(b) the electricity marketing agent must obtain the customer's written acknowledgement that the information in subclause (2) has been given.

(5) Despite subclauses (3) and (4), the retailer is not obliged to provide the information in subclause (2) to a customer if—
(a) the retailer has provided the information to that customer within the preceding 12 months; or
(b) when the retailer is obliged to provide the information to the customer pursuant to subclause (3) or (4), the retailer informs the customer how the customer may obtain the information in subclause (2) and, if requested, gives the information to the customer.

Division 4 – Marketing Conduct

2.5 Standards of Conduct

(1) An electricity marketing agent must not, when marketing, engage in conduct that is misleading, deceptive or likely to mislead or deceive or that is unconscionable.

(2) An electricity marketing agent must not exert undue pressure on a customer, nor harass or coerce a customer.

(3)(1) An electricity marketing agent must ensure that the inclusion of concessions is made clear to residential customers and any prices that exclude concessions are disclosed.

(4)(2) An electricity marketing agent must ensure that all standard form contracts that are entered into as a result of door to door marketing and all non-standard contracts that are not unsolicited consumer agreements are in writing.

(5)(3) A retailer or other party must ensure that a customer is able to contact the retailer or other party on the retailer's or other party's telephone number during the normal business hours of the retailer or other party for the purposes of enquiries, verifications and complaints.

2.6 Contact for the purposes of marketing

(1) An electricity marketing agent who makes contact with a customer for the purposes of marketing (other than meeting with a customer face to face) must, as soon as practicable, tell the customer—
(a) his or her first name;
(b) the name of the retailer or other party on whose behalf the contact is being made; and

d) the purpose of the contact;

and, after having identified the purpose of the contact, if the contact is not by electronic means, ask if the customer wishes to proceed further.

(2)(1) An electricity marketing agent who makes contact with a customer for the purposes of marketing must, on request by the customer —

(a) provide the customer with the complaints telephone number of the retailer or other party on whose behalf the contact is being made; and

(b) provide the customer with the electricity marketing agent's marketing identification number.

(3)(2) An electricity marketing agent who meets with a customer face to face for the purposes of marketing must —

(a) when negotiating a contract that is not an unsolicited consumer agreement, as soon as practicable, tell the customer the purpose of the contact,

(b) wear a clearly visible and legible identity card that shows —

(i) his or her first name;

(ii) his or her photograph;

(iii) his or her marketing identification number; and

(iv) the name of the retailer or other party on whose behalf the contact is being made; and

(c) as soon as practicable, provide the customer, in writing —

(i) his or her first name;

(ii) his or her marketing identification number;

(iii) the name of the retailer or other party on whose behalf the contact is being made;

(iv) the complaints telephone number of the retailer or other party on whose behalf the contact is being made; and

(v) the business address and Australian Business or Company Number of the retailer or other party on whose behalf the contact is being made.

(4) If, when an electricity marketing agent makes contact with a customer for the purposes of marketing, the customer indicates that he or she wishes the contact to end, the electricity marketing agent must —

(a) end the contact as soon as practicable; and

(b) not attempt to contact the customer for the purposes of marketing for the next 30 days unless the customer agrees otherwise.

(5) Unless requested by the customer, an electricity marketing agent must not make contact with a customer for the purposes of marketing outside the permitted call times, unless the contact is by electronic means or the contact arises outside the customer's premises in circumstances where the customer initiates contact with the electricity marketing agent.
(6) An electricity marketing agent must ensure that contact for the purposes of marketing does not continue for more than 15 minutes past the end of the permitted call times without the customer's verifiable consent unless the contact is by electronic means.

(7)(3) A retailer or other party must keep the following records each time it initiates contact with a customer for the purposes of marketing —

(a) the name of the customer and —

(i) if the contact was made by telephone, the telephone number;

(ii) if the contact was made at the customer's premises, the address of the premises; and

(iii) if the contact was made at a place other than the customer's premises, the details and address of the location; and

(iv) if the contact was made by electronic means, the email address or facsimile number of the customer;

(b) the name of the electricity marketing agent who made the contact;

(c) the date and time of the contact.

(8)(4) Clause 2.6(3) does not apply where an electricity marketing agent contacts a customer in response to a customer request or query.

2.7 Conduct when a customer does not wish to be contacted

(1) If a customer who has been contacted by an electricity marketing agent for the purposes of marketing requests not to be contacted again on behalf of the retailer, or other party, the retailer or other party must ensure that the customer is not contacted on behalf of the retailer or other party in relation to the supply of electricity for the next 2 years unless —

(a) the customer requests contact; or

(b) the customer has moved premises; or

(c) a retailer or other party has a legal obligation to contact the customer.

(2) A retailer, or other party, must keep a record of each customer who has requested not to be contacted (as described in subclause (1)) that includes the name, address and telephone number of the customer at the time the customer made that request.

(3) A retailer, or other party, must give a copy of the record to the electricity ombudsman or the Authority on request.

(4) A retailer, or other party, must provide the customer on request with written confirmation that the customer will not be contacted by or on behalf of the retailer, or other party, in relation to the supply of electricity for the next 2 years.

(5) When engaging in door-to-door marketing, an electricity marketing agent must, to the extent practicable, comply with a notice on or near a premises indicating that the customer does not wish to receive unsolicited mail or other marketing information.
Division 5 – Miscellaneous

2.8 Collection and use of personal information

A retailer and an electricity marketing agent must comply with the National Privacy Principles as set out in the Privacy Act 1988 in relation to information collected under this Part.

2.92.7 Compliance

(1) An electricity marketing agent who contravenes a provision of this Part commits an offence.

Penalty —
(a) for an individual, $5,000;
(b) for a body corporate, $20,000.

(2) If an electricity marketing agent of a retailer contravenes a provision of this Part, the retailer commits an offence.

Penalty —
(a) for an individual, $5,000;
(b) for a body corporate, $20,000.

(3) It is a defence to a prosecution for a contravention of subclause (2) if the retailer proves that the retailer used reasonable endeavours to ensure that the electricity marketing agent complied with the Code.

2.102.8 Presumption of authority

A person who carries out any marketing activity in the name of or for the benefit of —
(a) a retailer, or
(b) an electricity marketing agent,
is to be taken, unless the contrary is proved, to have been employed or authorised by the retailer or electricity marketing agent to carry out that activity.

2.142.9 Electricity marketing agent complaints

(1) An electricity marketing agent must —
(a) keep a record of each complaint made by a customer, or person contacted for the purposes of marketing, about the marketing carried out by or on behalf of the electricity marketing agent; and
(b) on request by the electricity ombudsman in relation to a particular complaint, give to the electricity ombudsman, within 28 days of receiving the request, all information that the electricity marketing agent has relating to the complaint.

(2) A record or other information that an electricity marketing agent is required by this Code to keep must be kept for at least 2 years —
(a) after the last time the person to whom the information relates was contacted by or on behalf of the electricity marketing agent, or
(b) after receipt of the last contact from or on behalf of the electricity marketing agent,
whichever is later.
3.1 Obligation to forward connection application

(1) If a retailer agrees to sell electricity to a customer or arrange for the connection of the customer's supply address, the retailer must forward the customer's request for connection to the relevant distributor for the purpose of arranging for the connection of the customer's supply address (if the customer's supply address is not already connected).

(2) Unless the customer agrees otherwise, a retailer must forward the customer's request for connection to the relevant distributor –

   (a) that same day, if the request is received before 3pm on a business day; or

   (b) the next business day, if the request is received after 3pm or on a Saturday, Sunday or public holiday in Western Australia.

(3) In this clause –

   "customer" includes a customer's nominated representative.

[Note: The Obligation to Connect Regulations, Electricity Industry (Obligation to Connect) Regulations 2006 provide regulations in relation to the obligation upon a distributor to energise and connect a premises.]
Division 1 – Billing cycles

4.1 Billing cycle*
A retailer must issue a bill –
(a) no more than once a month, unless the retailer has –
(i) obtained a customer's verifiable consent to issue bills more frequently; or
(ii) given the customer –
(A) a reminder notice in respect of three consecutive bills; and
(B) notice as contemplated under clause 4.2; and
(b) no less than once every three months, unless the retailer –
(i) has obtained a customer's verifiable consent to issue bills less frequently;
(ii) has not received the required metering data from the distributor for the purposes of preparing the bill, despite using best endeavours to obtain the metering data from the distributor; or
(iii) is unable to comply with this timeframe due to the actions of the customer where the customer is supplied under a deemed contract pursuant to regulation 37 of the Electricity Industry (Customer Contracts) Regulations 2005 and the bill is the first bill issued to that customer at that supply address.

4.2 Shortened billing cycle*
(1) For the purposes of clause 4.1(a)(ii), a retailer has given a customer notice if the retailer has advised the customer, prior to placing the customer on a shortened billing cycle, that –
(a) receipt of a third reminder notice may result in the customer being placed on a shortened billing cycle;
(b) if the customer is a residential customer, assistance is available for residential customers experiencing payment difficulties or financial hardship;
(c) the customer may obtain further information from the retailer on a specified telephone number; and
(d) once on a shortened billing cycle, the customer must pay three consecutive bills by the due date to return to the customer's previous billing cycle.
(2) Notwithstanding clause 4.1(a)(ii), a retailer must not place a residential customer on a shortened billing cycle without the customer's verifiable consent if –

(a) the residential customer informs the retailer that the residential customer is experiencing payment difficulties or financial hardship; and

(b) the assessment carried out by the retailer under clause 6.1 indicates to the retailer that the customer is experiencing payment difficulties or financial hardship.

(3) If, after giving notice as required under clause 4.1(a)(ii), a retailer decides to shorten the billing cycle in respect of a customer, the retailer must give the customer written notice of that decision within 10 business days of making that decision.

(4) A shortened billing cycle must be at least 10 business days.

(5) A retailer must return a customer, who is subject to a shortened billing cycle and has paid three consecutive bills by the due date, on request, to the billing cycle that applied to the customer before the shortened billing cycle commenced.

(6) A retailer must inform a customer, who is subject to a shortened billing cycle, at least once every three months that, if the customer pays three consecutive bills by the due date of each bill, the customer will be returned, on request, to the billing cycle that applied to the customer before the shortened billing cycle commenced.

4.3 Bill smoothing

(1) Despite clause 4.1, in respect of any 12 month period, on receipt of a request by a customer, a retailer may provide a customer with estimated bills which reflects under a bill smoothing arrangement.

(2) If a retailer provides a customer with estimated bills under a bill smoothing arrangement pursuant to subclause (1) the retailer must ensure –

(a) the amount payable under each bill is initially the same and is set out on the basis of –

   (i) the retailer's initial estimate of the amount of electricity the customer will consume over the 12 month period;

   (ii) the relevant supply charge for the consumption and any other charges related to the supply of electricity agreed with the customer;

   (iii) any adjustment from a previous bill smoothing arrangement (after being adjusted in accordance with clause 4.19); and

   (iv) any other relevant information provided by the customer.

(b) that the initial estimate is based on the customer's historical billing data or, where the retailer does not have that data, the likely average consumption at the relevant tariff calculated over the 12 month period as estimated by the retailer;

(c) that on or before the seventieth month —
(i) the retailer re-estimates the amount under subclause (2)(a)(i) of electricity the customer will consume over the 12 month period, taking into account any meter readings and relevant seasonal and other factors agreed with the customer; and

(ii) unless otherwise agreed, if there is a difference between the initial estimate and the re-estimate of greater than 10%, the amount payable under each of the remaining bills in the 12 month period is to be reset to reflect that difference; and

(d) that, at the end of the 12 month period, or any other time agreed between the retailer and the customer and at the end of the bill smoothing arrangement, the meter is read and any adjustment is included on the next bill in accordance with undercharging or overcharging is adjusted for under clause 4.194.14; and

(e) the retailer has obtained the customer’s explicit informed verifiable consent to the retailer billing on that basis.

4.4 How bills are issued

A retailer must issue a bill to a customer at the customer’s supply address, unless the customer has nominated another address or an electronic address.

Division 2 - Contents of a Bill

4.5 Particulars on each bill

(1) Unless the customer agrees otherwise, subject to subclause (k), a retailer must include at least the following information on a customer’s bill –

(a) either the range of dates of the metering supply period or the date of the current meter reading or estimate;

(b) if the customer has a Type 7 connection point, the procedures referred to in clause 4.6(1)(c);

(c) if the customer has an accumulation meter installed (whether or not the customer has entered into an export purchase agreement with a retailer) –

(b)(i) the current meter reading or estimate if the customer has an accumulation meter installed; and

(ii) if the customer is on a time of use tariff, the current meter reading or estimate for the total of each time band in the time of use tariff;

(d) if the customer has not entered into an export purchase agreement with a retailer –

(e)(i) the customer’s total consumption, or estimated consumption; and

(ii) if the customer is on a time of use tariff, the customer’s consumption or estimated consumption for the total of each time band in the time of use tariff.
(e) if the customer has entered into an export purchase agreement with a retailer—
   (i) the customer's consumption and export;
   (ii) if the customer is on a time of use tariff, the customer's consumption and export for the total of each time band in the time of use tariff, and
   (iii) if the customer has an accumulation meter installed and the export meter reading has been obtained by the retailer, the export meter reading;

(f) the number of days covered by the bill;

(g) the dates on which the account period begins and ends;

(h) the relevant tariffs;

(i) the amount of any other fees or charges and details of the service provided;

(j) with respect to a residential customer, a statement that the residential customer may be eligible to receive concessions and how the residential customer may find out its eligibility for those concessions;

(k) the value and type of any concessions provided to the residential customer that are administered by the retailer (other than a rebate relating to air conditioning);

[Note: The rebate relating to air conditioning will continue to be provided to customers. However, the exact amount of the rebate will not be included on the bill, but will be provided separately to customers.]

(l) if applicable, a statement on the bill that an additional fee may be imposed to cover the costs of late payment from a customer;

(m) the average daily cost of electricity consumption;

(n) the average daily consumption;

(o) a meter identification number (clearly placed on the part of the bill that is retained by the customer);

(p) the amount due;

(q) the due date;

(r) a summary of the payment methods;

(s) a statement advising the customer that assistance is available if the customer is experiencing problems paying the bill;

(t) a telephone number for billing and payment enquiries;

(u) a telephone number for complaints;

(v) the contact details for the electricity ombudsman;

(w) the distributor's 24 hour telephone number for faults and emergencies;

(x) the supply address and any relevant mailing address;

(y) the customer's name and account number;

(z) the amount of arrears or credit;
(y)(aa) if applicable and not included on a separate statement –
   (i) payments made under an instalment plan; and
   (ii) the total amount outstanding under the instalment plan;

(z)(bb) with respect to residential customers, the National Interpreter Symbol with the words “Interpreter Services”;

(aa)(cc) the retailer’s telephone number for TTY services; and

(bb)(dd) to the extent that the data is available, a graph or bar chart illustrating the customer’s amount due or consumption for the period covered by the bill, the previous bill and the bill for the same period last year.

(2) Notwithstanding subclause (1)(dd)(bb), a retailer is not obliged to include a graph or bar chart on the bill if the bill is not –
   (a) indicative of the customer’s actual consumption; or
   (b) based upon a meter reading.

(3) If a retailer identifies a historical debt and wishes to bill the customer for that historical debt, the retailer must advise the customer of –
   (a) the amount of the historical debt; and
   (b) the basis of the historical debt,

before, with, or on the customer’s next bill.

Division 3 - Basis of Bill

4.6 Basis of bill

(1) Subject to clause 4.8, a retailer must base a customer’s bill on –
   (a) the distributor’s or metering agent’s reading of the meter at the customer’s supply address, or
   (b) the customer’s reading of the meter at the customer’s supply address, provided the customer agreed with the retailer that the customer will read the meter for the purpose of determining the amount due; or
   (c) where the connection point is a Type 7 connection point, the procedure as set out in the metrology procedure or Metering Code.

(2) Prior to a customer reading a meter under subclause (1)(b), the retailer must give the customer information that explains in clear, simple and concise language how to read a meter correctly.

4.7 Frequency of meter readings

(1) Other than in respect of a Type 7 connection point, a retailer must use its best endeavours to ensure that metering data is obtained, as frequently as required to prepare its bills.

(2) A retailer must ensure that and in any event at least once every twelve 12 months it obtains metering data in accordance with clause 4.6(1)(a).
4.8 Estimations

(1) If a retailer is unable to reasonably base a bill on a reading of the meter at a customer's supply address, the retailer must give the customer an estimated bill.

(2) If a retailer bases a bill upon an estimation, the retailer must specify in a visible and legible manner on the customer's bill that —
(a) the retailer has based the bill upon an estimation;
(b) the retailer will tell the customer on request —
   (i) the basis of the estimation; and
   (ii) the reason for the estimation; and
(c) the customer may request —
   (i) a verification of a meter reading; and
   (ii) a meter reading.

(3) A retailer must tell a customer on request the —
(a) basis for the estimation; and
(b) reason for the estimation.

4.9 Adjustments to subsequent bills

If a retailer gives a customer an estimated bill and the meter is subsequently read, the retailer must include an adjustment on the next bill to take account of the actual meter reading in accordance with clause 4.19.

4.10 Customer may request meter reading

If a retailer has based a bill upon an estimation because the customer failed to provide access to the meter and the customer —
(a) subsequently requests the retailer to replace the estimated bill with a bill based on an actual reading of the customer's meter;
(b) pays the retailer's reasonable charge for reading the meter (if any); and
(c) provides due access to the meter,
the retailer must use its best endeavours to do so.

Division 4 – Meter testing

4.11 Customer requests testing of meters or metering data

(1) If a customer —
   (a) requests the meter to be tested; and
   (b) pays the retailer's reasonable charge for testing the meter (if any),
the retailer must request the distributor or metering agent to test the meter.

(2) If the meter is tested and found to be defective, the retailer's reasonable charge for testing the meter (if any) is to be refunded to the customer.

Division 5 – Alternative Tariffs

4.12 Customer applications

(1) If a retailer offers alternative tariffs and a customer –
   (a) applies to receive an alternative tariff, and
   (b) demonstrates to the retailer that the customer satisfies all of the conditions relating to eligibility for the alternative tariff,
   the retailer must change the customer to the alternative tariff within 10 business days of the customer satisfying those conditions.

(2) For the purposes of subclause (1), the effective date of change will be –
   (a) the date on which the last meter reading at the previous tariff is obtained; or
   (b) the date the meter adjustment is completed, if the change requires an adjustment to the meter at the customer's supply address.

4.13 Written notification of a change to an alternative tariff

If –
   (a) a customer's electricity use at the customer's supply address changes or has changed; and
   (b) the customer is no longer eligible to continue to receive an existing, more beneficial tariff,

the retailer must, prior to changing the customer to the tariff applicable to the customer's use of electricity at that supply address, give the customer written notice of the proposed change.

4.14 Overcharging or undercharging as result of change in electricity use

(1) If a retailer has undercharged a customer as a result of a change in the customer's electricity use at the customer's supply address, the period for which the retailer may recover any amounts undercharged is limited to 12 months prior to the date on which the retailer notified the customer under clause 4.13.

(2) If a retailer has overcharged a customer as a result of a change in the customer's electricity use at the customer's supply address, the retailer must repay the customer the amount overcharged.
Division 6 – Final bill

4.154.14 Request for final bill

(1) If a customer requests the retailer to issue a final bill at the customer’s supply address, the retailer must use reasonable endeavours to arrange for that bill in accordance with the customer’s request.

(2) If the customer’s account is in credit at the time of account closure, the retailer must repay the amount to the customer.

Division 7 – Review of bill

4.164.15 Review of bill

Subject to a customer –

(a) paying –

(i) that portion of the bill under review that the customer and a retailer agree is not in dispute; or

(ii) an amount equal to the average amount of the customer’s bills over the previous 12 months (excluding the bill in dispute), whichever is less; and

(b) paying any future bills that are properly due,

a retailer must review the customer’s bill on request by the customer.

4.174.16 Procedures following a review of a bill

(1) If, after conducting a review of a bill, a retailer is satisfied that the bill is –

(a) correct, the retailer –

(i) may require a customer to pay the unpaid amount;

(ii) must advise the customer that the customer may request the retailer to arrange a meter test in accordance with applicable law; and

(iii) must advise the customer of the existence and operation of the retailer’s internal complaints handling processes and details of any applicable external complaints handling processes,

or

(b) incorrect, the retailer must adjust the bill in accordance with clauses 4.174.48 and 4.184.49.

(2) The retailer must inform a customer of the outcome of the review as soon as practicable.

(2)(3) If the retailer has not informed a customer of the outcome of the review, but, in any event, within 20 business days from the date of receipt of the request for review under clause 4.154.16, the retailer must provide the customer with notification of the status of the review as soon as practicable.
Division 8 – Undercharging, overcharging and adjustment

4.184.17 Undercharging

(1) This clause 4.174.18 applies whether the undercharging became apparent through a review under clause 4.154.16 or otherwise.

(2) If a retailer proposes to recover an amount undercharged as a result of an error, defect or default for which act or omission by the retailer or distributor is responsible (including where a meter has been found to be defective), the retailer must –

(a) subject to subclause (b), limit the amount to be recovered to no more than the amount undercharged in the 12 months prior to the date on which the retailer notified the customer that undercharging had occurred;

(b) other than in the event that the information provided by the customer is incorrect, where a retailer has changed a customer to an alternative tariff in the circumstances set out in clause 4.13 and, as a result of that change, the retailer has undercharged a customer, limit the amount to be recovered to no more than the amount undercharged in the 12 months prior to the date on which the retailer notified the customer under clause 4.13.

(c) list the amount to be recovered as a separate item in a special bill or in the next bill, together with an explanation of that amount;

(d) not charge the customer interest on that amount or require the customer to pay a late payment fee; and

(e) in relation to a residential customer, offer the customer time to pay that amount by means of an instalment payment-plan in accordance with clause 6.4(2) and covering a period at least equal to the period over which the recoverable undercharging occurred.

(3) In this clause –

"undercharging" includes, without limitation, failure to issue a bill.

4.194.18 Overcharging

(1) This clause 4.184.19 applies whether the overcharging became apparent through a review under clause 4.154.16 or otherwise.

(2) If a customer (including a customer who has vacated the supply address) has been overcharged as a result of an error, defect or default for which act or omission of a retailer or distributor is responsible (including where a meter has been found to be defective), the retailer must use its best endeavours to inform the customer accordingly within 10 business days of the retailer becoming aware of the error, defect or default and, subject to subclause (6), ask the customer for instructions as to whether the amount should be –

(a) credited to the customer’s account; or

(b) repaid to the customer.
(3) If a retailer receives instructions under subclause (2), the retailer must pay the amount in accordance with the customer's instructions within 12 business days of receiving the instructions.

(4) If a retailer does not receive instructions under subclause (2) within 20 business days of making the request, the retailer must use reasonable endeavours to credit the amount overcharged to the customer's account.

(5) No interest shall accrue to a credit or refund referred to in subclause (2).

(6) Where the amount referred to in subclause (2) is less than $7545 the retailer may, notwithstanding clause 4.18(2), notify the customer of the overcharge by no later than the next bill after the retailer became aware of the error, and –

(a) ask the customer for instructions pursuant to subclause (2) (in which case subclauses (3) and (4) apply as if the retailer sought instructions under subclause (2)); or

(b) credit the amount to the customer's account (in which case subclause (3) applies as if the customer instructed the retailer to credit the customer's account).

4.19 Adjustments

(1) If a retailer proposes to recover an amount of an adjustment which does not arise due to any act or omission of the customer, the retailer must –

(a) limit the amount to be recovered to no more than the amount of the adjustment for the 12 months prior to the date on which the meter was read on the basis of the retailer's estimate of the amount of the adjustment for the 12 month period taking into account any meter readings and relevant seasonal and other factors agreed with the customer;

(b) list the amount of the adjustment as a separate item in a special bill or in the next bill, together with an explanation of that amount;

(c) not require the customer to pay a late payment fee; and

(d) in relation to a residential customer, offer the customer time to pay that amount by means of an instalment plan in accordance with clause 6.4(2) and covering a period at least equal to the period to which the adjustment related.

(2) If the meter is read pursuant to either clause 4.6 or clause 4.3(2)(d) and the amount of the adjustment is an amount owing to the customer, the retailer must use its best endeavours to inform the customer accordingly within 10 business days of the retailer becoming aware of the adjustment and, subject to subclause (5), ask the customer for instructions as to whether the amount should be –

(a) credited to the customer's account;

(b) repaid to the customer; or

(c) included as a part of the new bill smoothing arrangement where the adjustment arises under clause 4.3(2)(a)-(b).

(3) If a retailer received instructions under subclause (2), the retailer must pay the amount in accordance with the customer's instructions within 12 business days of receiving the instructions.
(4) If a retailer does not receive instructions under subclause (2), within 20 business days of making the request, the retailer must use reasonable endeavours to credit the amount of the adjustment to the customer’s account.

(5) Where the amount referred to in subclause (2) is less that $75 the retailer may, notwithstanding clause (2), notify the customer of the adjustment by no later than the next bill after the meter is read; and

(a) ask the customer for instructions pursuant to subclause (2), (in which case subclauses (3) and (4) apply as if the retailer sought instructions under subclause (2)); or

(b) credit the amount to the customer’s account (in which case subclause (3) applies as if the customer instructed the retailer to credit the customer’s account).

(6) No interest shall accrue to an adjustment amount under subclause (1) or (2).
5.1 Due dates for payment*
(1) The due date on a bill must be at least 12 business days from the date of that bill.
(2) Unless a retailer specifies a later date, the date of dispatch is the date of the bill.

5.2 Minimum payment methods*
(1) A retailer must offer a customer at least the following payment methods—
   (a) in person at one or more payment outlets located within the Local Government District of the customer's supply address;
   (b) by mail;
   (c) for residential customers, by Centrepay;
   (d) electronically by means of BPays or credit card; and
   (e) by telephone by means of credit card.

(2) All electronic payment arrangements must comply with the Electronic Funds Transfer Code of Conduct.

5.3 Direct debit
If a retailer offers the option of payment by direct debit to a customer, the retailer must, prior to the direct debit commencing, obtain the customer's verifiable consent, and agree with the customer—
   (a) wherever possible, the amount to be debited; and
   (b) the date and frequency of the direct debit.

5.4 Payment in advance*
(1) A retailer must accept payment in advance from a customer on request.
(2) Acceptance of an advance payment by a retailer will not require the retailer to credit any interest to the amounts paid in advance.
(3) Subject to clause 6.9, for the purposes of subclause (1), $20 is the minimum amount for which the retailer will accept advance payments.

5.5 Absence or illness
If a residential customer is unable to pay by way of the methods described in clause 5.2, due to illness or absence, a retailer must offer the residential
customer on request redirection of the residential customer's bill to a third person at no charge.

5.6 Late payments

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

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

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

(ii) an instalment plan under Part 6, and the residential customer is making payments 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 retailer, any late payment fee shall only be calculated from the date of the electricity ombudsman’s decision; or

(d) the residential customer is assessed by the retailer under clause 6.1(1) as being in financial hardship.

(2) If a retailer has charged a residential customer a late payment fee, the retailer must not charge an additional late payment fee in relation to the same bill within 5 business days from the date of receipt of the previous late payment fee notice.

(3) A retailer must not charge a residential customer more than 2 late payment fees in relation to the same bill and 12 late payment fees in a year.

(4) If a residential customer has been assessed by a retailer as being in financial hardship pursuant to clause 6.1(1), the retailer must retrospectively waive any late payment fee charged pursuant to the residential customer’s last bill prior to the assessment being made.

5.7 Vacating a supply address*

(1) Subject to –

(a) subclauses (2) and (4);

(b) the customer giving the retailer notice; and

(c) the customer vacating the supply address at the time specified in the notice,

a retailer must not require a customer to pay for electricity consumed at the customer’s supply address from –

(d) the date the customer vacated the supply address, if the customer gave at least 3 business days notice; or

(e) 5 days after the customer gave notice, in any other case.

(2) If a customer reasonably demonstrates to a retailer that the customer was evicted or otherwise required to vacate the supply address, the retailer must
not require the customer to pay for electricity consumed at the customer's supply address from the date the customer gave the retailer notice.

(3) For the purposes of subclauses (1) and (2), notice is given if a customer –

(a) informs a retailer of the date on which the customer intends to vacate, or has vacated the supply address; and

(b) gives the retailer a forwarding address to which a final bill may be sent.

(4) Notwithstanding subclauses (1) and (2), if –

(a) a retailer and a customer enter into a new contract for the supply address, a retailer must not require the previous customer to pay for electricity consumed at the customer's supply address from the date that the new contract becomes effective;

(b) another retailer becomes responsible for the supply of electricity to the supply address, the previous retailer must not require the customer to pay for electricity consumed at the customer's supply address from the date that the other retailer becomes responsible; and

(c) the supply address is disconnected, the retailer must not require the customer to pay for electricity consumed at the customer's supply address from the date that disconnection occurred.

(5) Notwithstanding subclauses (1), (2) and (4), a retailer's right to payment does not terminate with regard to any amount that was due up until the termination of the contract.

5.8 Debt collection


(2) A retailer must not commence proceedings for recovery of a debt –

(a) from a residential customer who has informed the retailer in accordance with clause 6.1(1) that the residential customer is experiencing payment difficulties or financial hardship, unless and until the retailer has complied with all the requirements of clause 6.1 and (if applicable) clause 6.3; and

(b) while a residential customer continues to make payments under an alternative payment arrangement under Part 6.

(3) A retailer must not recover or attempt to recover a debt relating to a supply address from a person other than the customer with whom the retailer has or had entered into a contract for the supply of electricity to that customer's supply address.
Division 1 – Assessment of financial situation

6.1 Assessment

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

(2) When undertaking the assessment required by subclause (1), a retailer must give reasonable consideration to –

(a) information –

(i) given by the residential customer, and

(ii) requested or held by the retailer, or

(b) advice given by an independent financial counsellor or relevant consumer representative organisation.

(3) A retailer must advise a residential customer on request of the details and outcome of an assessment carried out under subclause (1).

(4) In this clause

"payment problems" includes, without limitation, payment problems relating to a historical debt.

6.2 Temporary suspension of actions

(1) If, for the purposes of clause 6.1, a residential customer –

(a) requests a temporary suspension of actions; and

(b) demonstrates to a retailer that the residential customer has made an appointment with a relevant consumer representative organisation to assess the residential customer’s capacity to pay,

the retailer must not unreasonably deny the residential customer’s request.

(2) A temporary suspension of actions must be for at least 15 business days.

(3) If a relevant consumer representative organisation is unable to assess a residential customer’s capacity to pay within the period referred to in subclause (2) and the residential customer or relevant consumer representative organisation requests additional time, a retailer must give reasonable consideration to the residential customer’s or relevant consumer representative organisation’s request.

(4) In this clause

"temporary suspension of actions" means a situation where a retailer temporarily suspends all disconnection and debt recovery procedures
without entering into an alternative payment arrangement under clause 6.4(1).

6.3 Assistance to be offered

(1) If the assessment carried out under clause 6.1 indicates to the retailer that the residential customer is experiencing –

(a) payment difficulties, the retailer must –

(i) offer the residential customer the alternative payment arrangements referred to in clause 6.4(1); and

(ii) advise the residential customer that additional assistance may be available if, due to financial hardship, the residential customer would be unable to meet its obligations under an agreed alternative payment arrangement, or

(b) financial hardship, the retailer must offer the residential customer –

(i) the alternative payment arrangements referred to in clause 6.4(1); and

(ii) assistance in accordance with clauses 6.6 to 6.9.

(2) Subclause (1) does not apply if a retailer is unable to make an assessment under clause 6.1 as a result of an act or omission by a residential customer.

Division 2 – Residential customers experiencing payment difficulties or financial hardship

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.

(2) When offering an instalment plan under subclause (1)(b), a retailer must –

(a) take into account information about the residential customer’s usage needs and capacity to pay when determining the period of the plan and calculating the amount of the instalments;

(b) specify the period of the plan;

(c) specify the number of instalments;

(d) specify the amount of the instalments which will pay the residential customer’s arrears (if any) and estimated consumption during the period of the plan;

(e) specify how the amount of the instalments is calculated;
(f) specify that due to seasonal fluctuations in the residential customer's usage, paying in instalments may result in the residential customer being in credit or debit during the period of the plan;

(g) have in place fair and reasonable procedures to address payment difficulties a residential customer may face while on the plan; and

(h) make provision for re-calculation of the amount of the instalments where the difference between the residential customer's estimated consumption and actual consumption may result in the residential customer being significantly in credit or debit at the end of the period of the plan.

(3) If a residential customer has, in the previous twelve months, had two instalment plans cancelled due to non-payment, a retailer does not have to offer that residential customer another instalment plan under subclause (1)(b), unless the retailer is satisfied that the residential customer will comply with the instalment plan.

(4) For the purposes of subclause (3), cancellation does not include the revision of an instalment plan under clause 6.7.

Division 3 – Assistance available to residential customers experiencing financial hardship

6.5 Definitions

In this division –

"customer experiencing financial hardship" means a residential customer who has been assessed by a retailer under clause 6.1(1) as experiencing financial hardship.

Subdivision 1 - Specific assistance available

6.6 Reduction of fees, charges and debt

(1) A retailer must give reasonable consideration to a request by a customer experiencing financial hardship, or a relevant consumer representative organisation, for a reduction of the customer's fees, charges or debt.

(2) In giving reasonable consideration under subclause (1), a retailer should refer to the guidelines in its hardship policy referred to in clause 6.10(2)(d).

6.7 Revision of alternative payment arrangements

If a customer experiencing financial hardship, or a relevant consumer representative organisation, reasonably demonstrates to a retailer that the customer is unable to meet the customer's obligations under a previously elected payment arrangement under clause 6.4(1), the retailer must give reasonable consideration to –

(a) offering the customer an instalment plan, if the customer had previously elected a payment extension under clause 6.4(1)(a); or
(b) offering to revise the instalment plan, if the customer had previously elected an instalment plan under clause 6.4(1)(b).

6.8 Provision of information

A retailer must advise a customer experiencing financial hardship 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;
(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 counselling and other relevant consumer representative organisations available to the customer, and
(g) availability of any other financial assistance and grants schemes that the retailer should reasonably be aware of and how to access them.

6.9 Payment in advance

(1) A retailer must determine the minimum payment in advance amount, as referred to in clause 5.4(3), for residential customers experiencing payment difficulties or financial hardship in consultation with relevant consumer representative organisations.

(2) A retailer may apply different minimum payment in advance amounts for residential customers experiencing payment difficulties or financial hardship and other customers.

Subdivision 2 – Hardship policy

6.10 Obligation to develop hardship policy

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

(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 customers consistently with the obligation in subclause paragraph (c);
(c) ensure that customers experiencing financial hardship are treated sensitively and respectfully; and

(d) include guidelines –

(i) that –

(A) ensure ongoing consultation with relevant consumer representative organisations (including the provision of a direct telephone number of the retailer’s credit management staff, if applicable, to financial counsellors and relevant consumer representative organisations); and

(B) provide for annual review of the hardship policy in consultation with relevant consumer representative organisations;

(ii) that assist the retailer in identifying residential customers who are experiencing financial hardship;

(iii) for suspension of disconnection and debt recovery procedures;

(iv) on the reduction and/or waiver of fees, charges and debt; and

(v) on the recovery of debt.

(3) A retailer must give residential customers, financial counsellors and relevant consumer representative organisations details of the hardship policy at no charge. The retailer must provide all residential customers that have been identified by the retailer as experiencing financial hardship, details of the hardship policy, including by post, if requested.

(4) A retailer must keep a record of –

(a) the relevant consumer representative organisations consulted on the contents of the hardship policy;

(b) the date the hardship policy was established;

(c) the dates the hardship policy was reviewed; and

(d) the dates the hardship policy was amended.

(5) The retailer must, unless otherwise notified in writing by the Authority, review its hardship policy at least annually and submit to the Authority the results of that review within 5 business days after it is completed.

(6) The retailer may, at any time, review its hardship policy and submit to the Authority the results of that review within 5 business days after it is completed.

(7) Any review of a retailer’s hardship policy must have regard to the Authority’s Financial Hardship Policy Guidelines.

(8) Subject to subclause (9) when a retailer has reviewed its hardship policy pursuant to subclauses (5) or (6), the Authority will examine –

(a) the review to assess whether a retailer’s hardship policy has been reviewed consistently with the Financial Hardship Policy Guidelines pursuant to subclause (7); and

(b) the hardship policy to assess whether a retailer’s hardship policy complies with this clause of the Code.

(9) The Authority will only conduct a review of a retailer’s hardship policy pursuant to subclause (8) a maximum of once per year.
Division 4 – Business customers experiencing payment difficulties

6.11 Alternative payment arrangements

A retailer must consider any reasonable request for alternative payment arrangements from a business customer who is experiencing payment difficulties.
Division 1 – Conduct in relation to disconnection

Subdivision 1 – Disconnection for failure to pay bill

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, including by telephone or electronic means or other method;
   (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) 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
      (ii) 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.

(2) For the purposes of subclause (1), a customer has failed to pay a retailer's bill if the customer has not –
   (a) paid the retailer's bill by the due date;
   (b) agreed with the retailer to an offer of an instalment plan or other payment arrangement to pay the retailer's bill; or
   (c) adhered to the customer's obligations to make payments in accordance with an agreed instalment plan or other payment arrangement relating to the payment of the retailer's bill.

7.2 Limitations on disconnection for failure to pay bill
(1) Notwithstanding clause 7.1, a retailer must not arrange for the disconnection of a customer's supply address for failure to pay a bill –
(a) within 1 business day after the expiry of the period referred to in the
disconnection warning;

(b) if the retailer has made the residential customer an offer in
accordance with clause 6.4(1) and the residential customer –

(i) has accepted the offer before the expiry of the period specified by
the retailer in the disconnection warning; and

(ii) has used reasonable endeavours to settle the debt before the
expiry of the time frame specified by the retailer in the
disconnection warning;

(c) if the amount outstanding is less than an amount approved and
published by the Authority in accordance with subclause (2) and the
customer has agreed with the retailer to repay the amount outstanding;

(d) if the customer has made an application for a concession and a
decision on the application has not yet been made;

(e) if the customer has failed to pay an amount which does not relate to the
supply of electricity; or

(f) if the supply address does not relate to the bill (unless the customer
has failed to make payments relating to an outstanding debt for a
supply address previously occupied by the customer).

(2) For the purposes of subclause (1)(c), the Authority may approve and
publish, in relation to failure to pay a bill, an amount outstanding below which
a retailer must not arrange for the disconnection of a customer's supply
address.

7.3 Dual fuel contracts

If a retailer and a customer have entered into –

(a) a dual fuel contract; or

(b) separate contracts for the supply of electricity and the supply of gas,
under which –

(i) a single bill for energy is; or

(ii) separate, simultaneous bills for electricity and gas are,

issued to the customer,

the retailer must not arrange for disconnection of the customer's supply
address for failure to pay a bill within 15 business days from arranging for
disconnection of the customer's gas supply.
Subdivision 2 – Disconnection for denying access to meter

7.4 General requirements

(1) A retailer must not arrange for the disconnection of a customer’s supply address for denying access to the meter, unless –

(a) the customer has denied access for at least 12 consecutive months;

(b) the retailer has, prior to giving the customer a disconnection warning under subclause paragraph (f), at least once given the customer in writing 5 business days notice –

(i) advising the customer of the next date or timeframe of a scheduled meter reading at the supply address;

(ii) requesting access to the meter at the supply address for the purpose of the scheduled meter reading; and

(iii) advising the customer of the retailer’s ability to arrange for disconnection if the customer fails to provide access to the meter;

(c) the retailer has given the customer an opportunity to provide reasonable alternative access arrangements;

(d) where appropriate, the retailer has informed the customer of the availability of alternative meters which are suitable to the customer’s supply address;

(e) the retailer has used its best endeavours to contact the customer to advise of the proposed disconnection; and

(f) the retailer has given the customer a disconnection warning with at least 5 business days notice of its intention to arrange for disconnection (the 5 business days shall be counted from the date of receipt of the disconnection warning).

(2) A retailer may arrange for the distributor to carry out one or more of the requirements referred in subclause (1) on behalf of the retailer.

Subdivision 3 – Disconnection for emergencies

7.5 General requirements

If a distributor disconnects a customer’s supply address for emergency reasons, the distributor must –

(a) provide, by way of a 24 hour emergency line at the cost of a local call, information on the nature of the emergency and an estimate of the time when supply will be restored; and

(b) use its best endeavours to restore supply to the customer’s supply address as soon as possible.
7.6 General limitations on disconnection

Except if disconnection –

(a) was requested by the customer; or

(b) occurred for emergency reasons,

a retailer or a distributor must not arrange for disconnection or disconnect a customer's supply address –

(c) where the customer has made a complaint, directly related to the reason for the proposed disconnection, to the retailer, distributor, electricity ombudsman or another external dispute resolution body and the complaint remains unresolved;

(d) after 3.00 pm Monday to Thursday;

(e) after 12.00 noon on a Friday; and

(f) on a Saturday, Sunday, public holiday or on the business day before a public holiday, except in the case of a planned interruption;

unless –

(g) the customer is a business customer; and

(h) the business customer's normal trading hours –

(i) fall within the time frames set out in paragraphs (d), (e) or (f); and

(ii) do not fall within any other time period; and

(i) it is not practicable for the retailer or distributor to arrange for disconnection at any other time.

7.7 Life support

(1) If a customer provides a retailer with confirmation from an appropriately qualified medical practitioner that a person residing at the customer's supply address requires life support equipment the retailer must –

(a) register the customer's supply address as a life support equipment address;

(b) give the customer's distributor relevant information about the customer's supply address for the purpose of updating the distributor's records and registers; and

(c) not arrange for disconnection of that customer's supply address for failure to pay a bill while the person continues to reside at that address and require the use of life support equipment.

(2) Where a distributor has been informed by a retailer under subclause (1)(b) or by a relevant government agency that a person residing at a customer's supply address requires life support equipment, the distributor must –

(a) register the customer's supply address as a life support equipment address;
(b) not disconnect that customer's supply address for failure to pay a bill while the person continues to reside at that address and require the use of life support equipment; and

c) give the customer at least 3 days written notice of any planned interruptions to supply at the customer's supply address (the 3 days to be counted from the date of receipt of the notice).

(3) When a person—

(a) who requires life support equipment, vacates the supply address; or

(b) who required life support equipment, no longer requires the life support equipment;

a retailer's and distributor's obligation under subclauses (1) and (2) terminates.

7.7 Life Support

(1) If a customer provides a retailer with confirmation from an appropriately qualified medical practitioner that a person residing at the customer's supply address requires life support equipment, the retailer must—

(a) register the customer's supply address and contact details as a life support equipment address;

(b) register the life support equipment required by the customer;

(c) notify the customer's distributor that the customer's supply address is a life support equipment address, and of the contact details and the life support equipment required by the customer—

(i) that same day, if the confirmation is received before 3pm on a business day; or

(ii) the next business day, if the confirmation is received after 3pm or on a Saturday, Sunday or public holiday; and

(d) not arrange for disconnection of that customer's supply address for failure to pay a bill while the person continues to reside at that address and requires the use of life support equipment.

(2) If a customer registered with a retailer under subclause (1) notifies the retailer of a change of the customer's supply address, contact details, life support equipment, or that the customer's supply address no longer requires registration as a life support equipment address, the retailer must—

(a) register the change of details;

(b) notify the customer's distributor of the change of details—

(i) that same day, if the notification is received before 3pm on a business day; or

(ii) the next business day, if the notification is received after 3pm or on a Saturday, Sunday or public holiday; and

(c) continue to comply with subclause (1)(d) with respect to that customer's supply address.

(3) Where a distributor has been informed by a retailer under subclause (1)(c) or by a relevant government agency that a person residing at a customer's supply address requires life support equipment, or of a change of details notified to the retailer under subclause (2), the distributor must—
(a) register the customer’s supply address as a life support equipment address –
   (i) the next business day, if the notification is received before 3pm on a business day; or
   (ii) within 2 business days, if the notification is received after 3pm or on a Saturday, Sunday or public holiday;

(b) where informed by a relevant government agency, notify the retailer in accordance with the timeframes specified in subclause (3)(a);

(c) not disconnect that customer’s supply address for failure to pay a bill while the person continues to reside at that address and require the use of life support equipment; and

(d) prior to any planned interruption, provide at least 3 business days written notice to the customer’s supply address (the 3 days to be counted from the date of receipt of the notice), and use best endeavours to obtain verbal or written acknowledgement from the customer that the notice has been received.

(4) Where the distributor has –

(a) already provided notice of a planned interruption under the Electricity Industry Code that will affect a supply address; and

(b) has been informed by a retailer under subclause 7.7(1)(c) or by a relevant government agency that a person residing at a customer’s supply address requires life support equipment,

the distributor must use best endeavours to contact that customer prior to the planned interruption.

(5) When a person –

(a) who requires life support equipment, vacates the supply address; or

(b) who required life support equipment, no longer requires the life support equipment,

the retailer’s and distributor’s obligations under subclauses (1), (3) and (4) terminate.
8.1 Reconnection by retailer*

(1) If a retailer has arranged for disconnection of a customer’s supply address due to –

(a) failure to pay a bill, and the customer has paid or agreed to accept an offer of an instalment plan, or other payment arrangement;

(b) the customer denying access to the meter, and the customer has subsequently provided access to the meter; or

(c) illegal use of electricity, and the customer has remedied that breach, and has paid, or made an arrangement to pay, for the electricity so obtained,

the retailer must arrange for reconnection of the customer’s supply address, subject to –

(d) the customer making a request for reconnection; and

(e) the customer –

(i) paying the retailer’s reasonable charge for reconnection, if any; or

(ii) accepting an offer of an instalment plan for the retailer’s reasonable charges for reconnection, if any.

(2) For the purposes of subclause (1), a retailer must forward the request for reconnection to the relevant distributor –

(a) that same business day, if the request is received before 3pm on a business day; or

(b) no later than the next business day, if the request is received –

(i) after 3pm on a business day, or

(ii) on a Saturday, Sunday or public holiday in Western Australia.

8.2 Reconnection by distributor

(1) If a distributor has disconnected a customer’s supply address on request by the customer’s retailer, and the retailer has subsequently requested the distributor to reconnect the customer’s supply address, the distributor must reconnect the customer’s supply address.

(2) For the purposes of subclause (1), a distributor must reconnect the customer’s supply address –

(a) for supply addresses located within the metropolitan area –

(i) within 1 business day of receipt of the request, if the request is received prior to 3pm on a business day; and
(ii) within 2 business days of receipt of the request, if the request is received after 3pm on a business day or on a Saturday, Sunday or public holiday in Western Australia;

(b) for supply addresses located within the regional area –

(i) within 5 business days of receipt of the request, if the request is received prior to 3pm on a business day, and

(ii) within 6 business days of receipt of the request, if the request is received after 3pm on a business day, or on a Saturday, Sunday or public holiday in Western Australia.

(3) Subclause (2) does not apply in the event of an emergency.

8.3 Priority Restoration Register

(1) A distributor must create and maintain a Priority Restoration Register.

(2) The Priority Restoration Register must comply with any criteria determined by the Minister.

NOTE: Clause 8.3 to be deleted when obligation is transferred to electricity distribution licenses (along with definition of Priority Restoration Register from clause 1.5).
Part 9
Pre-payment Meters

9.1 Definitions
In this Part—

"credit retrieval" means the ability for a pre-payment meter customer to recover any payments made for the supply of electricity.

"disconnected" means the interruption to supply and includes an interruption to supply because the pre-payment meter has no credit available.

"pre-payment meter service" means a service for the supply of electricity where the customer agrees to purchase electricity by means of a pre-payment meter.

"recharge facility" means a facility where a pre-payment meter customer can purchase credit for the pre-payment meter including a disposable pre-payment meter card.

"residential pre-payment meter customer" means a customer who has a pre-payment meter operating at the customer's supply address and who consumes electricity solely for domestic use.

9.29.1 Application
(1) Parts 4, 5, 6 (with the exception of clause 6.10), 7 and 8 and clauses 2.4 (other than as specified below), 10.2 and 10.7 of the Code do not apply to a pre-payment meter customer.

(2) A distributor may only operate a pre-payment meter, and a retailer may only offer a pre-payment meter service, in an area that has been declared by the Minister by notice published in the Government Gazette.

9.39.2 Operation of pre-payment meter
(1) A retailer must not provide a pre-payment meter service at a residential customer's supply address without the verifiable consent of the residential customer or the residential customer's nominated representative.

(2) A retailer must establish an account for each pre-payment meter operating at a residential customer's supply address.

(3) A retailer must not, in relation to the offer of, or provision of, a pre-payment meter service—

(a) engage in conduct that is misleading, deceptive or likely to mislead or deceive or that is unconscionable; or

(b) exert undue pressure on a customer, nor harass or coerce a customer.
Subject to any applicable law, a retailer is not obliged to offer a pre-payment meter service to a customer.

9.49.3 Provision of mandatory information

(1) A retailer must advise a residential customer who requests information on the use of a pre-payment meter, at no charge and in clear, simple and concise language —

(a) of all applicable tariffs, fees and charges payable by the residential customer and the basis for the calculation of those charges;

(b) of the tariffs, fees and charges applicable to a pre-payment meter service relative to relevant tariffs, fees and charges which would apply to that residential customer if no pre-payment meter was operating at the residential customer's supply address;

(c) of the retailer's charges, or its best estimate of those charges, to replace or switch a pre-payment meter to a standard meter;

(d) how a pre-payment meter is operated;

(e) how the residential customer may recharge the pre-payment meter (including details of cost, location and business hours of recharge facilities);

(f) of the emergency credit facilities applicable to a pre-payment meter; and

(g) of credit retrieval.

(2) At the time a residential customer enters into a pre-payment meter contract at a residential customer's supply address, a retailer must give the residential customer at no charge —

(a) the information specified within subclause (1);

(b) a copy of the contract;

(c) information on the availability and scope of the Code and the requirement that distributors, retailers and electricity marketing agents comply with the Code;

(d) details of the period at or before the expiry of which the residential customer may replace or switch the pre-payment meter to a standard meter at no cost to the residential customer;

(e) a meter identification number;

(f) a telephone number for enquiries;

(g) a telephone number for complaints;

(h) the distributor's 24 hour telephone number for faults and emergencies;

(i) confirmation of the supply address and any relevant mailing address;

(j) details of any concessions the residential customer may be eligible to receive;

(k) the amount of any concessions to be given to the residential customer;
(l) information on the availability of multi-lingual services (in languages reflective of the retailer's customer base);
(m) information on the availability of TTY services;
(n) advice on how the retailer may assist in the event the customer is experiencing payment difficulties or financial hardship;
(o) advice on how to make a complaint to, or enquiry of, the retailer;
(p) details on external complaints handling processes including the contact details for the electricity ombudsman; and
(q) general information on the safe use of electricity.

(3) A retailer must ensure that the following information is shown on or directly adjacent to a residential customer's pre-payment meter—
(a) the positive or negative financial balance of the pre-payment meter within 1 dollar of the actual balance;
(b) whether the pre-payment meter is operating on normal credit or emergency credit;
(c) a telephone number for enquiries;
(d) the distributor's 24 hour telephone number for faults and emergencies; and
(e) details of the recharge facilities.

(4) A retailer must give a pre-payment meter customer on request, at no charge, the following information—
(a) total energy consumption;
(b) average daily consumption; and
(c) average daily cost of consumption,
for the previous 2 years or since the commencement of the pre-payment meter contract (whichever is the shorter), divided in quarterly segments.

(5) The information to be provided in this clause, with the exception of the information in subclause (3), may be provided in writing to the pre-payment meter customer at the pre-payment meter customer's supply address, another address nominated by the pre-payment meter customer or an electronic address nominated by the pre-payment meter customer.

9.59.4 Reversion

(1) If a pre-payment meter customer notifies a retailer that it wants to replace or switch the pre-payment meter to a standard meter, the retailer must within 1 business day of the request—
(a) send the information referred to in clauses 2.3 and 2.4 to the customer in writing or by electronic means; and
(b) arrange with the relevant distributor to—
   (i) remove or render non-operational the pre-payment meter; and
   (ii) replace or switch the pre-payment meter to a standard meter.

(2) A retailer must not require payment of a charge for reversion to a standard meter if the pre-payment meter customer is a residential customer and
that customer, or its nominated representative, requests reversion of a pre-payment meter under subclause (1) within 3 months of the later of the installation of the pre-payment meter or the date that the customer agrees to enter into a pre-payment meter contract.

(3) Where the pre-payment meter customer requests reversion of a pre-payment meter under subclause (1) after the date calculated in accordance with subclause (2), the pre-payment meter customer must pay the retailer's reasonable charge for reversion to a standard meter (if any). The retailer's obligations under subclause (1) —

(a) if the customer is a residential pre-payment meter customer, are not conditional on the customer paying the retailer's reasonable charge; and

(b) if the customer is not a residential pre-payment meter customer, may be made conditional on the customer paying the retailer's reasonable charge.

(4) If a retailer requests the distributor to revert a pre-payment meter under subclause (1), the distributor must revert the pre-payment meter at the customer's supply address —

(a) for supply addresses located within the metropolitan area —

(i) within 1 business day of receipt of the request, if the request is received prior to 3pm on a business day; and

(ii) within 2 business days of receipt of the request, if the request is received after 3pm on a business day or on a Saturday, Sunday or public holiday in Western Australia;

(b) for supply addresses located within the regional area —

(i) within 5 business days of receipt of the request, if the request is received prior to 3pm on a business day; and

(ii) within 6 business days of receipt of the request, if the request is received after 3pm on a business day, or on a Saturday, Sunday or public holiday in Western Australia.

(5) A retailer must send a notice in writing or by electronic means, to a residential pre-payment meter customer not less than 20 business days and not more than 40 business days prior to the expiry of the 3 month period calculated in accordance with subclause (2) advising the residential pre-payment meter customer of the date of the expiry of the residential pre-payment meter customer's right to revert to a standard meter at no charge and the options available to the residential pre-payment meter customer (including providing the information referred to in clauses 2.3 and 2.4 to the residential pre-payment meter customer).

(6) The information to be provided in subclauses (1) and (5) may be provided in writing to the pre-payment meter customer at the pre-payment meter customer's supply address, another address nominated by the pre-payment meter customer or an electronic address nominated by the pre-payment meter customer.
9.69.5 Life support equipment

(1) A retailer must not provide a pre-payment meter service at the supply address of a residential customer if the residential customer, or a person residing at the residential customer’s supply address, requires life support equipment.

(2) If a pre-payment meter customer notifies a retailer that a person residing at the supply address depends on life support equipment, the retailer must, or must immediately arrange to —
   (a) remove or render non-operational the pre-payment meter at no charge;
   (b) replace or switch the pre-payment meter to a standard meter at no charge; and
   (c) provide information to the pre-payment meter customer about the contract options available to the pre-payment meter customer.

(3) If a retailer requests the distributor to revert a pre-payment meter under subclause (2), the distributor must revert the pre-payment meter at the customer’s supply address as soon as possible and in any event no later than —
   (a) for supply addresses located within the metropolitan area —
      (i) within 1 business day of receipt of the request, if the request is received prior to 3pm on a business day; and
      (ii) within 2 business days of receipt of the request, if the request is received after 3pm on a business day or on a Saturday, Sunday or public holiday in Western Australia;
   (b) for supply addresses located within the regional area —
      (i) within 5 business days of receipt of the request, if the request is received prior to 3pm on a business day; and
      (ii) within 6 business days of receipt of the request, if the request is received after 3pm on a business day, or on a Saturday, Sunday or public holiday in Western Australia.

9.79.6 Requirements for pre-payment meters

(4) A retailer must ensure that a pre-payment meter service —
   (a) only disconnects supply to the pre-payment meter customer —
      (i) between the hours of 9.00am and 2.00pm on a business day; or
      (ii) where the pre-payment meter has no credit left and the pre-payment meter customer has incurred a debt of $20 or more for the supply of electricity from the pre-payment meter,
   (b) is capable of informing the retailer of —
      (i) the number of instances where a pre-payment meter customer has been disconnected; and
      (ii) the duration of each of those disconnections referred to in subclause paragraph (b)(i), at least every month.
(iii) if the pre-payment meter customer is in the metropolitan area, every 2 months; or
(iv) if the pre-payment meter customer is in a regional area—
    (A) every 3 months; unless
    (B) the regional area is also designated as a remote area, in which case, every 6 months;
(c) is capable of recommencing supply and supply is recommenced —
    (i) as soon as information is communicated to the pre-payment meter that a payment to the account has been made; and
    (ii) as soon as possible after payment to the account has been made.

(2) In this clause—
    "remote area" means an area that has been declared by the Minister as such for the purpose of this Code by notice published in the Government Gazette.

9.89.7 Recharge Facilities
A retailer must ensure that —
(a) at least one recharge facility is located as close as practicable to a pre-payment meter, and in any case no further than 40 kilometres away;—
    (i) within the remote community; or
    (ii) within or adjacent to the town reserve of a pre-payment meter customer;
(b) a pre-payment meter customer —
    (i) other than a customer within an ARCPSP community can access a recharge facility between the hours of 9:00am to 5:00pm, Monday to Friday; and
    within an ARCPSP community can access a recharge facility at least 3 hours per day, 5 days per week within the hours determined by the Aboriginal Corporation or relevant entity responsible for the community store facility; and
    (ii)(c) it uses best endeavours to ensure that a pre-payment meter customer can access a recharge facility for periods greater than required under subclause (b); and
(e)(d) the minimum amount to be credited by a recharge facility does not exceed 10 dollars per increment.

9.99.8 Concessions
If a pre-payment meter customer demonstrates to a retailer that the pre-payment meter customer is entitled to receive a concession, the retailer must ensure that the pre-payment meter customer receives the benefit of the concession.
9.109.9 Meter testing

(1) Where a pre-payment meter customer requests that the whole or part of the pre-payment meter be tested, the retailer must, at the request of the customer, make immediate arrangements to — 

(a) check the pre-payment meter customer's metering data; 
(b) check or conduct a test of the pre-payment meter, and/or 
(c) arrange for a check or test by the responsible person for the meter installation at the pre-payment meter customer's connection point. 

(2) If a retailer requests the distributor to check or test a pre-payment meter under subclause (1), the distributor must check or test the pre-payment meter at the customer's supply address. 

(3) A pre-payment meter customer who requests a check or test of the pre-payment meter under subclause (1) must pay the retailer's reasonable charge for checking or testing the pre-payment meter (if any). 

(4) If a pre-payment meter is found to be inaccurate or not operating correctly following a check or test undertaken in accordance with subclause (1), the retailer must — 

(a) immediately arrange for the repair or replacement of the faulty pre-payment meter, 
(b) correct any overcharging or undercharging in accordance with clause 9.11; and 
(c) refund the customer any charges paid by the customer pursuant to this clause for the testing of the pre-payment meter. 

9.149.10 Credit retrieval, overcharging and undercharging

(1) Subject to the pre-payment meter customer notifying a retailer of the proposed vacation date, a retailer must ensure that a pre-payment meter customer can retrieve all remaining credit at the time the pre-payment meter customer vacates the supply address. 

(2) If a pre-payment meter customer (including a pre-payment meter customer who has vacated the supply address) has been overcharged as a result of an act or omission of a retailer or distributor (including where the pre-payment meter has been found to be defective), the retailer must use its best endeavours to inform the pre-payment meter customer accordingly within 10 business days of the retailer becoming aware of the error, and ask the pre-payment meter customer for instructions as to whether the amount should be — 

(a) credited to the pre-payment meter customer's account; or 
(b) repaid to the pre-payment meter customer. 

(3) If a retailer receives instructions under subclause (2), the retailer must pay the amount in accordance with the pre-payment meter customer's instructions within 12 business days of receiving the instructions. 

(4) If a retailer does not receive instructions under subclause (2) within 20 business days of making the request, the retailer must use reasonable
endeavours to credit the amount overcharged to the pre-payment meter customer's account.

(5) No interest shall accrue to a credit or refund referred to in subclause (2).

(6) If a retailer proposes to recover an amount undercharged as a result of an act or omission by the retailer or distributor (including where a pre-payment meter has been found to be defective), the retailer must—

(a) limit the amount to be recovered to no more than the amount undercharged in the 12 months prior to the date on which the retailer notified the pre-payment meter customer that undercharging had occurred;

(b) list the amount to be recovered as a separate item in a special bill or in the next bill (if applicable), together with an explanation of that amount;

(c) not charge the pre-payment meter customer interest on that amount or require the pre-payment meter customer to pay a late payment fee; and

(d) offer the pre-payment meter customer time to pay that amount by means of an instalment payment plan in accordance with clause 6.4(2) (as if clause 6.4(2) applied to the retailer) and covering a period at least equal to the period over which the recoverable undercharging occurred.

(7) Where the amount referred to in subclause (2) is less than $45 the retailer may—

(a) ask the customer for instructions pursuant to subclause (2) (in which case subclauses (3) and (4) apply as if the retailer sought instructions under subclause (2)); or

(b) credit the amount to the customer's account (in which case subclause (3) applies as if the customer instructed the retailer to credit the customer's account).

9.129.11 Debt recovery

(4) Where a customer owes a debt to a retailer, the retailer may only adjust the tariff payable by a pre-payment meter customer to recover any amount owing at a maximum of $1020 on the first day of any amount owing, and then at a rate of no more than $2 per day thereafter, unless otherwise authorised by an applicable law.

9.139.12 Payment difficulties or financial hardship

(1) A retailer must give reasonable consideration to a request by—

(a) a residential pre-payment meter customer that informs the retailer in writing, by telephone or by electronic means that the pre-payment meter customer is experiencing payment difficulties or financial hardship; or

(b) a relevant consumer representative organisation,

for a waiver of any fee payable by the customer to replace or switch a pre-payment meter to a standard meter.
(2) Notwithstanding its obligations under clause 6.10, a retailer must ensure that—

(a) where a residential pre-payment meter customer informs the retailer in writing, by telephone or by electronic means that the pre-payment meter customer is experiencing payment difficulties or financial hardship; or

(b) the retailer identifies that a residential pre-payment meter customer has been disconnected three or more times in any 11-month period for longer than 120 minutes on each occasion,

the retailer must use best endeavours to contact the customer as soon as is reasonably practicable to provide—

(c) the information referred to in clauses 2.3 and 2.4 to the customer;

(d) information about the different types of meters available to the customer;

(e) information about and referral to relevant customer financial assistance programmes, and/or

(f) referral to relevant consumer representative organisations; and/or

(g) information on independent financial and other relevant counselling services.

(3) The information to be provided in subclause (2) may be provided in writing to the pre-payment meter customer at the pre-payment meter customer’s supply address, another address nominated by the pre-payment meter customer or an electronic address nominated by the pre-payment meter customer.

9.149.13 Existing pre-payment meters

(1) Subject to subclause (3), a pre-payment meter installed and operating immediately prior to the amendment date will be deemed to comply with the requirements of this Part 9 for a period of 36 months on and from the amendment date. For the avoidance of doubt, at the expiry of the 36-month period, this subclause (1) will no longer apply to the pre-payment meter and it must comply with the requirements of this Part 9.

(2) Subject to subclause (3), a pre-payment meter that is installed—

(a) during the period commencing on the amendment date and ending on 31 December 2010 (inclusive); and

(b) in a remote or town reserve community in which the Aboriginal and Remote Communities Power Supply Project or Town Reserve Regularisation Program is being implemented,

will be deemed to comply with clauses 9.7(1)(a) and 9.12 for a period of 36 months on and from the amendment date. For the avoidance of doubt, at the expiry of the 36-month period, this subclause (2) will no longer apply to the pre-payment meter and it must comply with the requirements of this Part 9.

(3) When a pre-payment meter covered by subclause (1) or subclause (2) is upgraded or modified for any reason (other than the initial installation), the
modified or upgraded **pre-payment meter** must comply with the applicable requirements of Part 9.

(4) In this clause—

“**amendment date**” means 1 July 2010.
Division 1 – Obligations particular to retailers

10.1 Tariff information
(1) A retailer must give notice to each of its customers affected by a variation in its tariffs as soon as practicable after the variation is published and, in any event, no later than the next bill in a customer’s billing cycle.

(2) A retailer must give a customer on request, at no charge, reasonable information on the retailer’s tariffs, including any alternative tariffs that may be available to that customer.

(3) A retailer must give a customer the information referred to under subclause (2) within 8 business days of the date of receipt. If requested by a customer, the retailer must give the information in writing.

10.2 Historical billing data
(1) A retailer must give a non-contestable customer on request the non-contestable customer’s billing data.

(2) If a non-contestable customer requests billing data under subclause (1) –
   (a) for a period less than the previous two years and no more than once a year; or
   (b) in relation to a dispute with the retailer,
   the retailer must give the billing data at no charge.

(3) A retailer must give a non-contestable customer the billing data requested under subclause (1) within 10 business days of the date of receipt of –
   (a) the request; or
   (b) payment for the retailer’s reasonable charge for providing the billing data (if requested by the retailer).

(4) A retailer must keep a non-contestable customer’s billing data for 7 years.

10.3 Concessions
A retailer must give a residential customer on request at no charge –
   (a) information on the types of concessions available to the residential customer; and
   (b) the name and contact details of the organisation responsible for administering those concessions (if the retailer is not responsible).
10.3A Service Standard Payments

A retailer must give a customer at least once a year written details of the retailer's and distributor's obligations to make payments to the customer under Part 14 of this Code and under any other legislation (including subsidiary legislation) in Western Australia including the amount of the payment and the eligibility criteria for the payment.

10.4 Energy Efficiency Advice

A retailer must give a customer on request, at no charge, general information on —

(a) cost effective and efficient ways to utilise electricity (including referring a customer to a relevant information source);

(b) how a customer may arrange for an energy efficiency audit at the customer's supply address; and

(c) the typical running costs of major domestic appliances.

10.5 Distribution matters

If a customer asks a retailer for information relating to the distribution of electricity, the retailer must —

(a) give the information to the customer; or

(b) refer the customer to the relevant distributor for a response.

Division 2 – Obligations particular to distributors

10.6 General information

A distributor must give a customer on request, at no charge, the following information —

(a) information on the distributor's requirements in relation to the customer's proposed new electrical installation, or changes to the customer's existing electrical installation, including advice about supply extensions;

(b) an explanation for any unplanned or approved change in the quality of supply of electricity outside of the limits prescribed by law;

(c) an explanation for any unplanned interruption of supply to the customer's supply address;

(d) advice on facilities required to protect the distributor's equipment;

(e) advice on how to obtain information on protecting the customer's equipment;

(f) advice on the customer's electricity usage so that it does not interfere with the operation of a distribution system or with supply to any other electrical installation;

(g) general information on safe use of electricity;

(h) general information on quality of supply; and
(i) general information on reliability of supply.

10.7 Historical consumption data
(1) A distributor must give a customer on request the customer's consumption data.
(2) If a customer requests consumption data under subclause (1) –
   (a) for a period less than the previous two years and no more than twice a year provided the customer has not been given consumption data pursuant to a request under subclause (1) more than twice within the 12 months immediately preceding the request; or
   (b) in relation to a dispute with the distributor, the distributor must give the consumption data at no charge.
(3) A distributor must give a customer the consumption data requested under subclause (1) within 10 business days of the date of receipt of –
   (a) the request; or
   (b) if payment is required (and is requested by the distributor within 2 business days of the request) payment for the distributor's reasonable charge for providing the data.
(4) A distributor must keep a customer's consumption data for 7 years.

10.8 Distribution standards
(1) A distributor must tell a customer on request how the customer can obtain information on distribution standards and metering arrangements –
   (a) prescribed under the Act or the Electricity Act 1945; or
   (b) adopted by the distributor, that are relevant to the customer.
(2) A distributor must publish on its website the information specified in subclause (1).

Division 3 – Obligations particular to retailers and distributors

10.9 Written information must be easy to understand
To the extent practicable, a retailer and distributor must ensure that any written information that must be given to a customer by the retailer or distributor or its electricity marketing agent under the Code is expressed in clear, simple and concise language and is in a format that makes it easy to understand.

10.10 Code of Conduct
(1) A retailer and a distributor must tell a customer on request how the customer can obtain a copy of the Code.
10.11 Special Information Needs

(1) A retailer and a distributor must make available to a residential customer on request, at no charge, services that assist the residential customer in interpreting information provided by the retailer or distributor to the residential customer (including independent multi-lingual and TTY services, and large print copies).

(2) A retailer and, where appropriate, a distributor must include in relation to residential customers —
   (a) the telephone number for their TTY services;
   (b) the telephone number for independent multi-lingual services; and
   (c) the National Interpreter Symbol with the words “Interpreter Services”,
   on the —
   (d) bill and bill related information (including, for example, the notice referred to in clause 4.2(5) and statements relating to an instalment plan);
   (e) reminder notice; and
   (f) disconnection warning.

10.12 Metering

(1) A distributor must advise a customer on request, at no charge, of the availability of different types of meters and their —
   (a) suitability to the customer’s supply address;
   (b) purpose;
   (c) costs; and
   (d) installation, operation and maintenance procedures.

(2) If a customer asks a retailer for information relating to the availability of different types of meters, the retailer must —
   (a) give the information to the customer; or
   (b) refer the customer to the relevant distributor for a response.
12.1 Obligation to establish complaints handling process

(1) A retailer and distributor must develop, maintain and implement an internal process for handling complaints and resolving disputes.

(2) The complaints handling process under subclause (1) must –
(a) comply with AS ISO 10002 – 2006;
(b) address at least –
   (i) how complaints must be lodged by customers;
   (ii) how complaints will be handled by the retailer or distributor, including –
      (A) a right of the customer to have its complaint considered by a senior employee within each organisation of the retailer or distributor if the customer is not satisfied with the manner in which the complaint is being handled;
      (B) the information that will be provided to a customer;
   (iii) response times for complaints;
   (iv) method of response;
   (c) detail how the retailer will handle complaints about the retailer or marketing; and
   (d) be available at no cost to customers.

(3) For the purposes of subclause (2)(b)(ii)(B), a retailer or distributor must at least –
(a) when responding to a customer complaint, advise the customer that the customer has the right to have the complaint considered by a senior employee within the retailer or distributor (in accordance with its complaints handling process); and
(b) when a complaint has not been resolved internally in a manner acceptable to the customer, advise the customer –
   (i) of the reasons for the outcome (on request, the retailer or distributor must supply such reasons in writing); and
   (ii) that the customer has the right to raise the complaint with the electricity ombudsman or another relevant external dispute resolution body and provide the Freecall telephone number of the electricity ombudsman.
12.2 Obligation to comply with a guideline that distinguishes customer queries from customer complaints

A retailer must comply with any guideline developed by the Authority relating to distinguishing customer queries from customer complaints.

12.3 Information provision

A retailer, distributor and electricity marketing agent must give a customer on request, at no charge, information that will assist the customer in utilising the respective complaints handling processes.

12.4 Obligation to refer complaint

When a retailer, distributor or electricity marketing agent receives a complaint that does not relate to its functions, it must advise the customer to refer the complaint to the appropriate entity that the retailer, distributor or electricity marketing agent reasonably considers to be the appropriate entity to deal with the complaint (if known) and inform the customer of the referral.
Part 13
Record Keeping and Reporting

Division 1 – General

13.1 Records to be kept

(1) Unless expressly provided otherwise, a retailer, distributor or electricity marketing agent must keep a record or other information that a retailer, distributor or electricity marketing agent is required to keep by the Code for at least 2 years from the last date on which the information was recorded.

(2) For the purposes of subclause (1), a retailer must keep records or other information pursuant to clauses –
   (a) 2.2;
   (b) 2.6(3);
   (c) 6.10(4);
   (d) 7.7;
   (e) 13.2;
   (f) 13.3(1) and 13.3(2)
   (g) 13.4;
   (h) 13.5;
   (i) 13.6; and
   (j) 13.7(1) and 13.7(2).

(3) For the purposes of subclause (1), a distributor must keep records or other information pursuant to clauses –
   (a) 7.7
   (b) 13.8(1) and 13.8(2);
   (c) 13.9(1);
   (d) 13.10(1) and 13.10(2);
   (e) 13.11;
   (f) 13.12;
   (g) 13.13(1) and 13.13(2); and
   (h) 13.14(1).
13.2 Affordability and access

A retailer must keep a record of –

(a) the total number of, and percentage of, its residential customers accounts that who –

(i) have been issued with a bill outside the timeframes prescribed in clause 4.1, categorised according to circumstances where the delay is due to fault on the part of the retailer, due to the retailer not receiving the required metering data from the distributor in accordance with clause 4.1(b)(ii); and due to the actions of the customer in accordance with clause 4.1(b)(iii);

(ii) are subject to an instalment plan under Part 6;

(iii) have been granted additional time to pay their bill under Part 6;

(iv) have been placed on a shortened billing cycle under Part 6;

(v) have been disconnected in accordance with clauses 7.17.4 to 7.37.9 for failure to pay a bill;

(vi) have been disconnected under subclause (v) that were previously the subject of an instalment plan;

(vii) have been disconnected under subclause (v) and that have been disconnected pursuant to clauses 7.1 and 7.3 at the same supply address on at least 1 other occasion during the reporting year or the previous reporting year within the past 24 months;

(viii) have been disconnected under subclause (v) while the subject of receiving a concession;

(ix) the retailer has requested to be reconnected, pursuant to clause 8.1(1)(a), at the same supply address and in the same name within 7 days of requesting the residential customer account to be disconnected under subclause (v);

(x) the retailer has requested to be reconnected, other than pursuant to clause 8.1(1)(a) or clause 8.1(1)(c), who that were not reconnected within the prescribed timeframe;

(xi) have been reconnected at the same supply address in the same name within 7 days of having been disconnected;

(xii) have been reconnected in the same name who have been reconnected pursuant to subclause (ix) that were previously the subject of an instalment plan;

(xiii) have been reconnected pursuant to subclause (ix) and that have also been reconnected pursuant to subclause (ix) on at least 1 other occasion during the reporting year or the previous reporting year;

(xiv) have been reconnected in the same name and at the same supply address within the past 24 months;
(xii)(xiii) have been **reconnected** pursuant to subclause (ix) and that who, immediately prior to **disconnection**, were receiving the subject of a **concession**;

(xiii)(xiv) have lodged security deposits in relation to the **residential customer account**; and

(xiv)(xv) have had **direct debit plans terminated**.

(b) the total number of, and percentage of, its **business customer accounts** **non-residential customers** who that —

(i) have been issued with a bill outside the timeframes prescribed in clause 4.1;

(ii)(ii) are subject to an **instalment plan** under Part 6;

(iii)(iii) have been granted additional time to pay their bill under Part 6;

(iv)(iv) have been placed on a shortened **billing cycle** under Part 6;

(v)(v) have been **disconnected** in accordance with clauses 7.1 to 7.3 for failure to pay a bill;

(vi) the **retailer** has requested to be **reconnected**, pursuant to clause 8.1(1)(a), at the same **supply address** and in the same name within 7 days of requesting the **business customer account** to be **disconnected** under clauses 7.1 to 7.3;

(vii)(vii) the **retailer** has requested to be **reconnected**, other than pursuant to clause 8.1(1)(a)-8.1(1)(b)-or-clause 8.1(1)(c), who that were not **reconnected within the prescribed timeframe**;

(vi) have been **reconnected** at the same **supply address** in the same name within 7 days of having been **disconnected**;

(viii)(viii) have lodged security deposits in relation to the **business customer account**; and

(vii)(ix) have had **direct debit plans terminated**.

(c) the actions it undertook, and the responses from the **distributor** to those actions, to obtain metering data where the **retailer** has issued a bill outside of the time frame set out in clause 4.1(b).

(2) In this clause —

"**direct debit plans terminated**" means a direct debit plan terminated as a result of a default or non-payment in two or more successive payment periods.

"**instalment plan**" means an arrangement between a **retailer** and a **customer** for the **customer** to pay arrears or in advance and continued usage on their account according to an agreed payment schedule (generally involving payment of at least 3 instalments) taking into account their capacity to pay. It does not include customers using a payment plan as a matter of convenience or for flexible budgeting purposes.

"**within the prescribed timeframe**" means any applicable regulated time limit for reconnections.
13.3 Customer complaints

(1) A retailer must keep a record of –

(a) the total number of complaints received from residential customers and business customers, other than complaints received under clause 13.7(1)(b); and

(b) the number/percentage of the total complaints in subclause (1)(a) from residential customers and non-residential customers that relate to –

(i) billing/credit complaints;

(ii) transfer complaints;

(iii) marketing complaints (including complaints made directly to a retailer); and

(iv) other complaints.

[Note: clause 13.7 also provides for the recording of pre-payment meter complaints.]

(c) the action taken by a retailer to address a complaint;

(d) the time taken for the appropriate procedures for dealing with the complaint to be concluded;

(e) the percentage of complaints from residential customers concluded within 15 business days and 20 business days; and

(f) the percentage of complaints from non-residential customers concluded within 15 business days and 20 business days.

(2) A retailer must keep a record of the details of each complaint referred to in subclause (1).

(2) In this clause –

“billing/credit complaints” includes billing errors, incorrect billing of fees and charges, failure to receive relevant government rebates, high billing, credit collection, disconnection and reconnection, and restriction due to billing discrepancy.

“marketing complaints” includes advertising campaigns, contract terms, sales techniques and misleading conduct.

“transfer complaints” includes failure to transfer customer within a certain time period, disruption of supply due to transfer and billing problems directly associated with the transfer (e.g., delay in billing, double billing).

“other complaints” includes poor service, privacy consideration, failure to respond to complaints, and health and safety issues.

13.4 Compensation payments

A retailer must keep a record of payments, including the total number of payments and data on the average amount paid to the customer for each of payments made under –

(a) Clause 14.1;

(b) clause 14.2; and

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13.5 Call Centre Performance

A retailer must keep a record of—

(a) the total number of telephone calls to a call centre of the retailer;
(b) the number of, and percentage of, telephone calls to a call centre answered by a call centre operator within 30 seconds;
(c) the percentage of telephone calls to a call centre answered by a call centre operator within 30 seconds;
(d) the average duration (in seconds) before a call is answered by a call centre operator; and
(e) the percentage of the calls in subclause (a) that are unanswered.

13.6 Supporting information

(1) A retailer must keep a record of the total number of—

(a) residential accounts held by contestable customers;
(b) residential accounts held by non-contestable customers;
(c) business customer accounts held by contestable customers; and
(d) business customer accounts held by non-contestable customers.

(2) In this clause—

"business account" means an account for which a customer is eligible to receive a tariff other than a tariff for the supply of electricity for residential purposes.

13.7 Pre-payment meters

(1) A retailer must keep a record of—

(a) the total number of pre-payment meter customers;
(b) the total number of complaints, other than those complaints specified in clause 13.13(1)(a), relating to a pre-payment meter customer;
(c) the action taken by the retailer to address a complaint;
(d) the time taken for the appropriate procedures for dealing with the complaint to be concluded;
(e) the percentage of complaints from pre-payment meter customers other than those complaints specified in clause 13.13(1)(a) concluded within 15 business days and 20 business days;
(f) the total number of customers who have reverted to a standard meter within 3 months of the later of the installation of the pre-payment meter or the date that the customer agrees to enter into a pre-payment meter contract;
(g) the total number of customers who have reverted to a standard meter in the 3rd month period immediately following the expiry of the period referred to in subclause paragraph (f).
(h) the total number of customers who have reverted to a standard meter;

(i) the number of instances where a pre-payment meter customer has —
   (i) been disconnected; or
   (ii) not received electricity other than being disconnected;

(j) the duration of each of those events referred to in subclause paragraph (i);

(k) the number of pre-payment meter customers who have informed the retailer in writing, by telephone or by electronic means that the pre-payment meter customer is experiencing payment difficulties or financial hardship; and

(l) the number of pre-payment meter customers who the retailer identifies have been disconnected 2 three or more times in any 1 three month period for longer than 120240 minutes on each occasion.

(2) A retailer must keep a record of the details of each complaint referred to in subclause (1)(b).

(2) In this clause—

"disconnected" has the meaning referred to in clause 9.1.

Division 3 – Record keeping obligations particular to distributors

13.8 Connections

(1) A distributor must keep a record of –

   (a) the total number of connections provided; and
   (b) the total number of connections not provided on or before the agreed date.

(2) A distributor must keep a record of –

   (a) the total number of reconnections provided other than —
      (i) those recorded in subclause (1);
      (ii) pursuant to clause 8.1(1)(b); and
      (iii) pursuant to clause 8.1(1)(c); and
   (b) the total number of reconnections in subclause paragraph (a) not provided within the prescribed timeframe.

(3) In this clause—

"not provided on or before the agreed date" includes connections not provided within any regulated time limit and connections not provided by the date agreed with a customer.

"within the prescribed timeframe" means any applicable regulated time limit for reconnections.

13.9 Timely repair of faulty street lights

(1) A distributor must keep a record of –
(a) the total number of street lights reported faulty each month in the metropolitan area;
(b) the total number of street lights reported faulty each month in the regional area;
(c) the total number of street lights not repaired within 5 days in the metropolitan area;
(d) the total number of street lights not repaired within 9 days in the regional area; and
(e) the total number of street lights in the metropolitan area;
(f) the total number of street lights in the regional area;
(g) the average number of days to repair faulty street lights in the metropolitan area; and
(h) the average number of days to repair faulty street lights in the regional area.

(2) For the purpose of subclause (1), the number of days taken to repair a street light is counted from the date of notification.

13.10 Customer complaints

(1) A distributor must keep a record of –

(a) the total number of complaints received (excluding quality and reliability complaints but including complaints received under Part 9); and

(b) the total number of complaints in subclause (a) that relate to –

   (i) administrative process or customer service complaints; and

   (ii) other complaints.

(c) the action taken by a distributor to address a complaint (excluding quality and reliability complaints);

(d) the time taken for the appropriate procedures for dealing with the complaint (excluding quality and reliability complaints) to be concluded; and

(e) the percentage of customer complaints concluded within 15 business days and 20 business days.

(2) A distributor must keep a record of the details of each complaint referred to in subclause (1).

(3) In this clause –


13.11 Compensation payments

A distributor must keep a record of the total number of payments made under clauses 14.4 and 14.5, including the total number of payments made and the amount paid to the customer for each payment.
13.12 Call centre performance

A distributor must keep a record of —

(a) the total number of telephone calls to a call centre of the distributor;
(b) the number of, and percentage of, telephone calls to a call centre answered by a call centre operator within 30 seconds;
(c) the percentage of telephone calls to a call centre answered by a call centre operator within 30 seconds;
(d) the average duration (in seconds) before a call is answered by a call centre operator; and
(e) the percentage of the calls in subclause (a) that are unanswered.

13.13 Pre-payment meters

(1) A distributor must keep a record of —

(a) the number of complaints relating to the installation and operation of a pre-payment meter at a pre-payment meter customer's supply address;
(b) the action taken by the distributor to address a complaint;
(c) the time taken for the appropriate procedures for dealing with the complaint to be concluded; and
(d) the percentage of complaints relating to the installation and operation of a pre-payment meter at a customer's supply address concluded within 15 business days and 20 business days.

(2) A distributor must keep a record of the details of each complaint referred to in subclause (1).

13.14 Supporting information

(1) A distributor must keep a record of the total number of exit points of customers who are connected to the distributor's network.

(2) In this clause —

"exit point" has the same meaning as in the Electricity Industry (Customer Transfer) Code 2004.

Division 4 — Reporting obligations

13.15 Preparation of an annual report by retailers

(1) A retailer and a distributor must prepare a report in respect of each reporting year setting out the information in the records in clauses —

(a) prepare a report setting out the information in the records required to be kept by Part 13, in respect of each year ending on 30 June; and
(b) publish that report not later than the following 1 October.
(a) 13.2
(b) 13.3(1)(a), 13.3(1)(b), 13.3(1)(e) and 13.3(1)(f)
(c) 13.4
(d) 13.5
(e) 13.6
(f) 13.7(1)(a), 13.7(1)(b), 13.7(1)(e), 13.7(1)(f), 13.7(1)(g), 13.7(1)(h), 13.7(1)(i), 13.7(1)(k) and 13.7(1)(l).

(2) A report is published for the purposes of subclause (1) if —

(a) copies of it are available to the public, without cost, at places where
the retailer or distributor transacts business with the public; and

(b) a copy of it is posted on an internet website maintained by the retailer or distributor.

(3) A copy of each report must be given to the Minister and the Authority not less than 7 days before it is published under subclause (1).

13.16 Preparation of an annual report by distributors

A distributor must prepare a report in respect of each reporting year setting out the information in the records in clauses —

(a) 13.8;
(b) 13.9;
(c) 13.10(1)(a), 13.10(1)(b) and 13.10(1)(e);
(d) 13.11;
(e) 13.12;
(f) 13.13(1)(a) and 13.13(1)(d); and
(g) 13.14.

13.17 Publication of reports by retailers and distributors

(1) The report in clauses 3.15 and 3.16 is to be published not later than the following 1 October.

(2) A report is published for the purposes of subclause (1) if —

(a) copies of it are available to the public, without cost, at places where the retailer or distributor transacts business with the public; and

(b) a copy of it is posted on an internet website maintained by the retailer or distributor.

(3) A copy of each report must be given to the Minister and the Authority not less than 7 days before it is published.

13.18 Provision of records to the Authority

(1) A retailer and a distributor must provide the information in the records in clauses 13.15 and 13.16 to the Authority in a format acceptable to the Authority not later than the following 23 September.
Part 14
Service Standard Payments

Division 1 – Obligations particular to retailers

14.1 Facilitating customer reconnections

(1) Subject to clause 14.644.5, where a retailer is required to arrange a reconnection of a customer's supply address under Part 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 to the customer $60 for each day that it is late, up to a maximum of $300.

(2) Subject to clause 14.644.5, if a retailer is liable to and makes a payment under subclause (1) due to an act or omission of the distributor, the distributor must compensate the retailer for the payment.

14.2 Wrongful disconnections

(1) Subject to clause 14.644.5, if a retailer –

(a) fails to comply with any of the required procedures prescribed under Part 6 (if applicable and other than clauses 6.8, 6.9 and 6.10) and Part 7 (other than clauses 7.4, 7.5, 7.6, 7.7(1)(a), 7.7(1)(b), 7.7(2)(a) and 7.7(2)(c)) of the Code prior to arranging for disconnection or disconnecting a customer for failure to pay a bill; or

(b) arranges for disconnection or disconnects a customer in contravention of clauses 7.2, 7.3, 7.6 or 7.7 for failure to pay a bill,

the retailer must pay to the customer $100 for each day that the customer was wrongfully disconnected.

(2) Subject to clause 14.644.5, if a retailer is liable to and makes a payment under subclause (1) due to an act or omission of the distributor, the distributor must compensate the retailer for the payment.

14.3 Customer service

(1) Upon receipt of a written query or complaint by a customer, a retailer must —

(a) acknowledge the query or complaint within 10 business days; and
(b) respond to the query or complaint by addressing the matters in the query or complaint within 20 business days.

(2) Subject to clause 14.6447, if a retailer fails to acknowledge or respond to a query or complaint within the time frames prescribed under subclause (1), the retailer must pay to the customer $20.

(3) The retailer will only be liable to make one payment of $20, pursuant to subclause (2), for each written query or complaint.

Division 2 – Obligations particular to distributors

14.4 Customer service

(1) Upon receipt of a written query or complaint by a customer, a distributor must –
   (a) acknowledge the query or complaint within 10 business days; and
   (b) respond to the query or complaint by addressing the matters in the query or complaint within 20 business days.

(2) Subject to clause 14.6447, if a distributor fails to acknowledge or respond to a query or complaint within the time frames prescribed under subclause (1), the distributor must pay to the customer $20.

(3) The distributor will only be liable to make one payment of $20, pursuant to subclause (2), for each written query or complaint.

14.5 Wrongful disconnections

Subject to clause 14.6, if a distributor disconnects a customer’s supply address other than as authorised by –
   (a) this Code or otherwise by law; or
   (b) a retailer,
then the distributor must pay to the customer $100 for each day that the customer was wrongfully disconnected.

Division 3 – Payment

14.6447 Exceptions

(1) A retailer or distributor is not required to make a payment under clauses 14.1 to 14.4 if events or conditions outside the control of the retailer or distributor caused the retailer or distributor to be liable to make the payment.

(2) Except in the case of a payment under clauses 14.2 and 14.5, which are required to be made without application by a customer as soon as reasonably practical, a retailer or distributor is not required to make a payment under clauses 14.1 to 14.4 if the customer fails to apply to the retailer or distributor for the payment within 3 months of the non-compliance by the retailer or distributor.
(3) Under clauses 14.3 and 14.4, a retailer or distributor is not required to make more than one payment to each affected supply address per event of non-compliance with the performance standards.

(4) For the purposes of subclause (3), each supply address where a customer receives a bill from a retailer is a separate supply address.

14.6.14.7 Method of payment

(1) A retailer who is required to make a payment under clauses 14.1, 14.2 or 14.3 must do so –

(a) by deducting the amount of the payment from the amount due under the customer’s next bill;

(b) by paying the amount directly to the customer, or

(c) as otherwise agreed between the retailer and the customer.

(2) A distributor who is required to make a payment under clauses 14.4 or 14.5 must do so –

(a) by paying the amount to the customer’s retailer who will pass the amount on to the customer in accordance with subclause (1);

(b) by paying the amount directly to the customer, or

(c) as otherwise agreed between the distributor and the customer.

(3) For the avoidance of doubt, a payment made under this part does not affect any rights of a customer to claim damages or any other remedy.

14.7.14.8 Recovery of payment

(1) If a retailer or distributor who is required to make a payment to a customer under this Part fails to comply with clause 14.7.14.6 within 30 days of the date of demand for payment by the customer, or in the case of a payment required to be made under clause 14.2(1) or 14.5, within 30 days of the date of the wrongful disconnection, then the customer may recover the payment in a court of competent jurisdiction as a debt due from the retailer or distributor (as the case may be) to the customer.

(2) If a retailer is entitled under clause 14.1(2) or 14.2(2) to compensation from a distributor, and the distributor fails to pay the compensation to the retailer within 30 days of the date of demand for compensation payment by the retailer, then the retailer may recover the compensation payment in a court of competent jurisdiction as a debt due from the distributor to the retailer.
Significant amendments to the Code of Conduct for the Supply of Electricity to Small Use Consumers (Code)

This table sets out significant amendments that have been made to the Code by the Economic Regulation Authority (ERA) since it was first established in 2004. These amendments were made pursuant to the statutory review process set out in section 88 of the Electricity Industry Act 2004 (WA).

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<td><strong>2007 Review – Changes effective 8 January 2008 (with several minor corrections effective 26 February 2008)</strong></td>
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<td>Part 1 – Preliminary</td>
<td>To correct errors and reflect changes since the establishment of the Code.</td>
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<td>Part 2 – Marketing</td>
<td>To remove provisions which were duplicated with other legislation (such as the Gas Marketing Code), where there would be no significant detriment to customer protection.</td>
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<td>Part 5 – Payment</td>
<td>To reflect current banking practice in relation to direct debit payments.</td>
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<td>Part 8 – Reconnection</td>
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<td>To remove burdensome requirements that a retailer publish prescribed information in the Government Gazette or local newspapers.</td>
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<td>To improve consistency with the Steering Committee on National Regulatory Reporting Requirements.</td>
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<td>To extend service standard payments (a prescribed amount payable when a service standard has been breached) to all small use customers.</td>
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<td>Miscellaneous</td>
<td>To correct, update and minimise explanatory notes contained in the Code, and in many cases to transfer the intent of notes to A Guide to Understanding the Code of Conduct (For the Supply of Electricity to Small Use Customers). To remove redundant, spent or duplicated provisions, remove or amend clauses considered too prescriptive by the ECCC, and to improve the level of consumer protection.</td>
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<td><strong>2009 Review – Changes effective 1 July 2010</strong></td>
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<td>Part 2 – Marketing</td>
<td>To simplify the provisions dealing with definitions related to marketing.</td>
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<td>Part 6 – Payment Difficulties and Financial Hardship</td>
<td>Relating to the issue of financial hardship, including the abolition of late payment fees for financial hardship.</td>
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<td>customers and the establishment of a requirement for the ERA to review the financial hardship policies of retailers and publish the findings.</td>
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<td>Part 10 – Information and Communication</td>
<td>To reduce the amount of information retailers are required to provide to business customers as distinct from residential customers.</td>
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<tr>
<td>Part 11 – Customer Service Charter</td>
<td>To streamline and in some cases remove information provision requirements related to all customers (eg the ERA has removed the requirement for retailers and distributors to produce a customer service charter).</td>
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<td>Part 9 – Pre-Payment Meters</td>
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<td>To create record keeping obligations in relation to PPMs.</td>
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