

# FINAL DECISION

*Amendments to the Code of Conduct for the  
Supply of Electricity to Small Use Customers*  
– Life support provisions

10 April 2013

Economic Regulation Authority

WESTERN AUSTRALIA

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## Final Decision

Following its consideration of the Electricity Code Consultative Committee's (ECCC) advice on the Authority's proposed amendments to the life support provisions in the *Code of Conduct for the Supply of Electricity to Small Use Customers 2012 (Advice)*, the Authority has decided to exercise its power under section 79(1) of the *Electricity Industry Act 2004 (Act)* to amend the *Code of Conduct for the Supply of Electricity to Small Use Customers 2012 (Code)*.

A copy of the life support provisions in the Code, showing the amended clauses in track changes, is attached (**Appendix 1**). A clean copy is also attached (**Appendix 2**).

## Background & Reasons

Under section 81 of the Act, the Authority is required to establish a committee to advise it on matters relating to the Code. The committee is known as the Electricity Code Consultative Committee or ECCC.

Under section 79 of the Act, the Authority may, in consultation with the ECCC, approve a code of conduct to:

...regulate and control the conduct of electricity retail, distribution and integrated regional licensees and electricity marketing agents, with 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.

Under section 88 of the Act, the ECCC must carry out a review of the Code as soon as practicable after the first anniversary of its commencement and after the expiry of each 2 yearly interval after that anniversary. The object of a review is to re-assess the suitability of the provisions of the Code for the purposes of section 79(2).

The ECCC completed its third review of the Code in 2012 and the approved Code was gazetted to take effect from 1 January 2013.

During the course of the ECCC review, the life support provisions in the Code were discussed at length. Whilst the ECCC agreed to make some recommendations relating to life support, other issues were debated by the ECCC but resulted in no recommendation. The ECCC decided to arrange a separate forum in which to continue ECCC discussions surrounding the life support provisions in the Code.

Following the ECCC's life support forum, held in October 2012, the ECCC made further recommendations to the Authority in relation to the life support provisions in the Code.

The Authority subsequently released a Draft Decision in November 2012 proposing amendments to the life support provisions of the Code.

In its Draft Decision, the Authority proposed to amend the Code to include provisions setting out the following:

1. Annual renewal of a customer's life support equipment status (from date of registration);
2. Tri-annual medical recertification of a customer's life support equipment status;
3. The retailer must make three attempts to contact the customer when requesting life support renewal or recertification; and
4. The contact attempts by the retailer must include a letter by registered mail and any other two attempts.

As required by section 87(1) of the Act, the Authority requested the ECCC's advice on the proposed amendments as outlined in the Draft Decision.

The ECCC, as required by section 87(2) of the Act, undertook consultation with interested parties in respect of the amendments proposed by the Authority. On 6 November 2012, the ECCC invited public submissions on the Authority's Draft Decision. The closing date for submissions was 27 November 2012. Three submissions were received. Copies of these submissions are available on the Authority's website as attachments to the Advice.

The ECCC provided its Advice to the Authority on 7 February 2013. A copy of the Advice is available on the Authority's website.

Following the Authority's consideration of the Advice, the Authority has decided to make amendments to the Code. The amendments to the Code are the same as those outlined in the Authority's Draft Decision, with the addition of Item A below, and the slight change as per Item B below:

#### Item A - Acknowledgment that notice of interruption has been received

Clause 7.7(3)(d) of the current Code requires a distributor to use best endeavours to obtain verbal or written acknowledgement from a customer that notification of a planned interruption has been received where there is a person requiring life support equipment registered at that customer's address. The Authority has decided to amend this clause to widen the category of persons who are able to provide the acknowledgment to include persons residing at the supply address.

The amended clause will read as follows:

*7.7(3)(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 or someone residing at the supply address** that the notice has been received.*

#### Item B - Confirmation of a customer's life support status

In the Authority's Draft Decision, proposed clause 7.7(5)(a) stated that a retailer must not contact a customer to request confirmation of their life support status earlier than 3 months prior to the anniversary of the confirmation from the appropriately qualified medical practitioner referred to in clause 7.7(1). The Authority has decided to amend this clause to also require the retailer to request the confirmation no later than 3 months after the anniversary of the confirmation from the appropriately qualified medical practitioner.

The amended clause will read as follows:

*7.7(5)(a) No earlier than 3 months prior to the 12 month anniversary of the confirmation from the **appropriately qualified medical practitioner** referred to in sub-clause (1), and in any event no later than 3 months after the 12 month anniversary of the confirmation, the **retailer** must **contact the customer** to:*

[...]

## Appendix 1

## Amended clause 7.7 of the *Code of Conduct for the Supply of Electricity to Small Use Customers* (tracked changes)

### New Definitions (insert into clause 1.5 “Definitions”):

“*appropriately qualified medical practitioner*” means:

- (a) within the Perth Metropolitan Area, a specialist medical practitioner or practitioner working in a specialist department of a hospital or hospice doctor; or
- (b) outside of the Perth Metropolitan Area, a doctor or general practitioner if he/she also works on an occasional basis from a local hospital or rural health service, or hospice doctor.

“*Re-certification*” means confirmation from an appropriately qualified medical practitioner that a person residing at the customer’s supply address continues to require life support equipment.

### Amended Clause 7.7

#### 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** or someone residing at the **supply address** 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)

- (a) No earlier than 3 months prior to the 12 month anniversary of the confirmation from the **appropriately qualified medical practitioner** referred to in sub-clause (1), and in any event no later than 3 months after the 12 month anniversary of the confirmation, the **retailer** must **contact** the **customer** to:
  - (i) ascertain whether a person residing at the **customer's supply address** continues to require **life support equipment**; and
  - (ii) if the **customer** has not provided **re-certification** from an appropriately qualified medical practitioner within the last 3 years, request that the **customer** provide that **re-certification**.
- (b) The **retailer** must provide a minimum period of 3 months for the **customer** to provide the information requested by the **retailer** in sub-clause (5)(a).

~~(5)~~(6)

(a) When ~~a person~~—

- (i) a person who requires **life support equipment**, vacates the **supply address**; or
- (ii) a person who required **life support equipment**, no longer requires the **life support equipment**; or
- (iii) subject to sub-clause 6(b), a **customer** fails to provide the information requested by the **retailer** for the purposes of sub-clause (5)(a)(i) or the **re-certification** referred to in sub-clause (5)(a)(ii), within the time period referred to in sub-clause 5(b), or greater period if allowed by the **retailer**,

the **retailer's** and **distributor's** obligations under subclauses (1),(3), ~~and~~ (4) and (5) terminate.

(b) A **customer** will have failed to provide the information requested by the **retailer** for the purposes of sub-clause (5)(a)(i) or the **re-certification** referred to in sub-clause (5)(a)(ii) where the **contact** by the **retailer** consisted of at least the following, each a minimum of 10 **business days** from the date of the last **contact**:

- (i) written correspondence sent by registered post to the **customer's supply address** and any other address nominated by the **customer**; and
- (ii) a minimum of 2 other attempts to **contact** the **customer** by any of the following means:
  - A. **electronic means**;
  - B. **telephone**;
  - C. in person;
  - D. facsimile; or
  - E. by post sent to the **customer's supply address** and any other address nominated by the **customer**.

(c) Where the **distributor's** obligations under subclauses (1),(3),(4) and (5) terminate as a result of the operation of sub-clause (6)(a)(iii), the **retailer** must notify the **distributor** of this fact as soon as reasonably practicable, but in any event, within 3 **business days**.



## Appendix 2

## **Amended clause 7.7 of the *Code of Conduct for the Supply of Electricity to Small Use Customers* (clean)**

### **New Definitions (insert into clause 1.5 “Definitions”):**

**“appropriately qualified medical practitioner”** means:

- (a) within the Perth Metropolitan Area, a specialist medical practitioner or practitioner working in a specialist department of a hospital or hospice doctor; or
- (b) outside of the Perth Metropolitan Area, a doctor or general practitioner if he/she also works on an occasional basis from a local hospital or rural health service, or hospice doctor.

**“Re-certification”** means confirmation from an appropriately qualified medical practitioner that a person residing at the customer’s supply address continues to require life support equipment.

### **Amended Clause 7.7**

#### **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** or someone residing at the **supply address** 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)
- (a) No earlier than 3 months prior to the 12 month anniversary of the confirmation from the **appropriately qualified medical practitioner** referred to in sub-clause (1), and in any event no later than 3 months after the 12 month anniversary of the confirmation, the **retailer** must **contact** the **customer** to:
    - (i) ascertain whether a person residing at the **customer's supply address** continues to require **life support equipment**; and
    - (ii) if the **customer** has not provided **re-certification** from an appropriately qualified medical practitioner within the last 3 years, request that the **customer** provide that **re-certification**.
  - (b) The **retailer** must provide a minimum period of 3 months for the **customer** to provide the information requested by the **retailer** in sub-clause (5)(a).

(6)

(a) When—

- (i) a person who requires **life support equipment**, vacates the **supply address**; or
- (ii) a person who required **life support equipment**, no longer requires the **life support equipment**; or
- (iii) subject to sub-clause 6(b), a **customer** fails to provide the information requested by the **retailer** for the purposes of sub-clause (5)(a)(i) or the **re-certification** referred to in sub-clause (5)(a)(ii), within the time period referred to in sub-clause 5(b), or greater period if allowed by the **retailer**,

the **retailer's** and **distributor's** obligations under subclauses (1),(3), (4) and (5) terminate.

(b) A **customer** will have failed to provide the information requested by the **retailer** for the purposes of sub-clause (5)(a)(i) or the **re-certification** referred to in sub-clause (5)(a)(ii) where the **contact** by the **retailer** consisted of at least the following, each a minimum of 10 **business days** from the date of the last **contact**:

- (i) written correspondence sent by registered post to the **customer's supply address** and any other address nominated by the **customer**; and
- (ii) a minimum of 2 other attempts to **contact** the **customer** by any of the following means:
  - A. **electronic means**;
  - B. **telephone**;
  - C. in person;
  - D. facsimile; or
  - E. by post sent to the **customer's supply address** and any other address nominated by the **customer**.

(c) Where the **distributor's** obligations under subclauses (1),(3),(4) and (5) terminate as a result of the operation of sub-clause (6)(a)(iii), the **retailer** must notify the **distributor** of this fact as soon as reasonably practicable, but in any event, within 3 **business days**.