



Our Ref: D113595
Contact: Paul Kelly (08) 6557 7900

6 November 2013

Mr Lyndon Rowe
Chairman
Economic Regulation Authority
Level 4, Albert Facey House
469-489 Wellington Street
PERTH WA 6000

Dear Mr Rowe

Final Advice on ERA Proposed Amendments – 2013 Review of the Gas Marketing Code of Conduct

Thank you for your letter dated 27 September 2013 requesting advice on the amendments to the *Gas Marketing Code of Conduct* (Code) proposed by the Economic Regulation Authority.

In accordance with section 11ZPV of the *Energy Coordination Act 1994* (Act), the Gas Marketing Code Consultative Committee (GMCCC) has undertaken consultation with interested persons regarding the Authority's proposed changes to the Code.

The GMCCC provided a public consultation period from 4 to 25 October 2013. Submissions were received from:

- Synergy
- WA Council of Social Service (WACOSS)
- Energy Assured Ltd

A copy of these submissions is attached (Attachments 1 to 3).

The Synergy and WACOSS submissions supported the amendments proposed by the Authority. In its submission, Energy Assured made five points for the GMCCC's consideration. Energy Assured is a self-regulated energy industry scheme which monitors and improves door to door marketing. It currently operates in NSW, QLD, SA and Victoria. Members include retailers and marketers.

The GMCCC considered the five points made by Energy Assured and resolved to take no action on four of them. On a fifth point, it resolved to propose amendments to clause 2.5(1) and 2.5(2)(b) of the Authority's proposed Code amendments.

The amendments will have the effect of requiring a retailer or gas marketing agent to provide a customer with the complaints telephone number of the Energy Ombudsman when requested (clause 2.5(1)), or when meeting with the customer face-to-face for the purposes of marketing (2.5(2)(b)). A retailer or gas marketing agent already has an obligation to give the retailer's complaints telephone number in these situations.

A copy of the proposed amended Code with tracked changes is attached to this letter – with the above additional amendments identified in green highlight (Attachment 4).

If you have any queries, please contact me.

Yours sincerely

Paul Kelly
GMCCC Chairman

Attachment 1 – Energy Assured Ltd submission

Energy Assured Limited

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24 October 2013

 Mr Paul Kelly, Chairman GMCCC
 PO Box 8469,
 PERTH BC WA 6849

 Email address: gmccc@erawa.com.au

Dear Mr Kelly,

We would like to introduce Energy Assured and to provide the following brief submission for the Gas Marketing Code of Conduct.

Energy Assured Limited is a self-regulated energy industry scheme to monitor and improve door to door marketing standards. It seeks to improve compliance by both energy retailers and energy marketing companies to promote consumer confidence in door to door sales, to improve the customer experience and reduce the incidence of sales issues.

Energy Assured commenced operating the scheme in January 2012 in NSW, QLD, SA and VIC. It is timely with the gas market now open to competition to let the GMCCC know about the scheme and the retail energy industry's commitment to monitoring and improving door to door standards. While we understand that door to door marketing has not yet commenced in any significant way in WA, there is some level of face to face marketing occurring through shopping centre kiosks which activity is also covered by the scheme.

Energy Assured manages a Code of Practice which has been authorised by the Australian Competition and Consumer Commission. The Code includes:

- A scheme to ensure sales agents are recruited, trained and assessed in a consistent manner across the industry;
- A central register of accredited sales agents;
- Monitoring sales agent behaviour such that a proven breach of Energy Assured's standards may result in disciplinary measures and deregistration of the sales agent for five years;
- Annual compliance audit of each energy retailer; and
- Imposing sanctions on energy retailers or marketing companies who fail to comply with the Code.

Members of the scheme are:

Energy Retailers	Alinta Energy	Australian Power & Gas	Lumo Energy
	Momentum Energy	Origin Energy	Red Energy
	Simply Energy	Energy Retailers Association of Australia	
Energy Marketers	Aims Marketing	Appco Group	ASAP
	Energy Deal	Fieldstar Services	Genius Marketing
	Redwood BC	Sales Etiquette	Salmat
	SIQ	The SMART Group	Communicom

We note that the Gas Marketing Code of Conduct is well advanced and we are supportive of the Code and its proposed amendments. The following points are provided for your consideration:

1. We suggest the addition of a sub clause 2.4 to ensure that the retailer or gas marketing agent should ensure that the customer has the authority to enter into the contract.
2. Under the Energy Assured Code of Practice, it is a requirement that a customer is provided with the contact details for the retailer in order to make a complaint but is also provided with the Ombudsman's contact details. We suggest this may assist customers rather than waiting for their first bill from the new retailer to be provided with the Ombudsman contact details.
3. Clause 2.8(b) refers to details of complaints made to gas marketing agents being provided to the Ombudsman on request. Is it envisaged that gas marketing agents would be members of the Ombudsman scheme? This may need some clarity if this obligation is intended to apply to energy retailers.
4. Recommendation 13 – we support encouraging retailers to provide gas price fact sheets in the first instance and monitoring the effectiveness before considering mandating the provision and format of a gas price fact sheet.
5. We agree with the requirement to provide a copy of the contract at the time of sale and within five days for a telesales contract. We note that the industry has a high usage of iPads to sign up customers rather than paper based contracts. In these instances, a copy of the contract is emailed directly to the customer's email account so the customer has a copy at the time the contract is made.
6. Energy Assured concurs with the recommendations around do not knock notices and supports the Authority's view that these should be clearly displayed.

We welcome the opportunity to discuss these comments with you or to outline further the Energy Assured initiative, how it has provided improved customer outcomes in other States and how we can work with key stakeholders in Western Australia in the future.

Yours sincerely,

Anne Whitehouse
Chief Executive Officer

Attachment 2 – Synergy submission

Our ref: 3645272

25 October 2013

Dr David Leith
A/Assistant Director Customer Protection
Economic Regulation Authority
Level 4 Albert Facey House
469-489 Wellington Street
PERTH WA 6000

Dear David

GAS MARKETING CODE CONSULTATIVE COMMITTEE (GMCCC) – 2013 REVIEW OF THE GAS MARKETING CODE OF CONDUCT (CODE)

I refer to the above draft review report issues published by the Economic Regulation Authority (**Authority**) on 13 September 2013 for public review.

Synergy welcomes the opportunity to provide comment on the draft review report and supports the twenty three recommendations.

Please contact me on 6212 1433 should you have any queries or comments with respect to Synergy's position.

Yours sincerely

SIMON THACKRAY
MANAGER RETAIL REGULATORY AND COMPLIANCE

Attachment 3 – WA Council of Social Service submission

Mr Paul Kelly
Chairman - GMCCC
Economic Regulatory Authority
PO Box 8469
PERTH BC WA 6849

Sent electronically to gmccc@erawa.com.au

25th October 2013

Dear Mr Kelly

Re: **Comment on the proposed amendments to the Gas Marketing Code of Conduct**



wacoss

Western Australian
Council of Social Service Inc

*Ways to make
a difference*

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The Western Australian Council of Social Service thanks the Economic Regulatory Authority for the opportunity to participate in the 2013 Review of the Gas Marketing Code of Conduct 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 Gas Marketing Code of Conduct Consultative Committee (GMCCC). Brent Savage, Policy Coordinator – Essential Services at WACOSS actively participated on the Committee as a consumer representative.

The Council would like to indicate our support for the recommendations, comments and suggestions put forward in the GMCCC 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 for the Gas Marketing Code of Conduct 2013 review.

Should you have any queries in relation to this or any other matter, please do not hesitate to contact Chris Twomey, Director of Social Policy on (08) 9420 7222 or chris@wacoss.org.au.

Yours Sincerely

Irina Cattalini
Chief Executive Officer
WACOSS

Attachment 4 – Proposed amended Code

Gas Marketing Code of Conduct ~~2012~~2014

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Part 1 Preliminary

1.1 Title

The **Code** may be cited as the *Gas Marketing Code of Conduct ~~2012~~2014*.

1.2 Authority

This **Code** is made pursuant to Part 2C of the **Act**.

1.3 Commencement

The **Code** comes into operation 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 of 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 a **gas marketing agent** arranging a **contract** is to be read as a reference to a **gas 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 –

“**Act**” means the *Energy Coordination Act 1994*.

“**alternative tariff**” means a tariff other than the tariff under which the **customer** is currently supplied gas.

“**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 (WA) 2010*.

“**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. electricity, 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.

“**business day**” means any day except a Saturday, Sunday or **public holiday**.

“**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 this *Gas Marketing Code of Conduct 2012-2014* as amended by the **Authority**.

“**Compendium**” means the Compendium of Gas Customer Licence Obligations.

“**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 gas, which is available to **residential customers** only.

“**contact**” means contact that is face to face, by **telephone** or by post, facsimile or electronic communication.

“**contract**” means a **standard form contract** or a **non-standard contract**,

“**cooling-off period**” means the period specified in the contract as the cooling-off period of 10 days commencing on and including the day on which the contract is made.

“**customer**” means a customer who consumes less than 1 terajoule of gas per annum.

“**distributor**” means a person who holds a distribution licence under Part 2A of the **Act**.

“**Do Not Call Register Act**” means the *Do Not Call Register Act 2006 (Cth)*.

“**door to door marketing**” means the **marketing** practice under which –

- (a) the retailer or a gas marketing agent goes from place to place seeking out persons who may be prepared to enter, as **customers**, into **contracts**; and
- (b) the retailer or the gas marketing agent or some other **gas 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~~the **retailer** or party other than the **customer**.

“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, in Western Australia or which destroys or damages, or threatens to destroy or damage, any property in Western Australia.

“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**.

“gas customer safety awareness program” means a program to communicate information to **customers** regarding safety in the use of gas and must address, at a minimum, provision of the following information to **customers** –

- (a) information on the properties of gas relevant to its use by **customers**;
- (b) a notice of the requirement for proper installation and use of approved appliances and equipment;
- (c) a notice of the requirement to use only qualified trade persons for gas connection and appliance and equipment installation;
- (d) the proper procedure for the reporting of gas leaks or appliance or equipment defects; and
- (e) safety procedures to be followed and the appropriate **telephone** number to call in case of **emergency**.

“gas marketing agent” means –

- (a) a person who acts on behalf of ~~a **retailer**~~the holder of a trading 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 gas by the licensee; or
- (b) a representative, agent or employee of a person referred to in paragraph (a).
- (c) not a person who is a **customer** representative.

“gas ombudsman” means the ombudsman appointed under the scheme approved by the **Authority** pursuant to section 11ZPZ of the **Act**.

[Note: The energy ombudsman Western Australia is the gas ombudsman appointed under the scheme approved by the Authority pursuant to section 11ZPZ of the Act.]

“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 gas to a **customer**; or

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

“**marketing identification number**” means a unique number assigned by a ~~retailer or other party~~ to each **gas marketing agent** acting on its behalf.

“**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**.

“**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**.

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

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

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

“**retailer**” means a person who holds a trading licence under Part 2A of the **Act**.

“**standard form contract**” means a contract that is approved by the **Authority** under section 11WF of the **Act**.

~~“**telemarketing calls**” is defined in section 5 of the **Do Not Call Register Act**.~~

~~“**Telemarketing Industry Standard**” means the *Telecommunications (Do Not Call Register) (Telemarketing and Research Calls) Industry Standard 2007*.~~

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

“**TTY**” means ~~telephone~~ teletypewriter.

“**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 **gas 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.

1.6 Application

The **Code** applies to –

- ~~(a) **customers**;~~
~~(b)~~(a) retailers; and

(c) ~~distributors~~; and
(d)(b) gas marketing agents.

1.7 Purpose

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

[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 Fair Trading Act 2010 (WA), the Spam Act 2003 (Cth), the Spam Regulations 2004 (Cth), the Do Not Call Register Act 2006 (Cth), the Telecommunications (Do Not Call Register) (Telemarketing and Research Calls) Industry Standard 2007 (Cth), Telecommunications Industry Standard 2007 and the Privacy Act 1988 (Cth).]

1.8 Objectives

The objectives of the **Code** are to –

- (a) define standards of conduct in the **marketing** of gas to **customers**; and
- (b) protect **customers** from undesirable **marketing** conduct.

1.9 Amendment and Review

The **Code** will be amended in accordance with Part 2C of the **Act**.

Part 2 Marketing

Division 1 – Obligations particular to retailers

2.1 Retailers to ensure representatives comply with this Part

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

Division 2 – Contracts

2.2 Entering into contracts

- (1) A **gas marketing agent** must, in the course of arranging 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 **gas marketing agent** for a **non-standard contract** the contract need not be signed but the **retailer** or **gas marketing agent** must obtain and make a record of the **customer's verifiable consent** that the contract has been entered into.
- (3) A **standard form contract** need not be signed by the **customer** but the date of the **customer** entering into the **standard form contract** must be recorded by the **gas marketing agent**.
- (4) The terms and conditions of a **standard form contract** must be made available to the **customer** on request at no charge.
- (5) Clauses 2.2(1) to (4) inclusive do not apply in relation to contracts that are **unsolicited consumer agreements**.

Division 3 – Contracts and Information to be provided to customers

2.2 Entering into a standard form contract

- (1) When entering into a **standard form contract** that is not an **unsolicited consumer agreement**, a **retailer** or **gas marketing agent** must-
- (a) record the date the **standard form contract** was entered into;
 - (b) give, or make available to the **customer** at no charge, a copy of the **standard form contract** -

- (i) at the time the **standard form contract** is entered into, if the **standard form contract** was not entered into over the **telephone**; or
 - (ii) as soon as possible, but not more than 5 **business days** after the **standard form contract** was entered into, if the **standard form contract** was entered into over the **telephone**.
- (2) Subject to subclause (3), a **retailer** or **gas marketing agent** must give the following information to a **customer** no later than on or with the **customer's** first bill -
 - (a) how the **customer** may obtain -
 - (i) a copy of the **Code** and **Compendium**; 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** and **gas 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**; and
 - (i) general information on the **retailer's gas customer safety awareness program**.
- (3) For the purposes of subclause (2) a **retailer** or **gas marketing agent** is taken to have given the **customer** the required information if -
 - (a) the **retailer** or **gas marketing agent** has provided the information to that **customer** within the preceding 12 months; or
 - (b) the **retailer** or **gas marketing agent** has informed the **customer** how the **customer** may obtain the information, unless the **customer** requests to receive the information.

2.3 Entering into a non-standard contract

- (1) When entering into a **non-standard contract** that is not an **unsolicited consumer agreement**, a **retailer** or **gas marketing agent** must -
 - (a) obtain and make a record of the **customer's verifiable consent** that the **non-standard contract** has been entered into, and

- (b) give, or make available to the **customer** at no charge, a copy of the **non-standard contract** -
- (i) at the time the **non-standard contract** is entered into, if the **non-standard contract** was not entered into over the **telephone**; or
 - (ii) as soon as possible, but not more than 5 **business days** after the **non-standard contract** was entered into, if the **non-standard contract** was entered into over the **telephone**.
- (2) Before entering into a **non-standard contract**, a **retailer** or **gas marketing agent** must give the **customer** the following information -
- (a) that the **customer** is able to choose the **standard form contract** offered by the **retailer**,
 - (b) the difference between the **non-standard contract** and the **standard form contract**,
 - (c) details of any right the **customer** may have to rescind the **non-standard contract** during a **cooling-off period** and the charges that may apply if the **customer** rescinds the **non-standard contract**,
 - (d) how the **customer** may obtain -
 - (iii) a copy of the **Code** and the **Compendium**; and
 - (iv) details on all relevant tariffs, fees, charges, **alternative tariffs** and service levels that may apply to the **customer**,
 - (e) the scope of the **Code**;
 - (f) that a **retailer** and **gas marketing agent** must comply with the **Code**;
 - (g) how the **retailer** may assist if the **customer** is experiencing **payment difficulties** or **financial hardship**;
 - (h) with respect to a **residential customer**, the **concessions** that may apply to the **residential customer**,
 - (i) the **distributor's** 24 hour **telephone** number for faults and emergencies;
 - (j) 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;
 - (k) how to make an enquiry of, or **complaint** to, the **retailer**; and
 - (l) general information on the **retailer's gas customer safety awareness program**.
- (3) For the purposes of subclauses (2)(d)-(l), a **retailer** or **gas marketing agent** is taken to have given the **customer** the required information if -
- (a) the **retailer** or **gas marketing agent** has provided the information to that **customer** within the preceding 12 months; or

(b) the **retailer** or **gas marketing agent** has informed the **customer** how the **customer** may obtain the information, unless the **customer** requests to receive the information.

(4) Subject to subclause (3), the **retailer** or **gas marketing agent** must obtain the **customer's verifiable consent** that the information in clause 2.3(2) has been given.

~~2.3 Information to be given before entering into a contract~~

~~1. Before arranging a **contract**, a **gas marketing agent** must give a **customer** the following information—~~

~~(a) that the **customer** is free to choose the **standard form contract** offered by the **retailer**;~~

~~(b) 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 a **non-standard contract** in accordance with clause 2.2(2) above, the **gas 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** or a **non-standard contract** other than in accordance with clause 2.2(2) above, the **gas 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 **gas marketing agent**, a **retailer** or **gas 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 **gas 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 **gas marketing agent** must give the following information to a **customer**—~~

~~(a) how the **customer** may obtain—~~

~~(i) a copy of the **Code** and the **Compendium**; 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 **gas 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 **retailer's gas customer safety awareness program**; and~~
 - ~~(j) for agreements 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), the information in subclause (2) must be given—~~
- ~~(a) for a **standard form contract**, 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 **gas marketing agent** must obtain the **customer's** written acknowledgement that the information in subclause (2) has been given.~~
- ~~(4) Despite subclause (3), 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), 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~~3 – Marketing conduct

2.52.4 Standards of conduct

- (1) A **retailer** or **gas marketing agent** must ensure that the inclusion of **concessions** is made clear to **residential customers** and any prices that exclude **concessions** are disclosed.
- ~~(2) A **gas marketing agent** must ensure that all **non-standard contracts** that are not **unsolicited consumer agreements** are in writing.~~

~~(3)~~(2) A **retailer** or **gas marketing agent** ~~other party~~ must ensure that a **customer** is able to **contact** the **retailer** or **gas marketing agent** ~~other party~~ on the **retailer's** or **gas marketing agent's** ~~other party's~~ **telephone** number during the normal business hours of the **retailer** or **gas marketing agent** ~~other party~~ for the purposes of enquiries, verifications and **complaints**.

2.62.5 Contact for the purposes of marketing

- (1) A **retailer** or **gas 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;
 - ~~(a)~~(b) provide the **customer** with the **telephone** number of the **gas ombudsman**; and
 - ~~(b)~~(c) for **contact** by a **gas marketing agent**, provide the **customer** with the **gas marketing agent's marketing identification number**.
- (2) A **retailer** or **gas 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)~~(a) 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** (for contact by a gas marketing agent); and
 - (iv) the name of the **retailer** ~~or other party~~ on whose behalf the **contact** is being made; and
 - ~~(c)~~(b) as soon as practicable, provide the **customer**, in writing –
 - (i) his or her first name;
 - (ii) his or her **marketing identification number** (for contact by a gas marketing agent);
 - (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
 - ~~(d)~~(v) the business address and Australian Business or Company Number of the **retailer** ~~or other party~~ on whose behalf the **contact** is being made; and
 - (vi) the telephone number of the gas ombudsman.
- ~~(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;~~
 - ~~(b) the name of the **gas marketing agent** who made the **contact**; and~~
 - ~~(c) the date and time of the **contact**.~~
- ~~(4) Clause 2.6(3) does not apply where a **gas marketing agent** contacts a **customer** in response to a **customer** request or query.~~

2.6 No canvassing or advertising signs

A **retailer** or **gas marketing agent** who visits a person's **premises** for the purposes of **marketing** must comply with any clearly visible signs at a person's **premises** indicating –

- (a) canvassing is not permitted at the **premises**; or
- (b) no advertising or similar material is to be left at the **premises** or in a letterbox or other receptacle at, or associated with, the **premises**.

Division 5-4 – Miscellaneous

2.7 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) a **gas marketing agent**,

is to be taken, unless the contrary is proved, to have been employed or authorised by the **retailer** or **gas marketing agent** to carry out that activity.

2.8 Gas marketing agent complaints

~~(4)~~ A **gas 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 **gas marketing agent**; and~~
- ~~(b) on request by the **gas ombudsman** in relation to a particular **complaint**, give to the **gas ombudsman** within 28 days of receiving the request, all information that the **gas marketing agent** has relating to the **complaint**.~~

2.9 Records to be kept

~~(2)~~—A record or other information that a **gas marketing agent** is required by this **Code** to keep must be kept for at least 2 years after the last time the

person to whom the information relates was **contacted** by or on behalf of the **gas marketing agent**.

[Note: Clause 13.1(1) of the *Compendium* sets out record keeping obligations that apply to retailers in relation to records to be kept under this Code.]