



Electricity Code Consultative Committee

Draft review report

2019-22 Review of the *Code of Conduct for the Supply of Electricity to Small Use Customers*

30 November 2020

Electricity Code Consultative Committee

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This document can also be made available in alternative formats on request.

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Invitation for submissions

The Electricity Code Consultative Committee (ECCC) invites interested parties to provide comment on the matters discussed in this draft review report and any other issues or concerns with the *Code of Conduct for the Supply of Electricity to Small Use Customers 2018* not already raised in this report.

Comments can be submitted via the Economic Regulation Authority's online submission form: <https://www.erawa.com.au/consultation>

You can also send comments through:

Email: publicsubmissions@erawa.com.au
Post: PO Box 8469, PERTH BC WA 6849

Please note that submissions provided electronically do not need to be provided separately in hard copy.

Submissions are due by Friday, 29 January 2021.

Submissions made available to the ECCC will be published on the ERA website. Making all submissions publicly available facilitates an informed and transparent consultative process. Where there is a valid claim for confidentiality, the ECCC may accept a confidential submission along with a redacted version to be published on the website. If you are seeking to claim confidentiality over your submission, please contact the ECCC in advance at info@erawa.com.au.

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Executive summary

The Electricity Code Consultative Committee (ECCC) has commenced its statutory review of the *Code of Conduct for the Supply of Electricity to Small Use Customers 2018*.

The Code regulates and controls the conduct of retailers and distributors who supply electricity to residential and small business customers.¹ It covers a broad range of areas including billing, payment, financial hardship, disconnection and complaints.

The objective of the ECCC's review is to re-assess the suitability of the provisions of the Code for the purposes of the *Electricity Industry Act 2004*.

As part of its review, the ECCC prepared this draft review report. The report contains preliminary recommendations to amend the Code.

The ECCC's review identified three main areas for improvement. The report also includes recommendations for, and questions about, various other issues. A list of all recommendations and questions is included in Appendix 1.²

The three main areas for improvement are: improved alignment with the National Energy Customer Framework (NECF), improved access to payment assistance, and the introduction of protections for customers affected by family violence.

Improved alignment with the National Energy Customer Framework

The NECF governs the sale and supply of electricity and gas from retailers and distributors to customers in New South Wales, Queensland, South Australia, Tasmania and the Australian Capital Territory.

The ECCC proposes various changes to the Code to improve alignment with the NECF. The ECCC does not propose to adopt the NECF in its entirety.

The proposed changes aim to reduce the need for retailers that are operating under the national and Western Australian energy frameworks to have different systems and processes for different jurisdictions. This may lower their compliance costs.

The changes would also result in the adoption of several customer protections that are currently not included in the Code.

Improved access to payment assistance for residential customers

The ECCC would like to make it easier for residential customers to access payment assistance.

Currently, payment assistance is only available to residential customers who have been assessed as experiencing payment difficulties or financial hardship. An assessment must be

¹ Customers whose electricity consumption is no more than 160 megawatt hours per year.

² Minor amendments that do not materially affect retailers, distributors, electricity marketing agents or customers, are listed in Appendix 2. They are not discussed in the main body of the report.

made by a retailer or, if a retailer is unable to make the assessment within 5 business days, by a consumer representative organisation, like a financial counsellor.

The ECCC proposes that all assessments must be made by the retailer. This would ensure that customers are always assessed within five business days and cannot be required to make an appointment with a financial counsellor to access payment assistance.

The ECCC is still considering whether the eligibility criteria for payment assistance should also be eased by making payment extensions and instalment plans available to all residential customers, instead of only those who have been assessed as experiencing payment difficulties or financial hardship.

An advantage of making payment assistance available to all residential customers is that it may encourage customers to act earlier, as it would be clearer what their entitlements are. It would also ensure no customers are denied assistance and would remove the need for retailers to assess if a customer is experiencing payment difficulties.³

To assist the ECCC's deliberations, comment is sought on whether payment assistance should be made available to all customers.

Another way the ECCC proposes to make it easier for customers to access payment assistance, is by requiring all instalment plans to have regard to a customer's capacity to pay, debt and expected ongoing consumption.⁴ By including ongoing consumption in instalment plans, customers should no longer need to enter into multiple instalment plans for different bills.

Protections for customers affected by family and domestic violence

The ECCC proposes to introduce new protections in the Code for customers affected by family violence.

The new provisions would assist customers affected by family violence by requiring retailers to have a family violence policy that requires the retailer:

- To protect an affected customer's information, including from a person that is or has been a joint account holder with the customer.
- To have a process in place to avoid the need for an affected customer having to repeatedly disclose or refer to their experience of family violence.
- To consider the potential impact of debt collection on an affected customer and whether another person is responsible for the debt.
- To provide for staff training on family violence. The training must be developed in consultation with, or delivered by, relevant consumer representatives.

³ If a customer informs a retailer that they are experiencing payment problems, the retailer would still have to assess if the customer is experiencing financial hardship. This is because a customer who is experiencing financial hardship is not only entitled to a payment extension and instalment plan, but also to other assistance.

⁴ An instalment plan would no longer have to take into account the customer's consumption history.

The ECCC also proposes introducing a new provision in the Code to prohibit retailers from requesting evidence of family violence unless the evidence is needed for the retailer to assess whether to proceed with debt collection or disconnection.

The proposed protections have drawn from similar protections in the Victorian *Energy Retail Code*.

The ECCC also seeks submissions on whether retailers should be temporarily prevented from disconnecting customers affected by family violence.

Way forward

Following the closure of the public consultation period, the ECCC will finalise its recommendations and give a final review report to the Economic Regulation Authority. The ERA is responsible for making any amendments to the Code.

1. Background

1.1 The electricity market in Western Australia

Under the *Electricity Industry Act 2004*, persons who operate a distribution network or sell electricity to end use customers must obtain a licence from the ERA. Licensees who distribute or sell electricity to small use customers must comply with the Code as a condition of their licence.

A small use customer is a customer who consumes not more than 160 megawatt hours of electricity per year.⁵

The Electricity Networks Corporation (trading as Western Power) is the monopoly distribution network provider to small use customers within the South West Interconnected System (SWIS), with over 1.163 million connections, or 96% of the total distribution network connections in the State.⁶ The Regional Power Corporation (trading as Horizon Power) is the distribution network provider outside the SWIS.

Thirteen retailers currently hold a licence to sell electricity to small use customers.⁷

According to data provided to the ERA for the year ending 30 June 2020, the Electricity Generation and Retail Corporation (trading as Synergy) was the largest retailer in the State with approximately 96% of the total market.⁸ Horizon Power, which sells electricity in regional and remote areas outside the SWIS, had 44,533 customers, or approximately 4% of the total market. The remaining customers were divided between AER Retail (20 customers), Alinta Energy (3,519 customers), Amanda Energy (111 customers), Change Energy (115 customers), CleanTech (63 customers), Clear Energy (2 customers), Kleenheat (170 customers), Perth Energy (438 customers), and Rottnest Island Authority (25 customers).⁹

In the SWIS, only Synergy may sell electricity to customers who consume less than 50 megawatt hours of electricity per year (known as non-contestable customers).¹⁰ These are generally residential customers and smaller businesses such as hairdressers or news agencies.

⁵ Currently, 160 megawatt hours of electricity equates to an annual electricity bill of approximately \$46,493 (residential) or \$64,183 (business).

⁶ Western Power, 2020, [Electricity Licence Reporting Datasheets - Distribution 2020](#)

⁷ AER Retail Pty Ltd, Alinta Sales Pty Ltd (trading as Alinta Energy), Amanda Energy Pty Ltd, A-Star Electricity Pty Ltd, Change Energy Pty Ltd, CleanTech Energy Pty Ltd, Clear Energy Pty Ltd, Electricity Generation and Retail Corporation (trading as Synergy), Horizon Power, Peel Renewable Energy Pty Ltd, Perth Energy Pty Ltd, Rottnest Island Authority and Wesfarmers Kleenheat Gas Pty Ltd.

⁸ Synergy had [1,103,265](#) residential and non-residential small use customers as at 30 June 2020.

⁹ A-Star Electricity and Peel Renewable Energy did not supply any small use customers as at 30 June 2020.

¹⁰ This is because, by law, if a customer consumes less than 50 megawatt hours of electricity per year, Western Power is only allowed to provide network services for the supply of electricity to that customer if the customer is a customer of Synergy.

1.2 The Code

The Code was developed to protect the interests of small use customers, as they often have little or no say in the terms and conditions of their electricity supply.

The objective of the Code is to regulate retailers, distributors and marketing agents – by defining standards of conduct in the supply and marketing of electricity, providing for compensation payments to customers when standards are not met, and prohibiting undesirable marketing conduct.¹¹

The Code first took effect in 2004 and has been replaced several times since. The current Code, the *Code of Conduct for the Supply of Electricity to Small Use Customers 2018*, commenced on 1 July 2018. This is in Appendix 3.

The Code covers a broad range of issues, including billing, payment, payment difficulties and financial hardship, disconnection and complaints.

The Code has the power of subsidiary legislation. The ERA is responsible for monitoring and enforcing compliance with the Code.

1.3 The ECCC

The ERA first established the ECCC in 2006 to advise it on matters relating to the Code, as required by section 81 of the *Electricity Industry Act 2004*.

1.3.1 Functions

The ECCC's functions are to:

- carry out a review of the Code every two years;¹² and
- advise the ERA on any proposed amendments or replacements of the Code.¹³

The ECCC has reviewed the Code six times since the Code commenced.¹⁴

1.3.2 ECCC members

On 31 January 2020, the ERA appointed the following members to the ECCC for the 2019-2021 term:

¹¹ *Electricity Industry Act 2004* (WA) s79(2).

¹² *Electricity Industry Act 2004* (WA) s88(1).

¹³ *Electricity Industry Act 2004* (WA) s87.

¹⁴ The ECCC completed reviews of the Code in 2007, 2009, 2011, 2013, 2015 and 2017. Further information on previous Code reviews is available at: <https://www.erawa.com.au/electricity/electricity-licensing/code-of-conduct-for-the-supply-of-electricity-to-small-use-customers>

Chair

Executive Director, Regulation & Inquiries ERA

Executive Officer

Principal Regulatory Officer ERA

Consumer organisation representatives

Ms Celia Dufall	Financial Counselling Network
Mr Graham Hansen	Western Australian Council of Social Service
Ms Diane Hayes	Financial Counsellors' Association of WA
Ms Kathryn Lawrence	Citizens Advice Bureau of WA

Industry representatives

Mr Gino Giudice	Western Power
Ms Catherine Rousch	Alinta Energy
Mr Simon Thackray	Synergy
Mr Geoff White	Horizon Power

Government representatives

Ms Anne Braithwaite	Energy Policy WA
Ms Karen Keyser	Department of Mines, Industry Regulation and Safety

Ms Rachelle Gill, Energy Policy WA, attended the ECCC meetings as an observer.

The ECCC memberships expire on 31 December 2021.

1.4 The Code review process

As part of its review of the Code, the ECCC prepared this draft review report for public consultation.

Once the public consultation period has ended, the ECCC will meet to discuss the submissions received. The outcome of the ECCC's discussions will be reflected in the ECCC's final review report. This report will be provided to the ERA for consideration.

If the ERA decides to amend the Code, the ERA must refer any proposed amendments back to the ECCC for its advice. The ECCC must then undertake consultation on the proposed amendments and provide its final advice to the ERA.

The ERA has advised the ECCC that it proposes to engage the Parliamentary Counsel's Office to draft any amendments. The use of the Parliamentary Counsel's Office, as well as the proposed scope of the 2019-22 review, is likely to extend the timeframe for the Code review to three years.

The table below sets out the steps for the 2019-22 Code review:

Table 1: Steps for 2019-22 Code review

Steps
ECCC publishes draft review report and notice inviting public submissions
Close of public consultation period
ECCC considers public submissions
ECCC approves final review report and delivers it to ERA
ERA engages the Parliamentary Counsel's Office
ERA publishes draft decision
ERA refers its proposed amendments to the ECCC for advice
ECCC publishes notice inviting public submissions on ERA draft decision
Close of public consultation period
ECCC considers public submissions
ECCC approves its final advice and delivers it to ERA
ERA publishes final decision
Gazettal of new Code

The ERA aims to gazette the new Code by 30 June 2022.

2. Structure of this report

This draft review report follows the structure of the Code.

Each section of the report addresses a different part of the Code and sets out the ECCC's draft recommendations for that part. Where the ECCC has not yet formed a preliminary view, the report includes a question for interested parties.

2.1 Draft recommendations

As part of its review, the ECCC reviewed the Code against the National Energy Customer Framework (NECF) to try to improve alignment between both instruments. Many of the draft recommendations resulted from that review. More information about the comparative review is in section 3 of this report.

Other recommendations are in response to issues raised by committee members and the ERA, and amendments made to other, similar instruments, such as the *Gas Marketing Code of Conduct 2017* and the *Compendium of Gas Customer Licence Obligations*.¹⁵

The background to each draft recommendation is structured differently from previous draft review reports.

Previous reports explained the background to the recommendation in detail, starting with a summary of the clause, description of the issue and possible solution(s).

Given the large number of draft recommendations included in this report, the ECCC considered that a similar approach would make the report too cumbersome. Rather than setting out the background to each recommendation in detail, the report sets out for each recommendation, in bullet-point style, what would change for retailers, distributors and customers if the recommendation is adopted and why the change is proposed.

Each draft recommendation also identifies if the recommendation resulted from the comparative review of the Code and the NECF, or not ('other issues').

Recommendations resulting from the ECCC's comparative review

For draft recommendations resulting from the ECCC's comparative review of the Code and the NECF, the main body of the report explains what will change as a result of the draft recommendation, and why.¹⁶

¹⁵ The [Gas Compendium](#) is Schedule 2 of the template gas trading licence and gas distribution licence.

¹⁶ Provisions that are different from the NECF but for which no changes are proposed, are not discussed in the main body of the report. For example, the Code requires retailers to offer Centrepay as a minimum payment method. The NECF does not include such a requirement. Although the ECCC has proposed to align some of the Code's minimum payment methods with the NECF, no changes are proposed to the requirement to offer Centrepay. The availability of Centrepay as a minimum payment method is therefore not discussed in the main body of the report.

Additional detail about each draft recommendation is in Appendix 4. This Appendix includes: a summary of the Code clause and the equivalent NECF provision, the advantages and disadvantages of adopting the NECF, detailed reasoning for the draft recommendation and/or why the ECCC has not proposed changes for some provisions.¹⁷ The information is set out in table format.

Appendix 4 also includes tables with full extracts of the relevant Code clauses and the equivalent NECF provisions (if there is one).

Although Appendix 4 may provide useful, additional information for stakeholders, the report has been drafted so readers do not have to read Appendix 4 to understand the effect of, and reasoning behind, each draft recommendation.

Recommendations resulting from other issues

For draft recommendations that address issues not related to the comparative review, all relevant information is included in the main body of the report.¹⁸ No additional information is included in the appendices.

2.2 Questions

For some issues, the ECCC has not yet formed a preliminary view. In these cases, the ECCC has included one or more questions in the report. The questions aim to assist the ECCC to better understand if the matter should be regulated and, if so, how.

2.3 Minor amendments

The ECCC proposes various minor amendments to the Code that would not materially affect retailers, distributors, electricity marketing agents or customers. These amendments are listed in Appendix 2 and are not discussed in the main body of the report.

2.4 Drafting

Unlike previous ECCC reports, this draft review report does not include a draft of the proposed Code. This is because the ERA has advised that it will seek to engage the Parliamentary Counsel's Office (PCO) to draft the amendments to the Code.

Although the report does not include a draft of the proposed Code, the ECCC has included mock-up drafting for some of the proposed changes in this report. Mock-up drafting has generally only been included for changes that aim to improve consistency with other instruments, such as the *Gas Marketing Code of Conduct 2017*, the *Compendium of Gas*

¹⁷ As explained in section 3.3, the ECCC has only compared clauses from Parts 3, 4, 5, 7, 8, 10 and 12 of the Code against the equivalent provision in the NECF (if there was one).

¹⁸ Except for the matters raised in Appendix 2 (minor amendments).

Customer Licence Obligations and the NECF.¹⁹ In those cases, the mock-up drafting closely follows the drafting of those instruments.²⁰

The ECCC included the mock-up drafting as it may be helpful to interested parties to see what a clause may look like with the proposed changes. However, as any amendments to the Code will be drafted by the PCO, it is likely that the final drafting will be different. The PCO may suggest amendments to the Code in addition to those proposed by the ECCC and ERA. This may, for example, occur when provisions do not meet the PCO's drafting style.

¹⁹ For other proposed changes, the report includes a note explaining that the PCO will draft appropriate wording. There are two exceptions:

- Draft recommendations to delete a (sub)clause: The deletions have also been shown in mock-up drafting.
- Draft recommendations for the new family and domestic violence provisions (section 17 of this report): The proposed changes have not been shown in mock-up drafting nor have any notes been included to explain that the PCO will draft appropriate wording.

Mock-up drafting has not been included as the draft recommendations generally do not propose consistency with other, existing instruments. Notes have not been included as they would be of limited value without any existing drafting to provide context. Also, the draft recommendations already clearly explain the matters to be covered by the proposed provisions.

²⁰ Where the wording is different from the wording used in the other instrument, the word(s) have been placed between brackets ([...]). For example, amended clause 4.1(1) of the Code is based on rule 24(1) of the *National Energy Retail Rules*. The words 'small customer', in rule 24(1), have been replaced with '[customer]' in clause 4.1(1) as the term customer is used throughout the Code.

3. Comparative review of the Code and the National Energy Customer Framework

As part of its review of the Code, the ECCC has undertaken a comparative review of the Code and the National Energy Customer Framework (NECF).

The NECF governs the sale and supply of electricity and gas from retailers and distributors to customers in New South Wales, Queensland, South Australia, Tasmania and the Australian Capital Territory.

The ECCC last compared the Code against the NECF in 2011.²¹ As the NECF had not yet been implemented at that time, the ECCC agreed that “it would be premature to propose anything other than noting the NECF changes”.

The NECF is now well established and some retailers are operating under the national and Western Australian energy frameworks. The ECCC therefore decided to compare the Code against the NECF again.

3.1 Background

The NECF is a suite of legal instruments that regulate the sale and supply of electricity and gas to customers in the National Electricity Market (other than Victoria). The main NECF instruments are the:

- National Energy Retail Law
- [National Energy Retail Rules](#); and
- National Energy Retail Regulations

The National Energy Retail Law covers some of the same subjects as the *Electricity Industry Act 2004* (WA), such as licensing (authorisations), retailer of last resort schemes, and customer contracts. The *National Energy Retail Rules*, or NERR, deal with similar subjects as the Code, such as billing, payment and disconnection.

Differences between the WA framework and the NECF

Two main differences between the WA framework and the NECF are:

- Under the NECF, customers have a direct contractual relationship with their retailer and distributor. WA customers only have a direct contractual relationship with their retailer.
- Under the NECF, all customers may choose their retailer. In WA, only customers who consume more than 50MWh of electricity per year may choose their retailer.

²¹ Electricity Code Consultative Committee, 2011, [Draft Review Report – 2011 Review of the Code of Conduct for the Supply of Electricity to Small Use Customers](#), p. 13.

Because of these differences, some of the NECF provisions are not relevant to the WA market.²²

The NECF also deals with matters that cannot be addressed in the Code because the Act requires these matters to be addressed in regulations or other Codes. For example, various provisions in the *National Energy Retail Rules* deal with the transfer of customers. In WA, matters relating to the transfer of customers are dealt with in the *Electricity Industry (Customer Transfer) Code 2016*.

3.2 Reasons for comparative review

Improved alignment between the Code and the NECF may benefit retailers, distributors and customers.

Reduced compliance costs

At least one electricity retailer, Alinta Energy, currently operates in the WA and Eastern States markets. Several gas retailers also operate in both markets.²³

Improving alignment between the Code and the NECF will reduce the need for these retailers to have different systems and processes for different jurisdictions. This may lower their compliance costs.

Increased customer protections

The NECF contains several customer protections that are currently not included in the Code.

For example, the *National Energy Retail Rules* require retailers to obtain a customer's verifiable consent to change their usual recurrent billing cycle. They also require retailers to advise customers with a market retail contract in advance of any changes to their tariffs.

Customers may benefit if some of these protections are adopted in the Code.

Improved drafting

The drafting of some Code provisions is complex, making the provision difficult to understand. In some cases, the equivalent provision in the NECF is drafted clearer, or structured better.

Improving the drafting of the Code would help customers, retailers and distributors better understand their rights and obligations under the Code.

²² For example, rule 119(1)(c) of the *National Energy Retail Rules* provides that a distributor may disconnect a supply address if the customer fails to pay charges under a connection contract. In WA, distribution charges are passed on by the retailer to the customer. Disconnection for failure to pay connection charges will therefore be arranged by the retailer, not the distributor.

²³ Gas retailers are subject to the *Compendium of Gas Customer Licence Obligations*, which closely follows the Code.

Improving alignment between the Code and the NECF will also make it clearer where the Code and the NECF differ. Currently, it is not always clear whether differences in wording are only a matter of drafting or whether the actual obligation is different as well.

3.3 Scope of comparative review

The ECCC has compared each Code clause in Parts 3, 4, 5, 7, 8, 10 and 12 against the equivalent provision in the NECF (if there was one).

NECF provisions that do not have an equivalent Code clause

The ECCC has not considered NECF provisions for which there is no equivalent Code clause. As mentioned earlier, many of the NECF provisions are not relevant to the WA market or are addressed in other WA regulations or Codes.²⁴

Parts 1, 2, 6, 9, 13 and 14 of the Code

The ECCC has not compared Parts 1, 2, 6, 9, 13 and 14 of the Code against the NECF because:

- Part 1 deals with administrative matters and definitions. There is no need to compare administrative provisions to the NECF. Definitions are discussed in the report where required.

Clause 1.10 (which lists code clauses that a retailer and customer may agree do not apply, or can be amended, in a non-standard contract) is discussed separately in section 5.3.
- Part 2 deals with marketing. The ECCC generally does not review the marketing section of the Code in detail, but instead relies on the work undertaken by the Gas Marketing Code Consultative Committee. For more information, see section 6 of this report.
- Part 6 deals with payment difficulties and financial hardship. The NECF framework around payment difficulties is very different to the framework in the Code, making direct comparison difficult. Instead of comparing both frameworks fully, the ECCC considered elements of the NECF framework as well as the Victorian standards of assistance available to customers facing payment difficulties.²⁵ See section 10 of this report.
- Part 9 deals with pre-payment meters. There is a risk that, when trying to achieve consistency with the NECF, the pre-payment meters that are currently used by WA retailers may not be able to meet the NECF requirements. This occurred previously, compelling the ERA to provide exemptions from some of the requirements. This paper therefore only discusses provisions with which stakeholders have raised concerns. See section 13 of this report.

²⁴ Some of the NECF provisions are currently being considered by Energy Policy WA for inclusion in the *Electricity Industry (Customer Contracts) Regulations 2005*. These provisions are also not discussed in this discussion paper. For more information about Energy Policy WA's review of the regulations, refer to Energy Policy WA's [Draft Recommendations Report: Review of Energy Customer Contract Regulations](#).

²⁵ *Energy Retail Code (Vic) Part 3*.

- Part 13 deals with reporting. As Part 13 is proposed to be deleted, there is no need to compare the provisions to the NECF. See section 16 of this report.
- Part 14 deals with service standard payments. Service standard payments are not addressed in the NECF, but by each State individually.

4. Parliamentary Counsel's Office

As explained in section 1.4, the ERA has advised that it will seek to engage the Parliamentary Counsel's Office to draft the amendments to the Code.

The PCO may be able to assist to improve the readability of the Code. The Code has undergone six reviews, which have resulted in many amendments. Some provisions have become long and complex, making it difficult to understand the obligation.

As the ERA cannot prescribe how the PCO should draft provisions, the draft review report does not contain specific suggestions to improve the drafting of particular clauses. Instead, the ECCC proposes that the ERA request the PCO to generally review the drafting of the Code to improve clarity.

Other issues

Draft recommendation 1

Request the PCO to review the drafting of the Code to improve clarity.

5. Part 1 of the Code: Preliminary

5.1 Provision of information

Draft recommendation 2

Other issues

Provide that a retailer, distributor or electricity marketing agent that has to give information on request to a customer:

- May either give the information to the customer or, if the information is available on its website, refer the customer to its website.
- Must give the information, if the customer requests the information is given.

What would change

Where the Code requires information to be given to a customer on request, the retailer, distributor or electricity marketing agent may either give the information to the customer or, if the information is available on its website,²⁶ refer the customer to the website.

If the customer requests that the information is given, the retailer, distributor or electricity marketing agent must do so.

Why the change is proposed

- To provide retailers, distributors and electricity marketing agents with flexibility as to how they provide information to their customers. As most interactions with customers take place over the phone, it will often be more convenient for all parties concerned to refer customers to information on the website rather than emailing or posting the information.
- The amendment would only cover information that must be provided on request. Information that is not provided on request must still be provided to the customer in writing or verbally.

This is because information that is not provided on request either:

- Is less suitable for publication on a website as it often relates to the customer's specific circumstances (for example, details about the customer's instalment plan, the date of the customer's next meter reading or the outcome of a bill review).²⁷
- Explains a customer's rights and obligations in a specific situation. As the customer may not be aware of its importance, the information should be provided directly to

²⁶ Some information that must be provided on request is unlikely to be available on a retailer's website because it is specific to the customer's circumstances. This includes the basis and reason for an estimation (clause 4.8(3)), the outcome and reasons for a financial hardship assessment (clause 6.1(4)) and an explanation for a change in the quality of the customer's supply outside the prescribed limits (clause 10.6(b)).

²⁷ *Code of Conduct for the Supply of Electricity to Small Use Customers 2018* (WA) clauses 6.4(3)(a), 7.4(1)(b) and 4.16(2).

the customer. A customer should not have to take action to access the information, for example by visiting a website.

For example, a customer who has been placed on a shortened billing cycle should be advised of their rights and obligations while on a shortened billing cycle. It is not sufficient for a retailer to advise the customer that they are on a shortened billing cycle and that they can visit the retailer's website for more information on how to be removed from the shortened billing cycle.

- Although many customers have access to the internet, this is not the case for all customers. Some customers also simply prefer to receive a copy of the information instead of being referred to a website. Retailers, distributors and electricity marketing agents should therefore have to give the information to customers who request it.

What the new clause may look like

[new clause] **Giving information on request**²⁸

[To be drafted by the PCO: The Code will be amended to provide that a retailer, distributor or electricity marketing agent that has to give information on request to a customer:

- May either give the information to the customer or, if the information is available on its website, refer the customer to its website.
- Must give the information, if the customer requests the information is given.]

5.2 Provision of information by electronic means

Other issues

Draft recommendation 3

Delete the words 'or by electronic means' in clauses 6.4(3)(a), 6.4(3)(b), 9.3(5) and 9.4(1)(a) of the Code.

What would change

When information must be given in writing, a retailer may only give the information electronically if:

- at the time the information was given, it was reasonable to expect that the information would be readily accessible so as to be useable for subsequent reference;
- and
- the person to whom the information is required to be given consents to the information being given by means of an electronic communication.

Why the change is proposed

Section 9 of the *Electronic Transactions Act 2011* (WA) provides that the words 'in writing' in any law include electronic means if:

²⁸ The words 'Giving information on request' are tentative only; they are not based on existing wording in the Code. The PCO to provide draft wording.

- at the time the information was given, it was reasonable to expect that the information would be readily accessible so as to be useable for subsequent reference;
and
- the person to whom the information is required to be given consents to the information being given by means of an electronic communication.²⁹

The protections of section 9 only apply where a law uses the words ‘in writing’.

Several provisions in the Code use the words ‘in writing’ followed by the words ‘or by electronic means’. In these cases, the protections of the Electronic Transactions Act do not apply (because the Code explicitly provides that the information can be provided electronically).

To ensure that the protections of the Electronic Transactions Act also apply in these cases, it is proposed to remove the words ‘or by electronic means’ where they appear after the words ‘in writing’.

There is one exception. The ECCC does not propose to remove the words from clause 7.7(4)(b) of the Code. This means that distributors may continue to notify life support customers electronically of planned interruptions without obtaining the customer’s prior consent to receiving such notices electronically. As distributors do not have a direct contractual relationship with their customers, it may be difficult for them to obtain prior consent. The ECCC is also not aware of any concerns with the way distributors currently contact life support customers in the event of a planned interruption.

What the new clauses may look like

6.4 Alternative payment arrangements

- (3) If a residential customer accepts an instalment plan offered by a retailer, the retailer must—
- (a) within 5 business days of the residential customer accepting the instalment plan provide the residential customer with information in writing ~~or by electronic means~~ that specifies—³⁰
 - (i) the terms of the instalment plan (including the number and amount of payments, the duration of payments and how the payments are calculated);
 - (ii) the consequences of not adhering to the instalment plan; and
 - (iii) the importance of contacting the retailer for further assistance if the residential customer cannot meet or continue to meet the instalment plan terms, and
 - (b) notify the residential customer in writing ~~or by electronic means~~ of any amendments to the instalment plan at least 5 business days before they come into effect (unless otherwise agreed with the residential customer) and provide the residential customer with information in writing ~~or by electronic means~~ that clearly explains and assists the residential customer to understand those changes.³¹

9.3 Provision of mandatory information

- (5) A retailer must, within 10 business days of the change, use reasonable endeavours to notify a pre-payment meter customer in writing ~~or by electronic means~~ if the recharge facilities available to the residential customer change from the initial recharge facilities referred to in subclause (2)(r).

²⁹ Section 5(1) of the Electronic Transactions Act defines consent as ‘includes consent that can reasonably be inferred from the conduct of the person concerned, but does not include consent given subject to conditions unless the conditions are complied with’.

³⁰ Draft recommendation 52(a) proposes an additional amendment to this paragraph.

³¹ Draft recommendation 52(b) proposes an additional amendment to this paragraph.

9.4 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 pre-payment meter customer in writing ~~or by electronic means~~; and³²
 - (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.

5.3 Variation from the Code

[Clause 1.10 of the Code and various other provisions]

5.3.1 Contracting out of the Code

1.10 Variation from the Code

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

- (a) 4.1;
- (b) 4.2;
- (c) 5.1;
- (d) 5.2;
- (e) 5.4;
- (f) 5.7; and
- (g) 8.1.

There are currently two ways in which a retailer and customer can agree to contract out of the Code:

- Clause 1.10 allows a retailer and customer to agree that certain clauses do not apply, or apply differently, in a non-standard contract.
- Some clauses state that a retailer and customer may agree otherwise. For example, clause 5.2 provides:

Unless otherwise agreed with a customer, a retailer must offer the customer at least the following payment methods—

There is a difference between clauses listed in clause 1.10 and clauses that include the words 'unless otherwise agreed':

- For a clause that is listed in clause 1.10, a retailer and customer may agree in their non-standard contract that the clause does not apply. Although not explicitly stated, it is likely that agreement must be in writing as the matter must be addressed 'in' the contract.
- For a clause that includes the words 'unless otherwise agreed', a retailer and customer can agree in writing or verbally that the clause does not apply. They may do this

³² Draft recommendation 71 proposes deletion of this paragraph.

regardless of whether the customer is supplied under a standard form contract or a non-standard contract.

Clauses that use the words 'unless otherwise agreed' provide the retailer and customer with more flexibility to contract out of the Code than clauses that are listed in clause 1.10. However, they also reduce the Code's ability to provide a minimum safety net for customers – as retailers and customers can easily agree that one or more protections will not apply.

Flexibility can benefit customers. For example, customers may want to agree to a different billing cycle to help them better manage their bills.^{33 34} In some cases, however, it is less clear how flexibility would benefit the customer. For example, clause 5.2 allows a customer and retailer to agree to fewer minimum payment methods. Flexibility in payment methods is most likely to benefit a customer if the retailer and customer agree to more payment methods than those prescribed in the Code. However, the retailer and customer do not have to contract out of the Code to do so as the Code does not prevent a retailer from offering more payment methods.

Where there is no obvious benefit to the customer to vary the protection, retailers generally offer an incentive for customers to agree to the variation. For example, some gas retailers offer tariff discounts if the customer agrees to pay a fixed monthly amount by direct debit. The variations and incentives are usually agreed to in writing as part of a non-standard contract.

The ability for customers to agree to service standards other than those prescribed under the Code has existed in varying degrees since the Code's establishment in 2004. Over time, the ERA has amended the Code to implement recommendations from the ECCC that provided customers with greater choice on the service standards they may vary.

Appendix 5 includes a table with all clauses that are listed in clause 1.10 and/or use the words 'unless otherwise agreed'.³⁵

The ECCC seeks feedback on the current classifications for these clauses, or whether changes should be made. As a general rule, the ECCC considers that clauses that include the words "unless otherwise agreed" should not also be listed in clause 1.10, and vice versa.

Proposed changes could also include not allowing the customer and retailer to set aside the protection at all (that is, the clause should not be listed in clause 1.10 nor use the words 'unless otherwise agreed'), or allowing customers and retailer to set aside more protections (by listing additional clauses in clause 1.10 or by including the words 'unless otherwise agreed' in more clauses).

³³ Clause 4.1 of the Code (as proposed to be amended).

³⁴ Another example is the payment in advance amount (clause 5.4 of the Code). Customers and retailers may want to agree to a lower payment in advance amount.

³⁵ The drafting of the clauses listed in Appendix 5 includes any amendments proposed by the ECCC in this draft review report. This means that, for some clauses, the drafting is not consistent with the drafting of the current Code.

Question 1

- a) Should any of the clauses listed in clause 1.10 be removed from clause 1.10?
If so, should any of those clauses instead include the words 'unless otherwise agreed'?
- b) Should the words 'unless otherwise agreed' be removed from any clauses that currently include those words?
If so, should any of those clauses be added to clause 1.10?
- For a list of relevant clauses, see Appendix 5.

5.3.2 Information to be given to customers who contract out of the Code

Customers who, under clause 1.10, enter into a non-standard contract for which one or more Code clauses do not apply, or apply differently, currently do not have to be advised of this before they enter into the contract.

Customers who enter into a non-standard contract with Synergy or Horizon Power will generally, indirectly, be advised if one or more Code protections do not apply under the contract.³⁶ This is because Synergy and Horizon Power must advise customers of the difference between their standard form contract and a non-standard contract before the customer enters into the contract.³⁷ Although a customer would be advised what protections they are giving up, they would not know if those protections are prescribed in the Code or are only provided for under the standard form contract.³⁸

The obligation to advise customers of the difference between a standard form contract and non-standard contract does not apply to retailers other than Synergy and Horizon Power. Therefore, customers of other retailers do not have to be advised, directly or indirectly, if they have contracted out of one or more protections of the Code.

Question 2

Should the Code be amended to require that, if one or more Code clauses do not apply or apply differently in a customer's non-standard contract, the customer is informed of this before they enter into the contract?

³⁶ A standard form contract will generally be consistent with the Code as the contract must be approved by the ERA and, by law, the ERA may not approve a standard form contract if it considers that the contract will be inconsistent with the Code. A standard form contract could be inconsistent with provisions of the Code that specify that the retailer and customer may 'agree otherwise'.

³⁷ *Code of Conduct for the Supply of Electricity to Small Use Customers 2018* (WA) clause 2.3(4).

³⁸ An example of protections that are only provided for under a standard form contract is where the retailer's non-standard contract provides for a one-monthly billing cycle while the standard form contract provides for a two-monthly billing cycle. In this case, the non-standard contract does not set aside any Code protections as one-monthly billing cycles are allowed under the Code.

5.4 TTY services

[Clauses 2.2(2)(g)(ii), 2.3(2)(h)(ii), 4.5(1)(cc), 6.10(2)(h)(iii), 9.3(2)(m), 10.11(1) and 10.11(2)(a) of the Code]

Other issues

Draft recommendation 4

Replace 'TTY services', in clauses 2.2(2)(g)(ii), 2.3(2)(h)(ii), 4.5(1)(cc), 6.10(2)(h)(iii), 9.3(2)(m), 10.11(1) and 10.11(2)(a) of the Code, with a reference to services that assist customers with a speech or hearing impairment.

What would change

Retailers and distributors would have more flexibility in the services they provide to assist customers with a speech or hearing impairment.

Why the change is proposed

There are various services that assist customers with a speech or hearing impairment, not only TTY services. For example, the [National Relay Service](#) offers SMS Relay, Video Relay, Voice Relay, Speak and Read (TTY), Type and Read (TTY) and Type and Listen (TTY) services. To provide retailers and distributors with more flexibility in the services they offer, it is proposed to replace the reference to TTY services with a general reference to services that assist customers with a speech or hearing impairment.

What the new clauses may look like

2.2 Entering into a standard form contract

- (2) Subject to subclause (3), a retailer or electricity marketing agent must give the following information to a customer no later than on or with the customer's first bill—³⁹
- (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); and⁴⁰
 - (ii) ~~TTY services~~;

[To be drafted by the PCO: The reference to TTY services will be replaced with a reference to services that assist customers with a speech or hearing impairment.]

2.3 Entering into a non-standard contract

- (2) Before entering into a non-standard contract, a retailer or electricity marketing agent must give the customer the following information—
- (h) 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); and⁴¹
 - (ii) ~~TTY services~~;

[To be drafted by the PCO: The reference to TTY services will be replaced with a reference to services that assist customers with a speech or hearing impairment.]

4.5 Particulars on each bill

- (1) Unless a customer agrees otherwise, a retailer must include at least the following information on the customer's bill—
- (cc) the telephone number for ~~TTY services~~; and

³⁹ Draft recommendation 5 proposes an amendment to this subclause.

⁴⁰ Draft recommendation 7 proposes an amendment to this paragraph.

⁴¹ Draft recommendation 7 proposes an amendment to this paragraph.

[To be drafted by the PCO: The paragraph will refer to a telephone number for services that assist customers with a speech or hearing impairment.]

6.10 Obligation to develop hardship policy and hardship procedures

- (2) The hardship policy must—
 - (h) include—
 - (i) the National Interpreter Symbol with the words “Interpreter Services”;⁴²
 - (ii) information on the availability of independent multi-lingual services; and⁴³
 - (iii) information on the availability of ~~TTY services~~;

[To be drafted by the PCO: The reference to TTY services will be replaced with a reference to services that assist customers with a speech or hearing impairment.]

9.3 Provision of mandatory information

- (2) No later than 10 business days after the time a residential customer enters into a pre-payment meter contract at the residential customer’s supply address, a retailer must give, or make available to the residential customer at no charge—
 - (m) information on the availability of ~~TTY services~~;

[To be drafted by the PCO: The reference to TTY services will be replaced with a reference to services that assist customers with a speech or hearing impairment.]

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 interpreter and ~~TTY services~~, and large print copies).⁴⁴

[To be drafted by the PCO: The reference to TTY services will be replaced with a reference to services that assist customers with a speech or hearing impairment.]

- (2) A retailer and, if appropriate, a distributor must include in relation to residential customers—
 - (a) the telephone number for ~~its TTY services~~;

[To be drafted by the PCO: The paragraph will refer to a telephone number for services that assist customers with a speech or hearing impairment.]

⁴² Item Y in Appendix 2 (minor amendments) proposes an amendment to this paragraph.

⁴³ Items C and Z in Appendix 2 (minor amendments) propose amendments to this paragraph.

⁴⁴ Item C in Appendix 2 (minor amendments) proposes an additional amendment to this subclause.

6. Part 2 of the Code: Marketing

Part 2 of the Code, Marketing, is generally consistent with the *Gas Marketing Code of Conduct 2017*. The Gas Marketing Code was recently amended by the ERA following a review of that code by the Gas Marketing Code Consultative Committee.

To maintain consistency between Part 2 of the Code and the Gas Marketing Code, section 6.1 includes several draft recommendations to amend the Code consistent with the recent amendments made to the Gas Marketing Code.

Section 6.2 includes a draft recommendation for an amendment that is not based on the recent review of the Gas Marketing Code.⁴⁵

The ECCC has not reviewed the marketing provisions against the comparative provisions of the NECF. The ECCC considers that any comparative review of the marketing provisions should be undertaken by the Gas Marketing Code Consultative Committee.

6.1 Amendments made to the Gas Marketing Code

6.1.1 *When information is given*

[Clause 2.2(2) of the Code]

Other issues

Draft recommendation 5

Amend clause 2.2(2) of the Code to be consistent with clause 2.2(2) of the Gas Marketing Code.

What would change

When entering into a standard form contract, retailers would have to give the information listed in clause 2.2(2) before or at the time of giving the customer's first bill (instead of 'no later than on or with the first bill').

Why the change is proposed

- To correct an error: the drafting of this clause mixes the time period ('no later than') with the method of giving information ('on or with the customer's first bill')
- To maintain consistency between the Code and the Gas Marketing Code.

What the new clause may look like

2.2 Entering into a standard form contract

- (2) Subject to subclause (3), ~~a~~ if a customer enters into a contract described in subclause (1), the retailer or electricity marketing agent must give the following information to ~~a the~~ customer ~~no later than on or with~~ before or at the time of giving the customer's first bill—

⁴⁵ Items C, D, E and F in Appendix 2 (minor amendments) propose additional amendments to Part 2 that are not based on the recent review of the Gas Marketing Code.

6.1.2 *Concessions*

[Clauses 2.2(2)(e) and 2.3(2)(f) of the Code]

Other issues

Draft recommendation 6

Amend clauses 2.2(2)(e) and 2.3(2)(f) of the Code to be consistent with clauses 2.2(2)(e) and 2.3(2A)(e) of the Gas Marketing Code, respectively.

What would change

Instead of only having to tell customers that they may be eligible for concessions, retailers would also have to refer customers to an information source where they can find out more about their eligibility for those concessions.⁴⁶

Why the change is proposed

- It is more useful for customers to receive information on how to find out their eligibility for concessions rather than only being told about the concessions that may apply to them.
- To maintain consistency between the Code and the Gas Marketing Code.

What the new clauses may look like

2.2 Entering into a standard form contract

- (2) Subject to subclause (3), a retailer or electricity marketing agent must give the following information to a customer no later than on or with the customer's first bill—⁴⁷
- (e) 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 about their eligibility for those concessions; ~~the concessions that may apply to the residential customer;~~

2.3 Entering into a non-standard contract

- (2) Before entering into a non-standard contract, a retailer or electricity marketing agent must give the customer the following information —
- (f) 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 about their eligibility for those concessions; ~~the concessions that may apply to the residential customer;~~

6.1.3 *Interpreter information*

[Clauses 2.2(2)(g) and 2.3(2)(h) of the Code]

Other issues

Draft recommendation 7

Amend clauses 2.2(2)(g) and 2.3(2)(h) of the Code to be consistent with clauses 2.2(2)(g) and 2.3(2A)(g) of the Gas Marketing Code, respectively.

⁴⁶ For example, retailers could refer customers to the retailer's website or to ConcessionsWA.

⁴⁷ Draft recommendation 5 proposes an amendment to this subclause.

What would change

Instead of having to give customers information on how to access interpreter services, a retailer or electricity marketing agent would have to give the customer the telephone number for interpreter services. The telephone number for interpreter services would be identified as such by the National Interpreter Symbol.

Why the change is proposed

- The National Interpreter Symbol is a nationally recognised symbol for interpreter services. For non-English speaking customers, having the National Interpreter Symbol next to the telephone number for interpreter services is likely clearer than text on how to access interpreter services.
- To maintain consistency between the Code and the Gas Marketing Code.

What the new clauses may look like

2.2 Entering into a standard form contract

- (2) Subject to subclause (3), a retailer or electricity marketing agent must give the following information to a customer no later than on or with the customer's first bill—⁴⁸
- (g) with respect to a residential customer, ~~how the residential customer may access the retailer's~~—
- (i) [the telephone number for interpreter services, identified by the National Interpreter Symbol multi-lingual services \(in languages reflective of the retailer's customer base\)](#); and
 - (ii) [the telephone number for](#) TTY services;

2.3 Entering into a non-standard contract

- (2) Before entering into a non-standard contract, a retailer or electricity marketing agent must give the customer the following information —
- (h) with respect to a residential customer, ~~how the residential customer may access the retailer's~~—
- (i) [the telephone number for interpreter services, identified by the National Interpreter Symbol multi-lingual services \(in languages reflective of the retailer's customer base\)](#); and
 - (ii) [the telephone number for](#) TTY services;

6.1.4 *Consent to enter into a non-standard contract*

[Clause 2.3(1)(a) of the Code]

Other issues

Draft recommendation 8

Amend clause 2.3(1)(a) of the Code to be consistent with clause 2.3(1)(a) of the Gas Marketing Code.

What would change

A retailer or electricity marketing agent would be required to obtain and make a record of the customer's verifiable consent to enter into a non-standard contract.

⁴⁸ Draft recommendation 5 proposes an amendment to this subclause.

Why the change is proposed

- The current drafting could be interpreted to require the retailer to obtain the customer's verifiable consent after the contract has been entered into. As part of standard contractual procedure, consent should be obtained to enter into the contract, not subsequently.
- To maintain consistency between the Code and the Gas Marketing Code.

What the new clause may look like

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 electricity marketing agent must —
 - (a) obtain and make a record of the customer's verifiable consent ~~that~~ to entering into the non-standard contract ~~has been entered into, and; and~~

6.1.5 *Information to be given before entering into a non-standard contract*

[Clauses 2.3(2) of the Code]

Other issues

Draft recommendation 9

Amend clauses 2.3(2)(b) to (e) and (g) to (j) of the Code to be consistent with clause 2.3(2A) of the Gas Marketing Code.

What would change

A retailer or electricity marketing agent would no longer have to give the information listed in clauses 2.3(2)(b) to (e) and (g) to (j) before the customer enters into a non-standard contract.

Why the change is proposed

- The information in clauses 2.3(2)(b) to (e) and (g) to (j) is not particularly relevant to a customer at the time they enter into a non-standard contract and is unlikely to inform the customer's decision as to whether to enter into the contract. Retailers and electricity marketing agents should be allowed to provide the information after the contract has been entered into.
- To maintain consistency between the Code and the Gas Marketing Code.⁴⁹

⁴⁹ There is one difference between the Gas Marketing Code and draft recommendation 9. Under the Gas Marketing Code information about gas concessions may also be provided after the customer entered into a non-standard contract. The Gas Marketing Code Consultative Committee considered that information about gas concessions could be provided later as there are no gas concessions that apply before a customer receives their first bill. The same does not apply to electricity. For electricity, there are concessions that may apply from the commencement of the contract. Customers should therefore be made aware of any concessions that may apply before they enter into the non-standard contract.

What the new clause may look like

2.3 Entering into a non-standard contract

- (2) Before entering into a non-standard contract, a retailer or electricity marketing agent must give the customer the following information—
- (a) 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;
 - ~~(b) 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;~~
 - ~~(c) the scope of the Code;~~
 - ~~(d) that a retailer and electricity marketing agent must comply with the Code;~~
 - ~~(e) how the retailer may assist if the customer is experiencing payment difficulties or financial hardship;~~
 - ~~(f)(b)~~ with respect to a residential customer, the concessions that may apply to the residential customer;⁵⁰
 - ~~(g) the distributor's 24 hour telephone number for faults and emergencies;~~
 - ~~(h) 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;~~
 - ~~(i) how to make an enquiry of, or complaint to, the retailer; and~~
 - ~~(j) general information on the safe use of electricity.~~
- (2A) Subject to subclause (3), if a customer enters into a non-standard contract, the retailer or gas marketing agent must give the following information to the customer before or at the time of giving the customer's first bill—
- (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 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) the distributor's 24 hour telephone number for faults and emergencies;
 - (f) 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); and⁵¹
 - (ii) TTY services;⁵²
 - (g) how to make an enquiry of, or complaint to, the retailer; and
 - (h) general information on the safe use of electricity.
- (3) For the purposes of subclauses ~~s (2)(b)-(j)~~ (2A), a retailer or electricity marketing agent is taken to have given the customer the required information if—
- (a) the retailer or electricity marketing agent has provided the information to that customer within the preceding 12 months; or
 - (b) the retailer or electricity marketing agent has informed the customer how the customer may obtain the information, unless the customer requests to receive the information.

⁵⁰ Draft recommendation 6 proposes an amendment to this paragraph.

⁵¹ Draft recommendation 7 proposes an additional amendment to this paragraph.

⁵² Draft recommendations 4 and 7 propose additional amendments to this paragraph.

6.1.6 Verifiable confirmation

[Clause 2.3(5) of the Code]

Other issues

Draft recommendation 10

- a) Amend clause 2.3(5) of the Code to be consistent with clause 2.3(4) of the Gas Marketing Code.

Consequential amendment:

- b) Amend clause 1.5 of the Code to insert a definition of 'verifiable confirmation', consistent with the definition of verifiable confirmation in the Gas Marketing Code.⁵³

What would change

- A retailer or electricity marketing agent would be required to obtain a customer's verifiable confirmation, rather than verifiable consent, that the required information has been given to the customer.
- Verifiable consent (or confirmation) would not be required for having given information that is unlikely to inform the customer's decision as to whether to enter into a non-standard contract (that is, the information listed in clauses 2.3(2)(b) to (e) and (g) to (j)).
- Clause 1.5 would also be amended to insert a definition of 'verifiable confirmation'.

Why the changes are proposed

- It does not make sense to require a customer's consent to information being given. It is more appropriate for the clause to require a retailer or marketing agent to obtain the customer's confirmation that the information was given.
- The information listed in clauses 2.3(2)(b) to (e) and (g) to (j) is unlikely to inform a customer's decision as to whether or not to enter a non-standard contract. A retailer or electricity marketing agent should therefore not have to obtain a customer's verifiable consent (now: confirmation) that the information has been given.
- To maintain consistency between the Code and the Gas Marketing Code.

What the new clause may look like

2.3 Entering into a non-standard contract

- (5) ~~Subject to subclause (3), a~~ A retailer or electricity marketing agent must obtain the customer's verifiable ~~consent~~ confirmation that the information ~~in clause 2.3(2) and clause 2.3(4) referred to in subclause (2) and (4)~~ (if applicable) has been given.

1.5 Definitions

"verifiable confirmation" means confirmation that is given —

⁵³ Clause 1.5 of the Gas Marketing Code defines 'verifiable confirmation' as follows:

verifiable confirmation means confirmation that is given —

- (a) expressly; and
- (b) in writing or orally; and
- (c) by the customer or a nominated person competent to give the confirmation on the customer's behalf.

- (a) expressly; and
- (b) in writing or orally; and
- (c) by the customer or a nominated person competent to give the confirmation on the customer's behalf.

6.2 Other amendment

The draft recommendation listed below is not related to the recent amendments made to the Gas Marketing Code of Conduct.

6.2.1 ***Wearing an identity card***

[Clause 2.5(2)(a) of the Code]

Other issues

Draft recommendation 11

Amend clause 2.5(2)(a) of the Code by replacing 'wear' with 'display'.

What would change

Retailers and electricity marketing agents would be able to display their identity card, instead of having to wear it.

Why the change is proposed

To provide retailers and electricity marketing agents with the flexibility to either wear their identity card or display it.⁵⁴ A retailer or electricity marketing agent at a sales booth could, for example, opt to place its identity card on the sales desk in front of them.

The identity card must, at all times, be clearly visible and legible.⁵⁵

What the new clause may look like

2.5 Contact for the purposes of marketing

- (2) A retailer or electricity marketing agent who meets with a customer face to face for the purposes of marketing must—
 - (a) ~~wear~~ display 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 an electricity marketing agent); and
 - (iv) the name of the retailer on whose behalf the contact is being made; and

⁵⁴ The ECCC considered that a person who chooses to 'wear' their identity card would meet the requirement to display it.

⁵⁵ *Code of Conduct for the Supply of Electricity to Small Use Customers 2018* (WA) clause 2.5(2)(a).

7. Part 3 of the Code: Connection

7.1 Obligation to forward connection application

[Clause 3.1 of the Code]

Other issues

Draft recommendation 12

Delete clause 3.1(3) of the Code.

What would change

The extended definition of customer would be removed from clause 3.1 of the Code.

Why the change is proposed

Given the operation of the law of agency, it is not necessary to extend the definition of customer to include a customer's nominated representative.

What the new clause may look like

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.

~~(3) In this clause—~~

~~"customer" includes a customer's nominated representative.~~

[Note: The Obligation to Connect Regulations provide regulations in relation to the obligation upon a distributor to energise and connect a premises.]

8. Part 4 of the Code: Billing

8.1 Billing cycle

[Clause 4.1 of the Code]

Draft recommendation 13

NECF

- a) Replace clauses 4.1(a) and (b)(i) of the Code with rules 24(1) and (2) of the NERR but replace:
 - ‘retailer’s usual recurrent period’ with ‘customer’s standard billing cycle’ in rule 24(2).
 - ‘explicit informed consent’ with ‘verifiable consent’ in rule 24(2).⁵⁶
- b) Retain clause 4.1(b)(ii) of the Code but replace ‘metering data’ with ‘energy data’.⁵⁷
- c) Retain clause 4.1(b)(iii) of the Code.

What would change

- The Code would no longer prescribe a minimum billing period.
- The maximum billing period would be extended from 3 months to 100 days.
- Retailers would have to obtain a customer’s verifiable consent to change the customer’s current billing cycle.
- Retailers and customers would only be able to agree to a billing period of more than 100 days in a non-standard contract.⁵⁸ Currently, retailers and customers may also agree so verbally and in writing under a standard form and a non-standard contract.

Why the changes are proposed

- Removing the minimum billing period would reduce regulatory burden and compliance cost for retailers.

The change is unlikely to affect customers as it is unlikely retailers would adopt a billing cycle of less than one month as their regular recurrent billing cycle due to the costs involved in issuing bills more often.

- Extending the maximum billing period would improve consistency with the NECF.

The change is unlikely to affect customers as most licensees prefer shorter billing cycles. The only two electricity retailers that supply residential customers, Synergy and Horizon Power, have a two-monthly billing cycle.

⁵⁶ The term ‘verifiable consent’ is used throughout the Code.

⁵⁷ ‘Metering data’ is not a defined term in the Code or the *Electricity Industry Metering Code 2012*. The equivalent term in the Metering Code is ‘energy data’.

⁵⁸ Question 1 seeks stakeholder feedback on whether retailers and customers should continue to be able to agree to a billing period of more than 100 days in a non-standard contract.

- Retailers should not be able to change a customer's billing cycle without the customer's verifiable consent.
- To increase protections for customers.
- To improve consistency between the Code and the NECF.

What the new clause may look like

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;~~

~~(ii) given the customer—~~

~~(A) a reminder notice in respect of 3 consecutive bills; and~~

~~(B) notice as contemplated under clause 4.2;~~

~~(iii) received a request from the customer to change their supply address or issue a final bill, in which case the retailer may issue a bill more than once a month for the purposes of facilitating the request; or~~

~~(iv) less than a month after the last bill was issued, received metering data from the distributor for the purposes of preparing the customer's next bill;~~

~~(b) no less than once every 3 months, unless the retailer—~~

~~(i) has obtained the customer's verifiable consent to issue bills less frequently;~~

(1) A retailer must issue bills to a [customer] at least once every 100 days.

(2) A retailer and a [customer] may agree to a billing cycle with a regular recurrent period that differs from the [customer's standard billing cycle] where the retailer obtains the [verifiable consent] of the [customer].

(3) [Subclause (1) does not apply if a retailer]—⁵⁹

~~(iii)~~(a) has not received the required ~~metering data~~ energy data from the distributor for the purposes of preparing the bill, despite using best endeavours to obtain the metering data from the distributor; or

~~(iiii)~~(b) 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.

⁵⁹ The words 'Subclause (1) does not apply if a retailer' are tentative only; they are not based on existing wording in the Code. The PCO to provide draft wording.

8.2 Shortened billing cycle

[Clause 4.2 of the Code]

Draft recommendation 14

NECF

- a) Replace clauses 4.2(1) and (2) of the Code with rule 34(2) of the NERR:
 - except for subrules (2)(c)(i) to (v),⁶⁰ instead insert clauses 4.2(1)(a) to (d) of the Code and amend clause 4.2(1)(a) by inserting ‘or disconnection warning’ after ‘reminder notice’.⁶¹
 - but retain the requirement that customers may only be placed on a shortened billing cycle without their verifiable consent after 3 reminder notices (instead of 2).⁶²
 - but clarify that the information in rule 34(2)(c) must have been given before the retailer gives the customer a reminder notice or disconnection warning for the third consecutive bill.⁶³
- b) Replace clause 4.2(3) of the Code with rule 34(3) of the NERR but remove ‘without a further reminder notice’ from subrule (c).
- c) Retain clauses 4.2(4), (5) and (6) of the Code.

What would change

Customers would receive more information about their rights and responsibilities after having been placed on a shortened billing cycle.

Why the change is proposed

- To increase protections for customers.
- To improve consistency between the Code and the NECF.

What the new clause may look like

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—~~

[To be drafted by the PCO: The clause would provide that a retailer may only place a customer on a shortened billing cycle without the customer’s verifiable consent if:]

⁶⁰ Replacing clause 4.2(1)(d) with rules 34(2)(c)(ii) and (iii) would mean customers on shortened billing cycles would no longer receive reminder notices and disconnection warnings. There are no compelling reasons for removing this protection from the Code.

The information that must be provided under clauses 4.2(1)(a), (b) and (c) is very similar to the information that must be provided under subrules (2)(c)(i), (iv) and (v).

⁶¹ Rule 34(2)(b) and (c) also refer to disconnection warnings.

⁶² To retain the existing level of protection for customers.

⁶³ The wording of subrule 34(2)(c) could be read as referring to the third reminder notice or disconnection warning for a bill.

- (a) in the case of a residential customer, the customer is not experiencing payment difficulties [or financial hardship];
- (b) the retailer has given the customer a [reminder notice or disconnection warning] for [3] consecutive bills; and
- (c) **[To be drafted by the PCO:** The clause would provide that, before giving the customer a reminder notice or disconnection warning for the third consecutive bill, the retailer must have given the customer a notice informing the customer that:]
 - ~~(a)~~ **(i)** **[To be drafted by PCO:** The clause would provide that the notice must inform the customer that receipt of a reminder notice or disconnection warning for a third consecutive bill, may result in the customer being placed on a shortened billing cycle];
 - ~~(b)~~ **(ii)** if the customer is a residential customer, assistance is available for residential customers experiencing payment difficulties or financial hardship;
 - ~~(c)~~ **(iii)** the customer may obtain further information from the retailer on a specified telephone number; and
 - ~~(d)~~ **(iv)** once on a shortened billing cycle, the customer must pay 3 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 under clause 6.1 indicates to the retailer that the customer is experiencing payment difficulties or financial hardship.⁶⁴~~
- ~~(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.~~
- ~~(2) The retailer must, within 10 business days of placing the [customer] on a shortened [billing] cycle, give the customer notice that—~~
 - ~~(a) the customer has been placed on a shortened [billing] cycle; and~~
 - ~~(b) the customer must pay 3 consecutive bills in the customer's billing cycle by the due date in order to be removed from the shortened [billing] cycle; and~~
 - ~~(c) failure to make a payment may result in arrangements being made for disconnection of the supply of [electricity].~~
- ~~(4)~~ **(3)** A shortened billing cycle must be at least 10 business days.
- ~~(5)~~ **(4)** A retailer must return a customer, who is subject to a shortened billing cycle and has paid 3 consecutive bills by the due date, on request, to the billing cycle that applied to the customer before the shortened billing cycle commenced.
- ~~(6)~~ **(5)** A retailer must inform a customer, who is subject to a shortened billing cycle, at least once every 3 months that, if the customer pays 3 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.

⁶⁴ Subclause (2) is addressed in new subclause (2)(a).

8.3 Bill smoothing

[Clause 4.3 of the Code]

8.3.1 *Standards for bill smoothing*

Other issues

Draft recommendation 15

- a) Delete clause 4.3 of the Code.
- b) Insert a new clause that requires retailers to inform customers who have agreed to be billed 'on any other method',⁶⁵ in writing of the method they have agreed to. The information must be provided before the arrangement commences.

What would change

- The Code would no longer regulate how payments are calculated under a bill smoothing arrangement.
- Retailers would have to inform customers in writing of any other billing method they have agreed to (before the arrangement commences).

Why the changes are proposed

- Some billing arrangements that are similar to bill smoothing may not be captured by clause 4.3.⁶⁶ There are no compelling reasons for regulating bill smoothing arrangements, but not other products that are similar.
- As it is difficult to regulate all current and future products, it is preferable to replace the current, detailed obligations of clause 4.3, with a general obligation on retailers to inform customers in writing of the billing arrangement they have agreed to.

What the new clause may look like

~~4.3 Bill smoothing~~

- ~~(1) Notwithstanding clause 4.1, in respect of any 12 month period, on receipt of a request by a customer, a retailer may provide the 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 that—~~
- ~~(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;~~

⁶⁵ This method is currently not included in clause 4.6 (basis of bill) but is proposed for inclusion (see draft recommendation 20).

⁶⁶ Several gas retailers offer products that allow customers to pay their bill in instalments. The instalments are generally based on the market average for household usage, the customer's past usage, or meter readings obtained during the term of the contract. Some retailers have argued that their product is not a bill smoothing arrangement but a payment arrangement and, therefore, does not need to comply with clause 4.3. Because the Code does not define what a bill smoothing arrangement is, it is difficult to determine whether these products are bill smoothing arrangements or not.

- ~~(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) the initial estimate is based on the customer's historical billing data or, if 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) in or before the seventh month—~~
 - ~~(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~~
 - ~~(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) 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 clause 4.19; and~~
- ~~(e) the retailer has obtained the customer's verifiable consent to the retailer billing on that basis; and~~
- ~~(f) if the bill smoothing arrangement between the retailer and the customer is for a defined period or has a specified end date, the retailer must no less than one month before the end date of the bill smoothing arrangement notify the customer in writing—~~
 - ~~(i) that the bill smoothing arrangement is due to end; and~~
 - ~~(ii) the options available to the customer after the bill smoothing arrangement has ended.~~

[new clause] Notice of billing arrangement: any other method agreed by the retailer and the customer⁶⁷

[To be drafted by the PCO: The clause would require retailers to inform customers who have agreed to be billed on any other method, under clause 4.6, in writing of the method they have agreed to. The information would have to be provided before the arrangement commences.]

8.3.2 *Notice about end of fixed term contract*

Clause 4.3(2)(f) provides that, if a customer's bill smoothing arrangement is for a defined period or has a specific end date, a retailer must notify the customer in writing at least one month before the end date of the arrangement that the arrangement is about to end and the options available to the customer. If clause 4.3 is deleted from the Code, retailers would no longer have to advise customers that their bill smoothing arrangement is about to end.

The end of a bill smoothing arrangement will generally coincide with the end of the customer's contract. Currently, there is no general requirement for retailers to advise customers with a fixed term contract that their contract is about to end.

The ECCC considers that customers should be made aware that their fixed term contract is about to end but seeks feedback on whether this matter should be addressed in the Code or whether it would be better placed in the *Electricity Industry (Customer Contracts) Regulations 2005*. These regulations set out the matters that must be addressed in a contract.⁶⁸

⁶⁷ The words 'Notice of billing arrangement: any other method agreed by the retailer and the customer' are tentative only; they are not based on existing wording in the Code. The PCO to provide draft wording.

⁶⁸ For example, regulation 34 provides that a non-standard contract must require a retailer to notify the customer of any amendment to the contract.

As the Minister for Energy, not the ERA, is responsible for the regulations, any amendments to the regulations would have to be made by the Minister. The ECCC could recommend that the ERA write to the Minister suggesting the inclusion of a new provision in the regulations that requires retailers to notify customers with a fixed term contract that their contract is about to end.

If stakeholders consider that the matter should be addressed in the Code, the ECCC seeks feedback as to whether the provision should be similar to rule 48 of the NERR:

48 Retailer notice of end of fixed term retail contract

- (1) This rule applies to a fixed term retail contract.
- (2) A retailer must, in accordance with this rule, notify a small customer with a fixed term retail contract that the contract is due to end.
- (3) The notice must be given no earlier than 40 business days and no later than 20 business days before the end date of the contract.
- (4) The notice must state:
 - (a) the date on which the contract will end; and
 - (b) details of the prices, terms and conditions applicable to the sale of energy to the premises concerned under a deemed customer retail arrangement; and
 - (c) the customer's options for establishing a customer retail contract (including the availability of a standing offer); and
 - (d) the consequences for the customer if the customer does not enter into a customer retail contract (whether with that or another retailer), including the entitlement of the retailer to arrange for the de-energisation of the premises and details of the process for de-energisation.
- (5) The retailer is not required to give the notice where the customer has already entered into a new contract with the retailer, or has given instructions to the retailer as to what actions the retailer must take at the end of the contract.
- (6) A retailer must, for a fixed term retail contract, include a term or condition to the effect that the retailer will:
 - (a) notify the customer that the contract is due to end; and
 - (b) give such notice no earlier than 40 business days and no later than 20 business days before the end of the contract.

Question 3

The ECCC considers that retailers should have to notify customers with a fixed term contract that their contract is about to end. The ECCC seeks feedback as to whether:

- a) This matter should be addressed in the Code or in the *Electricity Industry (Customer Contracts) Regulations 2005*.
- b) If the matter is addressed in the Code, should the new provision follow rule 48 of the NERR?⁶⁹

⁶⁹ Other than rule 48(6) which prescribes what must be addressed in the retailer's contract. The Code cannot deal with this matter as matters relating to the content of contracts must be addressed in the *Electricity Industry (Customer Contracts) Regulations 2005*.

8.4 Particulars on each bill

[Clause 4.5 of the Code]

In November 2019, the ERA made several amendments to clause 4.5 of the *Compendium of Gas Customer Licence Obligations*.

The Gas Compendium sets standards of conduct for gas retailers and distributors in the supply of gas and is largely consistent with the Code. Clause 4.5 of the Gas Compendium specifies the information that must be included on a bill, similar to clause 4.5 of the Code.

To maintain consistency between the Code and the Gas Compendium, the ECCC proposes to recommend that similar amendments are made to clause 4.5 of the Code. These amendments are discussed in section 8.4.1.

Section 8.4.2 includes a draft recommendation for an amendment that is not based on the recent amendments to clause 4.5 of the Gas Compendium.⁷⁰ Section 8.4.3 includes a question for interested parties.

8.4.1 Amendments made to the Gas Compendium

8.4.1.1 Payment methods

Other issues

Draft recommendation 16

Amend clause 4.5(1)(r) of the Code to be consistent with clause 4.5(1)(p) of the *Compendium of Gas Customer Licence Obligations*.

What would change

Retailers would only have to include the payment methods that are applicable to a customer on the customer's bill.

Why the change is proposed

- Retailers should only have to include on the bill the payment methods that are applicable to the customer.
- To maintain consistency between the Code and the Gas Compendium.

8.4.1.2 Interpreter services

Other issues

Draft recommendation 17

Amend clause 4.5(1)(bb) of the Code to be consistent with clause 4.5(1)(z) of the *Compendium of Gas Customer Licence Obligations*.

⁷⁰ Items G, H, I, J and K in Appendix 2 (minor amendments) propose additional amendments to clause 4.5 that are not based on the recent amendments to clause 4.5 of the Gas Compendium.

What would change

Retailers would no longer have to include the words 'and the words "Interpreter Services"' next to the Interpreter Symbol on bills.

Why the change is proposed

- Prescribing that the words 'Interpreter Services' must be included on the bill is too specific. Retailers should have flexibility when informing customers about the availability of interpreter services.
- To maintain consistency between the Code and the Gas Compendium.

8.4.1.3 *Customer's name*

Other issues

Draft recommendation 18

Insert a new subclause, in clause 4.5 of the Code, consistent with clause 4.5(4)(a) of the *Compendium of Gas Customer Licence Obligations*.⁷¹

What would change

Retailers would no longer have to include a customer's name on a bill if the customer has not entered into a contract with the retailer.

Why the change is proposed

- If the customer has not entered into a contract with the retailer, the retailer will not know the customer's name. In this case, a retailer should not be required to include a customer's name on the bill.
- To maintain consistency between the Code and the Gas Compendium.

8.4.2 *TTY services*

Other issues

Draft recommendation 19

Amend clause 4.5(1)(cc) of the Code so the telephone number for TTY services only has to be included on bills for residential customers.

⁷¹ The ECCC does not propose adopting clause 4.5(4)(b) of the Gas Compendium. Paragraph (b) requires the retailer to provide certain information before or with the bill to customers who have not entered into a contract with the retailer. A similar matter is addressed in regulation 38 of the *Electricity Industry (Customer Contracts) Regulations 2005*. This regulation requires retailers to advise customers who have not entered into a contract that the retailer is the default supplier for the connection point and that, if the customer uses electricity without entering into a contract, the electricity is deemed to be supplied under the retailer's standard form contract. To avoid duplication, the ECCC considered clause 4.5(4)(b) of the Gas Compendium should not be adopted.

What would change

Retailers would have to include the telephone number for TTY services only on bills for residential customers.

Why the change is proposed

Several other provisions only require TTY services to be made available to residential customers. For consistency, retailers should only have to include the telephone number for TTY services on bills for residential customers.

What the new clause may look like⁷²

4.5 Particulars on each bill

- (1) Unless a customer agrees otherwise, a retailer must include at least the following information on the customer's bill—⁷³
 - (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 calculation of the tariff in accordance with the procedures set out in clause 4.6(1)(c);⁷⁴
 - (c) if the customer has an accumulation meter installed (whether or not the customer has entered into an export purchase agreement with a retailer)—⁷⁵
 - (i) the current meter reading or estimate; or
 - (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—
 - (i) the customer's 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;⁷⁶
 - (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; and⁷⁷
 - (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, if different from the range of dates of the metering supply period or the range of dates of the metering supply period have not been included on the bill already;
 - (h) the applicable 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;

⁷² The mock-up drafting incorporates draft recommendations 16, 17, 18 and 19.

⁷³ Question 1 seeks stakeholder feedback on whether retailers and customers should continue to be able to agree to include less information on the bill.

⁷⁴ Item G in Appendix 2 (minor amendments) proposes an amendment to this paragraph.

⁷⁵ Item H in Appendix 2 (minor amendments) proposes an amendment to this paragraph.

⁷⁶ Item I in Appendix 2 (minor amendments) proposes an amendment to this paragraph.

⁷⁷ Item J in Appendix 2 (minor amendments) proposes an amendment to this paragraph.

- (k) if applicable, the value and type of any concessions provided to the residential customer that are administered by the retailer;
 - (l) if applicable, a statement on the bill that an additional fee may be imposed to cover the costs of late payment from the customer;
 - (m) the average daily cost of consumption, including charges ancillary to the consumption of electricity, unless the customer is a collective customer;
 - (n) the average daily consumption unless the customer is a collective customer;
 - (o) a meter identification number (clearly placed on the part of the bill that is retained by the customer);⁷⁸
 - (p) the amount due;
 - (q) the due date;
 - (r) a summary of the [applicable](#) 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;
 - (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;
 - (bb) with respect to residential customers, the telephone number for interpreter services together with the National Interpreter Symbol ~~and the words "Interpreter Services"~~;
 - (cc) [with respect to residential customers](#), the telephone number for TTY services; and
 - (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), a retailer is not obliged to include a graph or bar chart on the bill if the bill is—
- (a) not indicative of a customer's actual consumption;
 - (b) not based upon a meter reading; or
 - (c) for a collective customer.
- (3) If a retailer identifies a historical debt and wishes to bill a 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.
- (4) [Subclause \(1\)\(y\) does not apply where the customer is supplied under a deemed contract pursuant to regulation 37 of the *Electricity Industry \(Customer Contracts\) Regulations 2005*.](#)

8.4.3 *Bill content*

The bill fulfils many different purposes: it provides information about payment, helps customers understand their consumption and how the amount due was calculated, explains

⁷⁸ Item K in Appendix 2 (minor amendments) proposes an additional to this paragraph.

how to seek help, and includes administrative matters (such as the account number). To fulfil these different purposes, the Code requires retailers to include around 30 items on their bills.⁷⁹

Bills that include too much (complex) information may cause information overload and frustrate customers. However, bills that include too little information can also lead to frustration. For example, if there is not enough information on the bill for the customer to understand how the amount due was calculated or if concessions have been applied correctly. Also, sometimes information overload is not caused by the amount of information on the bill, but by the way the information is presented or by the terminology that is used.

Increasing digitalisation could address some of these issues. For example, for electronic bills, retailers could provide detailed or complex information by including a link on the bill to the information instead of including the information on the bill itself.

Although digitalisation offers many new opportunities, not all customers are, or will be, digitally enabled. Customers who do not have, or have only limited, access to digital technology should not miss out on important information because the information is only available in a digital format.

The ECCC seeks comment as to whether the amount of information that must currently be included on a bill is appropriate. Could some of the bill items be removed from clause 4.5, or should additional information be included on the bill?

The ECCC also invites comment on whether clause 4.5 should be amended to allow retailers to provide (some of) the information in different formats for customers who have agreed to receive their bill electronically.⁸⁰

Other issues

Question 4

- a) Is the amount of information that must currently be included on a bill appropriate? Could some of the minimum bill items be removed from clause 4.5, or should additional information be included on the bill?
- b) Should clause 4.5 be amended to allow retailers to provide (some of) the information in different formats for customers who have agreed to receive their bill electronically?

⁷⁹ Not all items have to be included on all bills. For example, some items only have to be included on bills for residential customers.

⁸⁰ For example, the Australian Energy Market Commission is currently considering a proposal to replace the minimum bill information requirements of rule 25 of the NERR with provisions that would require the Australian Energy Regulator to develop a mandatory guideline on billing that complies with objectives and outcome-based principles set out in the rules. For more information, see the AEMC's [consultation paper on bill contents and billing requirements](#).

8.5 Basis of bill

[Clause 4.6 of the Code]

Draft recommendation 20

NECF

- a) Replace clause 4.6(a) of the Code with rule 20(1)(a)(i) of the NERR but:
 - replace ‘metering data’ with ‘energy data’.⁸¹
 - replace ‘metering coordinator’ with ‘distributor or metering data agent’.⁸²
 - remove ‘and determined in accordance with the metering rules’.⁸³
- b) Delete clause 4.6(b) of the Code.⁸⁴
- c) Replace clause 4.6(c) of the Code with rule 20(3) of the NERR but replace ‘applicable energy laws’ with ‘the metrology procedure, the Metering Code or any other applicable law’.⁸⁵
- d) Adopt rule 20(1)(a)(iii) of the NERR.

What would change

- Bills could be based on a new method: ‘any other method agreed by the retailer and customer’.
- Bills could continue to be based on meter readings, estimations and customer meter readings; however, the Code would no longer explicitly refer to each basis. Instead the Code would use the defined term ‘energy data’, which includes meter readings, estimations and customer meter readings.

Why the changes are proposed

- Allowing retailers and customers to agree to a basis for bills other than data provided by the distributor would facilitate the offering of new products.⁸⁶

It would also ensure retailers can continue to offer bill smoothing.⁸⁷

⁸¹ ‘Metering data’ is not a defined term in the Code or *Electricity Industry Metering Code 2012*. The equivalent term in the Metering Code is ‘energy data’.

⁸² The *Electricity Industry Metering Code 2012* uses the terms ‘distributor’ and ‘metering data agent’.

⁸³ As energy data would be defined by reference to the *Electricity Industry Metering Code 2012*, there would be no need to specify that the energy data must be determined in accordance with the metering rules.

⁸⁴ In WA, customers who self-read their meters provide their reading to their distributor, Western Power, who passes the data on to the retailer. The readings are considered ‘energy data’ under the *Electricity Industry Metering Code 2012* and will fall under amended clause 4.6(a). There is therefore no need to retain clause 4.6(b).

⁸⁵ The words ‘the metrology procedure, the *Electricity Industry Metering Code 2012* or any other applicable law’ are consistent with the words used in current clause 4.6(1)(c) of the Code

⁸⁶ For example, capped energy plans where customers are charged a flat monthly fee for 12 months based on their previous year’s consumption. Customers are generally not billed for any additional consumption, provided their consumption does not increase by more than an agreed percentage.

⁸⁷ Bill smoothing is currently allowed because clause 4.6 includes the words ‘subject to clause 4.3’. If clause 4.3 is deleted as proposed (see draft recommendation 15), bills could no longer be based on bill smoothing under clause 4.6.

- Replacing the current bases for bills with the general term 'energy data' would clarify that bills may be based on (actual and estimated) energy data provided by the distributor to the retailer, not only on a distributor's meter reading.
- The proposed changes would also improve consistency between the Code and the NECF.

What the new clause may look like

4.6 Basis of bill

- (1) ~~Subject to clauses 4.3⁸⁸ and 4.8,⁸⁹ a~~ A retailer must base a customer's bill for the customer's consumption on—
- (a) ~~the distributor's or metering agent's reading of the meter at the customer's supply address;~~
[energy data] provided for the relevant meter at the customer's [supply address] provided by the [distributor or metering data agent]; or
 - (b) any other method agreed by the retailer and the [customer].
 - ~~(b) the customer's reading of the meter at the customer's supply address, provided the distributor has explicitly or implicitly consented to the customer reading the meter for the purpose of determining the amount due; or~~
 - ~~(c) if the connection point is a Type 7 connection point, the procedure as set out in the metrology procedure or Metering Code, or otherwise as set out in any applicable law.⁹⁰~~
- (2) [...] ⁹¹
- (3) Despite [subclause (1)], if there is no meter in respect of the customer's [supply address], the retailer must base the customer's bill on energy data that is calculated in accordance with [the metrology procedure, the Metering Code or any other applicable law].

8.6 Frequency of meter readings

[Clause 4.7 of the Code]

8.6.1 Drafting change

NECF

Draft recommendation 21

Retain clause 4.7 but incorporate in clause 4.6 of the Code.

What would change

Clause 4.7 would be incorporated into clause 4.6. The change would not materially affect retailers, distributors or customers.

⁸⁸ Consequential amendment of draft recommendation 15. Reference to clause 4.3 (bill smoothing) would no longer be required if clause 4.3 is deleted.

⁸⁹ Consequential amendment. Reference to clause 4.8 (estimations) would no longer be required as distributor estimations would be covered by new clause 4.6(1)(a).

⁹⁰ This matter would be addressed in new subclause (3).

⁹¹ See draft recommendation 21.

Why the change is proposed

To improve consistency between the Code and the NECF.

8.6.2 Metering data

Other issues

Draft recommendation 22

Replace 'metering data' with 'actual value' in clause 4.7 of the Code; and define actual value by reference to the *Electricity Industry Metering Code 2012*.

What would change

The term 'metering data', in clause 4.7, would be replaced with 'actual value'. The change would not materially affect retailers or customers.

Why the change is proposed

The term 'metering data' is not defined in the Code or the Metering Code. The Metering Code uses the term 'actual value' for actual meter readings.⁹² The amendment would clarify that bills should be based on an actual reading of the customer's meter; and ensure consistency between the Code and the Metering Code.

8.6.3 Application of clause 4.7

Other issues

Draft recommendation 23

Clarify that clause 4.7 does not apply if the bill is based on a method agreed between the customer and the retailer.

What would change⁹³

Retailers would not have to use best endeavours to base a bill on an actual meter reading if the bill is based on a method agreed with the customer.

Why the change is proposed

It could be argued that clause 4.7 is inconsistent with new clause 4.6(1)(b) as clause 4.7 requires a retailer to base a bill on an actual meter reading as frequently as required, while proposed new clause 4.6(1)(b) would allow a retailer to base a bill on a method agreed between the customer and the retailer.⁹⁴ The proposed amendment would remove the potential inconsistency between both clauses.

⁹² Clause 1.3 of the Metering Code defines actual value as 'means energy data for a metering point which has physically been read (or remotely collected by way of a communications link or an automated meter reading system) from the meter associated with the metering point, and includes a deemed actual value'.

⁹³ Technically, the proposed amendment will not result in a change as this matter is currently not regulated (the Code currently does not provide that retailers may base a bill on a method agreed with the customer).

⁹⁴ See draft recommendation 20.

The amendment would not affect the distributor's obligation, under the *Electricity Industry (Metering Code) 2012*, to obtain an actual meter reading at least once every 12 months.

What the new clause may look like⁹⁵

~~4.7—Frequency of meter readings~~

4.6 Basis of bill

(1) [...] ⁹⁶

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

[To be drafted by the PCO: The PCO to amend subclause (2) so it does not apply to bills based on any other method agreed by the retailer and the customer.]

(3) [...] ⁹⁷

1.5 Definitions

"actual value" means [...]

[To be drafted by the PCO: The definition would refer to the definition of 'actual value' in the Metering Code.]

8.7 Estimations

[Clause 4.8 of the Code]

Other issues

Draft recommendation 24

Delete clause 4.8(1) of the Code.

What would change

The Code would no longer explicitly require retailers to give customers an estimated bill if the retailer is unable to reasonably base the bill on a meter reading.

Why the change is proposed

Draft recommendation 20 is to clarify that, under clause 4.6, retailers must base bills on (actual or estimated) energy data provided by the distributor.⁹⁸

Clause 4.7 further provides that retailers must use best endeavours to ensure that metering data is obtained as frequently as required to issue bills.

It should therefore no longer be necessary to provide in clause 4.8(1) that a retailer must give a customer an estimated bill if the retailer is unable to reasonably base the bill on a meter reading.

⁹⁵ The mock-up drafting incorporates draft recommendations 21, 22 and 23.

⁹⁶ See section 8.5.

⁹⁷ See section 8.5.

⁹⁸ Draft recommendation 20 would allow retailers to also base bills 'on any other method agreed by the retailer and the customer'.

What the new clause may look like

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)~~⁽¹⁾ If a retailer bases a bill upon an estimation, the retailer must clearly specify 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 energy data; and
 - (ii) a meter reading.

~~(3)~~⁽²⁾ A retailer must tell a customer on request the—

- (a) basis for the estimation; and
- (b) reason for the estimation.

~~(4)~~⁽³⁾ For the purpose of this clause, where the distributor's or metering agent's reading of the meter at the customer's supply address is partly based on estimated data, then subject to any applicable law—⁹⁹

- (a) where more than ten per cent of the interval meter readings are estimated interval meter readings; and
 - (b) the actual energy data cannot otherwise be derived,
- for that billing period, the bill is deemed to be an estimated bill.

8.8 Adjustments to subsequent bills

[Clause 4.9 of the Code]

NECF &
Other issues

Draft recommendation 25

Delete clause 4.9 of the Code.

What would change

Retailers would no longer have to 'include an adjustment on the next bill to take account of the actual meter reading in accordance with clause 4.19'.

Why the change is proposed

- It could be argued that clause 4.9 is inherently inconsistent. While clause 4.9 implies that any adjustment can be added to the next bill, clause 4.19 only allows adjustments (overcharges) for less than \$100 to be directly added to the bill. If the adjustment is for more than \$100, the retailer must follow the detailed instructions in clause 4.19 on how to repay the adjustment. The proposed amendment would remove the inconsistency.¹⁰⁰
- The change would also improve consistency between the Code and the NECF.¹⁰¹

⁹⁹ Item L in Appendix 2 (minor amendments) proposes an amendment to this subclause.

¹⁰⁰ Draft recommendation 39 is to delete clause 4.19. This would result in adjustments being treated as overcharges or undercharges.

¹⁰¹ The NECF does not include a provision equivalent to clause 4.9.

What the new clause may look like

~~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.~~

8.9 Customer may request meter reading

[Clause 4.10 of the Code]

8.9.1 *Obligation to replace estimated bill*

NECF

Draft recommendation 26

Replace the requirement, in clause 4.10 of the Code, for a retailer to use best endeavours with an absolute obligation to replace an estimated bill with a bill based on an actual meter reading.

What would change

Retailers would always have to replace an estimated bill with a bill based on an actual meter reading upon a customer's request.

Why the change is proposed

- A retailer should be able to replace an estimated bill if the conditions specified in clause 4.10 have been met.
- To improve consistency between the Code and the NECF.

8.9.2 *Actual reading of customer's meter*

Other issues

Draft recommendation 27

Replace 'an actual reading of the customer's meter', in clause 4.10(1) of the Code, with 'an actual value'.

What would change

The drafting of clause 4.10 would change. The change would not materially affect retailers or customers.

Why the change is proposed

The *Electricity Industry Metering Code 2012* uses the term 'actual value' for energy data which has physically been read (or remotely collected by way of a communications link or an automated meter reading system). To improve consistency between the Code and the Metering Code, the words 'on an actual reading of the customer's meter' should be replaced with 'on an actual value'.

What the new clause may look like¹⁰²

4.10 Customer may request meter reading

If a retailer has based a bill upon an estimation because a 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~~ actual value;
 - (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~~ comply with the customer's request.

8.10 Customer requests testing of meters or metering data

[Clause 4.11 of the Code]

Draft recommendation 28

NECF

- a) Replace clause 4.11(1) of the Code with rule 29(5)(a) of the NERR but:
 - replace 'meter reading or metering data' with 'energy data'.¹⁰³
 - retain clause 4.11(1)(b)¹⁰⁴ and add the words 'checking the energy data'.
 - replace 'responsible person or metering coordinator (as applicable)' with 'distributor or metering data agent' in subrule (5)(a)(ii).¹⁰⁵
- b) Amend clause 4.11(2) of the Code to take account of the fact that customers may also request a check of the energy data.
- c) Incorporate amended clause 4.11 into clause 4.15 of the Code (Review of bill).

What would change

Customers would be able to ask for a check of their energy data.

Why the change is proposed

- To improve consistency between the Code and the NECF.
- To increase protections for customers.

¹⁰² The mock-up drafting incorporates draft recommendations 26 and 27.

¹⁰³ 'Metering data' is not a defined term in the Code or the *Electricity Industry Metering Code 2012*. The equivalent term in the Metering Code is 'energy data'. As the definition of 'energy data' also includes data based on actual meter readings, it is not necessary to refer to meter readings in addition to energy data.

¹⁰⁴ To provide certainty to retailers that the cost of a meter test or check must be met by the customer before the check or test occurs.

¹⁰⁵ The *Electricity Industry Metering Code 2012* uses the terms 'distributor' and 'metering data agent'.

What the new clause may look like

~~4.11 Customer may request testing of meters or metering data~~

4.15 Review of bill

~~(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 data agent to test the meter.~~

~~(2) If [a customer]—~~

(a) requests that, in reviewing the bill, the [energy data] be checked or the meter tested; and

(b) [pays the retailer's reasonable charge for checking the energy data or testing the meter (if any),]¹⁰⁶
the retailer must, as the case may require—

(c) arrange for a check of the [energy data]; or

(d) request the [distributor or metering data agent] to test the meter.

~~(2)(3)~~ If [the check shows that the energy data was incorrect or]¹⁰⁷ the meter is tested and found to be defective, the retailer's reasonable charge for [the check or]¹⁰⁸ testing the meter (if any) is to be refunded to the customer.

8.11 Customer applications

[Clause 4.12 of the Code]

NECF

Draft recommendation 29

Replace clause 4.12 of the Code with rules 37(1) and (2) of the NERR but clarify that 'transfer' in subrule (2) refers to a transfer under subrule (1).¹⁰⁹

What would change

The drafting of clause 4.12 would change. The change would not materially affect retailers or customers.

Why the change is proposed

To improve consistency between the Code and the NECF.

What the new clause may look like

~~4.12 Customer applications~~ Customer request for change of tariff

~~(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,~~

¹⁰⁶ Currently included in clause 4.11(1)(b) of the Code.

¹⁰⁷ The words 'the check shows that the energy data was incorrect or' are based on similar wording in rule 29(5)(b).

¹⁰⁸ The words 'the check or' are based on similar wording in rule 29(5)(b).

¹⁰⁹ Similar to how the words 'for the purposes of subclause (1)' currently clarify the relationship between subclause (1) and (2).

~~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.~~

(1) Where a retailer offers alternative tariffs or tariff options and a [customer]:

(a) requests a retailer to transfer from that customer's current tariff to another tariff; and

(b) demonstrates to the retailer that it satisfies all of the conditions relating to that other tariff and any conditions imposed by the customer's distributor.

the retailer must transfer the customer to that other tariff within 10 business days of satisfying those conditions.

(2) [To be drafted by the PCO: The clause would provide that, where a customer transfers from one tariff type to another under subclause (1), the effective date of the transfer is:]

(a) subject to paragraph (b), the date on which the meter reading was obtained; or

(b) where the transfer requires a change to the meter at the [customer's] [supply address], the date the meter change is completed.

8.12 Written notification of a change to an alternative tariff

[Clause 4.13 of the Code]

8.12.1 *Change in electricity use*

Draft recommendation 30

Other issues

- a) Delete clause 4.13(a) of the Code.
- b) Delete the words 'more beneficial' from clause 4.13(b) of the Code.
- c) Delete reference to a customer's use of electricity at the supply address from clause 4.13 of the Code.

What would change

Retailers would have to advise customers who are no longer eligible to receive their existing tariff that they will be transferred to their applicable tariff. The customer would have to be advised before the transfer occurs.

Currently retailers only have to advise customers of a transfer if the current tariff is more beneficial than the new tariff, and if the change in eligibility is due to a change in the customer's electricity use at the supply address.

Why the change is proposed

To ensure customers are always advised of a transfer to another tariff when they cease to be eligible for their current tariff.

8.12.2 Written notice

Other issues

Draft recommendation 31

Delete the requirement that notice must be 'written' from clause 4.13 of the Code.

What would change

Retailers would have flexibility as to how they notify a customer before transferring the customer to another tariff.

Why the change is proposed

- Most interactions between customers and retailers take place over the phone. Removing the requirement to provide notice in writing would allow retailers to notify customers by phone that they will be transferred to another, applicable tariff. Where a customer is notified by phone, the customer can immediately seek further information from the retailer about the proposed transfer.
- To reduce regulatory burden and compliance costs for retailers.
- To improve consistency between the Code and the NECF.

What the new clause may look like¹¹⁰

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,~~
~~a 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.~~

[To be drafted by the PCO: The clause will provide that, if a customer is no longer eligible to receive their existing tariff, a retailer must, before changing the customer to their applicable tariff, give the customer notice of the proposed change.]

8.13 Request for final bill

[Clause 4.14 of the Code]

8.13.1 Meter reading for final bill

NECF

Draft recommendation 32

Replace clause 4.14(1) of the Code with rule 35(1) of the NERR.

¹¹⁰ The mock-up drafting incorporates draft recommendations 30 and 31.

What would change

- Retailers would have to arrange for a meter reading when a customer requests a final bill.
- Retailers would have to use best endeavours, instead of reasonable endeavours, to issue a final bill.

Why the changes are proposed

- To improve consistency between the Code and the NECF.
- To increase protections for customers.

8.13.2 *Written notice*

Other issues

Draft recommendation 33

Delete the requirement that notice must be 'written' from clause 4.14(3) of the Code.

What would change

Retailers would have flexibility as to how they notify a customer when they use a credit held by the customer to set off a debt owed by the customer.

Why the change is proposed

- Most interactions between customers and retailers take place over the phone. Removing the requirement to provide notice in writing would allow retailers to finalise credit transfers with the customer over the phone.
- To simplify the process for both customers and retailers.
- To reduce regulatory burden and compliance costs for retailers.

What the new clause may look like¹¹¹

4.14 Request for final bill

- (1) ~~If a customer requests a 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.~~
If a customer requests the retailer to arrange for the preparation and issue of a final bill for the customer's [supply address], the retailer must use its best endeavours to arrange for:
 - (a) a meter reading; and
 - (b) the preparation and issue of a final bill for the [supply address] in accordance with the customer's request.
- (2) If a customer's account is in credit at the time of account closure, subject to subclause (3), a retailer must, at the time of the final bill, ask the customer for instructions whether the customer requires the retailer to transfer the amount of credit to—
 - (a) another account the customer has, or will have, with the retailer; or
 - (b) a bank account nominated by the customer, and

¹¹¹ The mock-up drafting incorporates draft recommendations 32 and 33.

the retailer must credit the account, or pay the amount of credit in accordance with the customer's instructions, within 12 business days of receiving the instructions or other such time as agreed with the customer.

- (3) If a customer's account is in credit at the time of account closure, and the customer owes a debt to a retailer, the retailer may, with ~~written~~ notice to the customer, use that credit to set off the debt owed to the retailer. If, after the set off, there remains an amount of credit, the retailer must ask the customer for instructions to transfer the remaining amount of credit in accordance with subclause (2).

8.14 Procedures following a review of a bill

[Clause 4.16 of the Code]

8.14.1 *Payment for outstanding amount*

NECF

Draft recommendation 34

- a) Adopt rule 29(6)(b)(ii) of the NERR.
- b) Amalgamate clauses 4.15 and 4.16 of the Code.

What would change

The Code would explicitly state that retailers may require customers to pay any amount that remains outstanding after the bill has been adjusted.

Why the change is proposed

- To improve consistency between the Code and the NECF.
- To improve clarity.

8.14.2 *Electricity ombudsman*

Other issues

Draft recommendation 35

Replace 'any applicable external complaints handling processes', in clause 4.16(1)(a)(iii) of the Code, with 'the electricity ombudsman'.

What would change

If a bill review has found that the bill was correct, retailers would have to advise customers of the details of the electricity ombudsman instead of the details of 'any applicable external complaints handling processes'.

Why the change is proposed

A reference to the electricity ombudsman would be clearer than a reference to 'any applicable external complaints handling processes'.

What the new clause may look like¹¹²

~~4.16~~ Procedures following a review of a bill

4.15 Review of bill

~~(1)~~(4) 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; and¹¹³
 - (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~~ [the electricity ombudsman](#), or
- (b) incorrect, the retailer:
 - [\(i\) must adjust the bill in accordance with clauses 4.17 and 4.18; and](#)
 - [\(ii\) may require the customer to pay the amount \(if any\) of the bill that is still outstanding.](#)

~~(2)~~(5) A retailer must inform a customer of the outcome of the review as soon as practicable.

~~(3)~~(6) If a 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, the retailer must provide the customer with notification of the status of the review as soon as practicable.

8.15 Undercharging

[Clause 4.17 of the Code]

Draft recommendation 36

NECF

- a) Delete clause 4.17(1) of the Code.
- b) Replace clauses 4.17(2) and (4) of the Code with rules 30(1) to (3) of the NERR but:
 - replace '9 months' with '12 months' in rule 30(2)(a) of the NERR.¹¹⁴
 - except for rule 30(2)(b) of the NERR; instead insert clause 4.17(2)(d) of the Code¹¹⁵ but provide that the clause does not apply if the amount was undercharged as a result of the customer's fault or unlawful act or omission.¹¹⁶
 - except for rule 30(2)(c) of the NERR; instead insert clause 4.17(2)(c) of the Code.¹¹⁷

¹¹² The mock-up drafting incorporates draft recommendations 34 and 35.

¹¹³ Item M in Appendix 2 (minor amendments) proposes an amendment to this paragraph.

¹¹⁴ The Code currently allows retailers to recover any amount undercharged over the past 12 months. The ECCC considers there are no compelling reasons for reducing this period to 9 months.

¹¹⁵ To retain the existing level of protection for customers (no late payment fees may be imposed for undercharged amounts).

¹¹⁶ Consistent with existing requirements: clause 4.17(2)(d) currently only applies to undercharges that are the result of an error, defect or default for which the retailer or distributor is responsible.

¹¹⁷ Consistent with ECCC advice, the ERA amended the Code in 2014 to give retailers more flexibility in how they inform their customers of an undercharge. Reasons for previous amendment still apply.

- amend rule 30(2)(d) of the NERR to provide that instalment plans only have to be offered to residential customers and must meet the requirements of clause 6.4(2) of the Code.¹¹⁸

What would change

- Retailers would have to manage all undercharges in accordance with clause 4.17, regardless of whether the undercharge was the result of an error, defect or default by the retailer or distributor, or not. Some of the customer protections would not apply if the amount was undercharged as a result of the customer's fault or unlawful act or omission.
- An amount that has been undercharged as a result of changes to the customer's electricity use (clause 4.17(2)(b)) would have to be calculated from the date the customer is notified of the undercharge, instead of the date the customer was notified that the alternative tariff applied.

Why the changes are proposed

- It seems fair and reasonable that the protections of clause 4.17 apply not only if the undercharging was the result of an error, defect or default for which the retailer or distributor was responsible, but also if it was the result of an action by a third party or a genuine mistake by the customer. The proposed amendments would ensure these situations are also covered.
- To simplify the calculation of undercharges due to changes in the customer's electricity use.

Clause 4.17(2)(b) determines the period for which a retailer may recover an amount that was undercharged due to a change in the customer's electricity use. A retailer may recover the amount for the 12 months before the customer was notified that an alternative tariff applied, rather than the 12 months before the customer was notified of the undercharge.

For example, if a retailer notifies a customer of the undercharge four months after notifying the customer of the change to the alternative tariff, the retailer may recover any undercharge during the last 16 months.

It is unclear why the amount of the undercharge is not calculated from the date the customer is notified of the undercharge. At the time the customer is notified that an alternative tariff applies, the retailer would be aware that the customer may have been undercharged.

Removing clause 4.17(2)(b) ensures any undercharge cannot be recovered for a period more than 12 months before the customer was made aware of the undercharge. The amendment should not materially affect retailers as they should be able to inform customers of any undercharge at the time of or shortly after they are transferred to the alternative tariff.

- To improve consistency between the Code and the NECF.

¹¹⁸ Consistent with ECCC advice, the ERA amended the Code in 2012 to provide that instalment plans are only available to residential customers (as per clause 6.4). Reasons for previous amendment still apply.

- The proposed changes, together with the proposed changes to the overcharging and adjustment clauses, would also greatly simplify how retailers must deal with undercharges under the Code.

What the new clause may look like

4.17 Undercharging

- ~~(1) 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 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 a customer is incorrect, if a retailer has changed the customer to an alternative tariff in the circumstances set out in clause 4.13 and, as a result of the customer being ineligible to receive the tariff charged prior to the change, the retailer has undercharged the 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) notify the customer of the amount to be recovered no later than the next bill, together with an explanation of that amount;~~
 - ~~(d) subject to subclause (3), 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.~~
- (1) Subject to [subclause (2)], where a retailer has undercharged a [customer], it may recover from the customer the amount undercharged.
- (2) Where a retailer proposes to recover an amount undercharged the retailer must—
- (a) unless the amount was undercharged as a result of the [customer's] fault or unlawful act or omission—
 - (i) limit the amount to be recovered to the amount undercharged in the [12] months before the date the customer is notified of the undercharging; and
 - (ii) not charge the customer interest on that amount or require the customer to pay a late payment fee.¹¹⁹
 - (b) notify the customer of the amount to be recovered no later than the next bill, together with an explanation of that amount.¹²⁰
 - (c) [in relation to a residential customer],¹²¹ offer the customer time to pay that amount by [means of an instalment plan in accordance with clause 6.4(2)]¹²² over a period nominated by the customer being no longer than—
 - (i) the period during which the undercharging occurred, if the undercharging occurred over a period of less than 12 months; or
 - (ii) 12 months, in any other case.
- (3) If, after notifying a customer of the amount to be recovered in accordance with subclause (2)(c), the customer has failed to pay the amount to be recovered by the due date and has not entered into an

¹¹⁹ Currently included in clause 4.17(2)(d) of the Code.

¹²⁰ Currently included in clause 4.17(2)(c) of the Code.

¹²¹ Wording based on clause 4.17(2)(e) of the Code.

¹²² Wording based on clause 4.17(2)(e) of the Code.

instalment plan under subclause (2)(e)(c), a retailer may charge the customer interest on that amount from the due date or require the customer to pay a late payment fee.

~~(4) For the purpose of subclause (2), an undercharge that has occurred as a result of a customer denying access to the meter is not an undercharge as a result of an error, defect or default for which a retailer or distributor is responsible.~~

(4) To avoid doubt, a reference in this [clause] to undercharging by a retailer includes a reference to a failure by the retailer to issue a bill.

8.16 Overcharging

[Clause 4.18 of the Code]

8.16.1 All overcharges to be covered

Draft recommendation 37

NECF

- a) Delete clause 4.18(1) of the Code.
- b) Replace clause 4.18(2) of the Code with rule 31(1) of the NERR but retain the requirement that retailers must ask customers for instructions as to whether the amount should be credited to the customer's account or repaid to the customer.
- c) Replace clauses 4.18(3) and (4) of the Code with rule 31(2) of the NERR but retain the timeframes for:
 - retailers refunding the amount in accordance with the customer's instructions.¹²³
 - customers responding to retailer's request for instructions.¹²⁴
- d) Replace clause 4.18(5) of the Code with rule 31(4) of the NERR.
- e) Replace clause 4.18(6) of the Code with rule 31(3) of the NERR but retain the option for retailers to ask customers for instructions if the credit is less than the threshold amount.
- f) Adopt rule 31(5) of the NERR.
- g) Adopt rule 31(6) of the NERR but:
 - retain the threshold amount at \$100.
 - do not adopt the words 'or such other amount as the AER determines under subrule (7)'.¹²⁵
- h) Clarify that clause 4.18 applies from the time a retailer becomes aware of an overcharge or, if the overcharge is the result of an estimation carried out in accordance with the *Electricity Industry Metering Code 2012*, from the time the retailer receives an actual value from the distributor. The actual value must be

¹²³ To retain the existing level of protection for customers.

¹²⁴ To retain the existing level of protection for customers.

¹²⁵ There are no compelling reasons for allowing the ERA to set an amount that is different from the amount prescribed in the Code.

based on a meter reading undertaken in accordance with clause 5.4(1A)(b) of the Metering Code.

What would change

- Retailers would have to manage all overcharges in accordance with clause 4.18, regardless of whether the overcharge was the result of an error, defect or default by the retailer or distributor, or not.
- If the customer was overcharged as a result of the customer's unlawful act or omission, the retailer would only be required to repay, credit or refund the customer the amount the customer was overcharged in the 12 months before the error was discovered.
- The Code would explicitly require retailers to refund an overcharge if the customer has ceased to take supply.
- An overcharge would be due from the time the retailer becomes aware of an overcharge or, if the overcharge is the result of an estimation carried out in accordance with the Metering Code, from the time the retailer receives an actual value from the distributor.

Why the changes are proposed

- It seems fair and reasonable that the protections of clause 4.18 should apply not only if the overcharging was the result of an error, defect or default for which the retailer or distributor was responsible, but also if it was the result of an action by a third party or a genuine mistake by the customer. The proposed amendments would ensure these situations are also covered.
- By extending the scope of clause 4.18 to include all overcharging, clause 4.18 would also apply if the customer intentionally caused the overcharging. To limit the risk for retailers, it seems fair and reasonable to limit refunds to the last 12 months if the overcharge was the result of a customer's unlawful act or omission.
- Explicitly stating that retailers must refund overcharges to customers who have ceased to take supply would address a situation that the Code currently does not deal with.
- Retailers would have to inform customers of an overcharge within 10 business days of becoming aware of it. Where the overcharge is due to an estimation, it is unclear when the retailer 'becomes aware of'¹²⁶ the overcharge (that is, at the time the retailer receives the estimation, or at the time the retailer receives an actual value and can determine the overcharge amount).

To improve clarity, the obligations of (new) clause 4.18 should apply from the time a retailer becomes aware of an overcharge or, if the overcharge is the result of an estimation carried out in accordance with the Metering Code, from the time the retailer receives an actual value from the distributor.

- The proposed changes would improve consistency between the Code and the NECF.

¹²⁶ *National Energy Retail Rules* rule 31(1).

- The proposed changes, together with the proposed changes to the undercharging and adjustment clauses, would also greatly simplify how retailers must deal with overcharges under the Code.

8.16.2 *Written notice*

Other issues

Draft recommendation 38

Delete the requirement that notice must be 'written' from clause 4.18(7) of the Code.

What would change

Retailers would have flexibility as to how they notify a customer when they use a credit held by the customer to set off a debt owed by the customer.

Why the change is proposed

- Most interactions between customers and retailers take place over the phone. Removing the requirement to provide notice in writing would allow retailers to notify customers of changes to their tariff over the phone. Where a customer is notified by phone, the customer can immediately seek further information from the retailer about the proposed transfer.
- To reduce regulatory burden and compliance costs for retailers.

What the new clause may look like¹²⁷

4.18 Overcharging

- ~~(1) 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 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 subclauses (6) and (7), 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.~~
- (1) Where a [customer] has been overcharged by an amount equal to or above the overcharge threshold, the retailer must—
- (a) inform the customer accordingly within 10 business days after the retailer becomes aware of the overcharging; and
- (b) [ask the customer for instructions as to whether the amount should be credited to the customer's account or repaid to the customer].¹²⁸
- ~~(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.~~

¹²⁷ The mock-up drafting incorporates draft recommendations 37 and 38.

¹²⁸ Wording based on clause 4.18(2) of the Code.

- ~~(4) If a retailer does not receive instructions under subclause (2) within 5 business days of making the request, the retailer must use reasonable endeavours to credit the amount overcharged to the customer's account.~~
- (2) If the amount overcharged is equal to or above the overcharge threshold, the retailer must—
- (a) [within 12 business days],¹²⁹ repay that amount as reasonably directed by the [customer]; or
 - (b) if there is no such reasonable direction [within 5 business days],¹³⁰ credit that amount to the next bill; or
 - (c) if there is no such reasonable direction [within 5 business days]¹³¹ and the [customer] has ceased to obtain [supply] from the retailer, use its best endeavours to refund that amount within 10 business days.
- (3) If the amount overcharged is less than the overcharge threshold, the retailer must:
- (a) [either:]
 - (i) [ask the customer for instructions under subclause (1)(b) (in which case subclause (2) applies); or]¹³²
 - (ii) credit the amount to the next bill; or
 - (b) if the [customer] has ceased to obtain [supply] from the retailer, use its best endeavours to refund that amount within 10 business days.
- ~~(5) No interest shall accrue to a credit or refund referred to in subclause (2) is payable on an amount overcharged.~~
- (4) No interest is payable on an amount overcharged.
- (5) If the [customer] was overcharged as a result of the customer's unlawful act or omission, the retailer is only required to repay, credit or refund the customer the amount the customer was overcharged in the 12 months before the error was discovered.
- (6) The overcharge threshold is [\$100].
- ~~(6) If the amount referred to in subclause (2) is less than \$100, a retailer may notify a 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 under 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 next bill.¹³³~~
- (7) If a customer has been overcharged by a retailer, and the customer owes a debt to the retailer, then provided that the customer is not a residential customer experiencing payment difficulties or financial hardship, the retailer may, with ~~written~~ notice to the customer, use the amount of the overcharge to set off the debt owed to the retailer. If, after the set off, there remains an amount of credit, the retailer must deal with that amount of credit in accordance with subclause ~~(2)(1)~~ or, if the amount is less than ~~\$100~~ the overcharge amount,¹³⁴ subclause ~~(6)(3)~~.
- (a) Not Used
 - (b) Not Used

¹²⁹ Wording based on clause 4.18(3) of the Code.

¹³⁰ Wording based on clause 4.18(4) of the Code.

¹³¹ Wording based on clause 4.18(4) of the Code.

¹³² Wording based on clause 4.18(6)(a) of the Code.

¹³³ This matter is now addressed in subclause (3).

¹³⁴ Consequential amendment of new subclause (6).

8.17 Adjustments

[Clause 4.19 of the Code]

Draft recommendation 39

- a) Delete clause 4.19 of the Code.

Consequential amendments

- b) Delete the definition of 'adjustment' in clause 1.5 of the Code.
- c) Amend the definition of 'overcharging', in clause 1.5 of the Code, to provide that an overcharge is the amount charged that is more than the amount that would have been charged if the bill had been based on an actual value determined in accordance with clause 5.4(1A)(b) of the *Electricity Industry Metering Code 2012*.
- d) Amend the definition of 'undercharging', in clause 1.5 of the Code, to provide that an undercharge is the amount charged that is less than the amount that would have been charged if the bill had been based on an actual value determined in accordance with clause 5.4(1A)(b) of the *Electricity Industry Metering Code 2012*.

Other issues

What would change

- Retailers would have to treat adjustments as an overcharge or undercharge.
- The 12-month limit for recovering an amount owing would be calculated from the date the customer is notified of the undercharge, rather than from the date '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'.
- Retailers would be able to charge interest or a late payment fee if the customer does not pay the adjustment by the due date and does not enter into an instalment plan.

Why the changes are proposed

- To simplify how retailers must treat adjustments.

There does not appear to be a compelling reason for treating adjustments differently to over- and undercharges. In fact, the way in which a retailer must currently treat an adjustment is very similar to how it must treat an overcharge or undercharge under clauses 4.17 and 4.18. Overall, the distinction appears to unnecessarily complicate matters and provide little benefit to customers or retailers:

- The distinction is likely to increase the regulatory burden for retailers as it requires them to determine, for any change to the amount due, whether the change constitutes an adjustment or an overcharge or undercharge. Retailers need different processes for dealing with undercharges and adjustments as the amount that may be recovered for each is slightly different.
- For customers, clause 4.19 is likely confusing. Partly because the drafting of clause 4.19 is complex (especially the method for calculating the 12-month limit for recovering adjustments), and partly because the existence of clause 4.19 suggests

that adjustments and under- and overcharges are treated differently under the Code – while in practice the differences are minimal.

- Providing that all amounts owing would be calculated from the date the customer is notified of the undercharge, would simplify how the amount undercharged following an estimated bill (adjustment) is calculated.
- Allowing retailers to charge interest or a late payment fee if the customer does not pay an adjustment by the due date and does not enter into an instalment plan, would ensure adjustments are treated the same as undercharges.

Upon recommendation by the ECCC, the ERA amended clause 4.17 in 2016 to provide that retailers may charge interest or a late payment fee on an undercharged amount if a customer does not pay the undercharge by the due date and does not enter into an instalment plan. The ECCC considered that retailers should be allowed “to charge interest or late payment fees if customers, after the initial request for payment, continue to refuse to pay” an undercharge. It could be argued that the same reasoning applies to adjustments under clause 4.19.

As noted at the time by the ECCC, the general prohibitions on the charging of late payment fees, set out in clause 5.6 of the Code, still apply. Customers who are experiencing payment difficulties or financial hardship also continue to have access to the protections of Part 6 of the Code.

What the new clause may look like

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 a 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) notify the customer of the amount of the adjustment no later than 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 under 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 subclauses (5) and (7), 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 if 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 5 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) If the amount referred to in subclause (2) is less than \$100, the retailer may 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 under 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 next bill.~~
- ~~(6) No interest shall accrue to an adjustment amount under subclause (1) or (2).~~
- ~~(7) If the amount of the adjustment is an amount owing to the customer, and the customer owes a debt to the retailer, then provided that the customer is not a residential customer experiencing payment difficulties or financial hardship, the retailer may, with written notice to the customer, use the amount of the adjustment to set off the debt owed to the retailer. If, after the set off, there remains an amount of credit, the retailer must deal with that amount of credit in accordance with subclause (2) or, if the amount is less than \$100, subclause (5).~~
 - ~~(a) Not Used~~
 - ~~(b) Not Used~~

1.5 Definitions

~~“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 clauses 4.3(2)(a)–(c),~~

~~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 a defect, error or default for which the retailer or distributor is responsible or contributed to.~~

~~“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.~~

[To be drafted by the PCO: The definition would provide that an overcharge is the amount charged that is more than the amount that would have been charged if the bill had been based on an actual value determined in accordance with clause 5.4(1A)(b) of the *Electricity Industry Metering Code 2012*.]

~~“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 means to charge 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.~~

[To be drafted by the PCO: The definition would provide that an undercharge is the amount charged that is less than the amount that would have been charged if the bill had been based on an actual value determined in accordance with clause 5.4(1A)(b) of the *Electricity Industry Metering Code 2012*.]

9. Part 5 of the Code: Payment

9.1 Due dates for payment

[Clause 5.1 of the Code]

NECF

Draft recommendation 40

- a) Replace clause 5.1(1) of the Code with rule 26(1) of the NERR but retain the right of customers to agree to a different minimum due date.¹³⁵
- b) Delete clause 5.1(2) of the Code.

Consequential amendments

- c) Amend clause 1.5 of the Code to insert a definition of 'bill issue date' consistent with the definition of bill issue date in rule 3 of the NERR.
- d) Insert a new paragraph, in clause 4.5(1) of the Code, consistent with rule 25(1)(e) of the NERR.

What would change

- The minimum due date for a bill would be extended from 12 to 13 business days.
- The bill issue date would have to be specified on the bill.

Why the changes are proposed

- Extending the minimum due date to 13 business days would give customers more time to pay their bill.
- The bill issue date would have to be specified on the bill because the NECF definition of 'bill issue date', which is proposed to be adopted, refers to 'included in a bill under [clause 4.5(1)]'.
- The proposed changes would improve consistency between the Code and the NECF.

What the new clause may look like

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 unless otherwise agreed with a customer.~~

The [due date] for a bill must not be earlier than 13 business days from the bill issue date [unless otherwise agreed with a customer].¹³⁶

~~(2) Unless a retailer specifies a later date, the date of dispatch is the date of the bill.~~

1.5 Definitions

"bill issue date" means the date, included in a bill under [clause 4.5(1)(ee)], on which the bill is sent by the retailer to a [customer].

¹³⁵ Question 1 seeks stakeholder feedback on whether retailers and customers should continue to be able to agree to a different due date.

¹³⁶ Id.

4.5 Particulars on each bill

- (1) Unless a customer agrees otherwise, a retailer must include at least the following information on the customer's bill—
[\(ee\) the bill issue date.](#)

9.2 Minimum payment methods

[Clause 5.2 of the Code]

Draft recommendation 41

Replace clause 5.2 of the Code with rule 32(1) of the NERR but:

NECF

- do not adopt rule 32(1)(e) of the NERR.¹³⁷
- retain the requirement that the customer must be able to pay in person at one or more payment outlets within the customer's Local Government District (clause 5.2(a) of the Code).¹³⁸
- retain Centrepay as a minimum payment method for all residential customers (clause 5.2(c) of the Code).¹³⁹
- retain the ability for retailers and customers to agree otherwise.¹⁴⁰

What would change

Some minimum payment methods would be less prescriptive (for example, 'electronically, including by means of BPay or credit card' would be replaced with 'by electronic funds transfer').

Why the change is proposed

- Being less prescriptive about the minimum payment methods provides retailers with more flexibility when offering each payment method.
- To improve consistency between the Code and the NECF.

¹³⁷ Rule 32(1)(e) of the NERR requires retailers to accept direct debit payments. As most WA electricity retailers already offer direct debit as a payment method, the ECCC considers there is no need to regulate this matter. Also, some customers have previously used direct debit fraudulently. For example, by using another person's bank account details. Making direct debit mandatory would make it difficult for retailers to refuse direct debit to these customers.

¹³⁸ Removing this requirement could result in retailers only allowing customers to pay, for example, at the retailer's offices. Retaining this requirement ensures customers will continue to be able to pay their bill in person locally. This is especially important for customers with low digital skills.

¹³⁹ To retain the existing level of protection for customers.

¹⁴⁰ Question 1 seeks stakeholder feedback on whether retailers and customers should continue to be able to agree to set aside one or more of the minimum payment methods.

What the new clause may look like

5.2 Minimum payment methods

~~Unless otherwise agreed with a customer, a retailer must offer the customer at least the following payment methods—~~

~~[Unless otherwise agreed with a customer],¹⁴¹ a retailer must accept payment for a bill by a [customer] in any of the following ways—~~

- (a) in person at 1 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, including by means of BPay or credit card; and~~
~~by electronic funds transfer; and~~
- (e) by telephone ~~by means of credit card or debit card.~~

9.3 Direct debit

[Clause 5.3 of the Code]

Other issues

Draft recommendation 42

Delete clause 5.3 of the Code.

What would change

The Code would no longer regulate payment by direct debit.

Why the changes are proposed

Direct debit transactions are already adequately regulated at a national level.

All direct debit transactions are administered by [Australian Payments Network Limited](#) or AusPayNet (formerly Australian Payments Clearing Association). Financial institutions are participant members of AusPayNet and assist in the regulation of the direct debit process. Any business, including an energy retailer, that wants to set up direct debit arrangements with their customers must be approved as a direct entry user by a financial institution.

AusPayNet has published the 'Procedures for Bulk Electronic Clearing System Framework' which sets minimum standards around direct debit requests. The framework includes rules and processes businesses must comply with when entering into an agreement with a customer, including:

- A retailer must obtain clear instructions from the customer authorising the direct debit.
- The level of detail included in a direct debit request, such as the amount and timing of payments.
- The information required in a direct debit request service agreement.
- Record keeping requirements.

¹⁴¹ See footnote 140.

What the new clause may look like

5.3 — Direct debit

~~If a retailer offers the option of payment by a direct debit facility to a customer, the retailer must, prior to the direct debit facility commencing, obtain the customer's verifiable consent, and agree with the customer the date of commencement of the direct debit facility and the frequency of the direct debits.~~

9.4 Payment in advance

[Clause 5.4 of the Code]

Other issues

Draft recommendation 43

- a) Amend clause 5.4 of the Code to be consistent with clause 5.4 of the *Compendium of Gas Customer Licence Obligations*.

Consequential amendment

- b) Amend clause 1.5 of the Code to insert a definition of 'maximum credit amount' consistent with the definition of maximum credit amount in clause 1.3 of the *Compendium of Gas Customer Licence Obligations*.

What would change

- Retailers would be allowed to set a maximum amount for which they will accept payments in advance, but the maximum amount could not be less than \$100.
- Retailers would be allowed to refund a customer if the customer's account is in credit by more than the maximum amount.

Why the changes are proposed

During the 2019 review of the Gas Compendium, a retailer advised that some customers continue to pay in advance despite their accounts being significantly in credit. It appears that some customers treat the retailer as a depository whereby they request to 'draw down' on their account when funds are required elsewhere, and then 'top up' later.

The amendment would allow retailers to limit customers' ability to treat the retailer as a depository.

Retailers would still be able to accept payments in advance that are over the maximum credit amount set by them.

What the new clause may look like

5.4 Payment in advance

- (1) Subject to subclause (6), a **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 a retailer will accept advance payments unless otherwise agreed with a customer.
- (4) A retailer may determine a maximum credit amount that a customer's account may be in credit which must be no less than \$100.

- (5) [If a retailer determines a maximum credit amount, the retailer must publish the maximum credit amount on its website.](#)
- (6) [A retailer is not obliged to accept payment in advance where the customer's account is in credit for an amount in excess of the maximum credit amount.](#)
- (7) [If a customer's account is in credit for an amount exceeding the maximum credit amount, the retailer may refund any amount in excess of the maximum credit amount to the customer at any time.](#)

1.5 Definitions

"maximum credit amount" means the amount, if any, determined by the retailer in accordance with clause [5.4\(4\)](#).

9.5 Absence or illness

[Clause 5.5 of the Code]

Draft recommendation 44

Retain clause 5.5 of the Code but:

- Other issues
- remove the words 'if a residential customer is unable to pay by way of the methods described in clause 5.2, due to illness or absence'.
 - replace the requirement to offer redirection of the bill, with a requirement to redirect the bill.
 - replace the words 'third person' with 'different address'.

What would change

- Retailers would have to redirect a bill free of charge any time a customer requests redirection. Currently, retailers only have to offer to redirect a bill when the customer is unable to pay due to illness or absence.
- The bill could only be redirected to a different address, not to a third person.

Why the change is proposed

- There may be reasons other than illness or absence that are equally valid for customers to request redirection of their bill. Ensuring that retailers must always redirect a bill at the customer's request would increase protections for customers.
- Replacing the requirement 'to offer redirection' of a bill with a requirement 'to redirect' the bill would simplify redirection of bills. As redirection is only required if a customer has made a request for redirection, there is no further need for the retailer to 'offer' to do so.
- The intent of the obligation is to ensure that customers can redirect their bill to another address if needed, not to make another person responsible for the customer's bill.

What the new clause may look like

5.5 ~~Absence or illness~~ [Redirection of bill]¹⁴²

~~If a residential customer is unable to pay by way of the methods described in clause 5.2, due to illness or absence, a~~ A retailer must ~~[offer the residential customer on request redirection of the~~ redirect a]¹⁴³ residential customer's bill to a ~~third person~~ different address at no charge.

9.6 Vacating a supply address

[Clause 5.7 of the Code]

Other issues

Draft recommendation 45

Delete clause 5.7(4)(c) of the Code.

What would change

The provision that a retailer may not charge for electricity consumed at the customer's supply address from the date of disconnection would be deleted from the Code.

Why the change is proposed

It is unclear how a customer can use electricity after disconnection.

What the new clause may look like

5.7 Vacating a supply address

- (1) Subject to—
 - (a) subclauses (2) and (4);
 - (b) a customer giving a retailer notice; and
 - (c) the customer vacating the supply address at the time specified in the notice, the retailer must not require the 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 5 days' notice; or
 - (e) 5 days after the customer gave notice, in any other case, unless the retailer and the customer have agreed to an alternative date.
- (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—

¹⁴² The words 'Redirection of bill' are tentative only; they are not based on existing wording in the Code. The PCO to provide draft wording.

¹⁴³ The words 'redirect a' are tentative only; they are not based on existing wording in the Code. The PCO to provide draft wording.

- (a) a retailer and a customer enter into a new contract for the supply address, the 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; [and](#)
- (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.

10. Part 6 of the Code: Payment difficulties and financial hardship

10.1 Definitions of payment difficulties and financial hardship

[Clause 1.5 of the Code]

Other issues

Draft recommendation 46

- a) Amend the definition of 'financial hardship', in clause 1.5 of the Code, by replacing 'more than immediate' with 'long term'.
- b) Amend the definition of 'payment difficulties', in clause 1.5 of the Code, by replacing 'immediate' with 'short term'.

What would change

References to 'more than immediate' and 'immediate', in the definitions of 'financial hardship' and 'payment difficulties', would be replaced with 'long term' and 'short term'. The change would not materially affect retailers or customers.

Why the change is proposed

To improve clarity.

What the new clause may look like

1.5 Definitions

"financial hardship" means a state of ~~more than immediate~~ long term 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.

"payment difficulties" means a state of ~~immediate~~ short term 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.

10.2 Assistance to be available to all customers

The Code currently requires retailers to offer a payment extension and an instalment plan to residential customers who have been assessed by the retailer as experiencing payment difficulties or financial hardship. Customers can choose which payment arrangement they prefer.

Under the Victorian *Energy Retail Code*, all residential customers are entitled to at least three of the following four payment options.¹⁴⁴

¹⁴⁴ *Energy Retail Code* (Vic) clause 76(2).

- making payments of an equal amount over a specified period¹⁴⁵
- options for making payments at different intervals¹⁴⁶
- extending by a specified period the pay-by date for a bill for at least one billing cycle in any 12 month period
- paying for energy use in advance

The retailer may choose which three of the four options they offer. Customers can access the assistance simply by asking for it; they do not need to be in debt.

An advantage of the Victorian framework is that, by establishing an entitlement to assistance, it may be clearer for customers what their rights are. This may encourage them to take early action to avoid getting (further) into debt.

A disadvantage of the Victorian framework is that retailers may choose which three of the four payment options they offer to their customers. Retailers could, for example, choose to only offer bill smoothing, a payment extension and payment in advance. If the Code is amended consistent with the Victorian framework, some customers could receive less assistance than they are currently entitled to under the Code.¹⁴⁷

The ECCC does not propose any changes to the payment assistance that customers currently are entitled to under the Code. However, the ECCC seeks comment on whether retailers should have to offer this assistance to all residential customers, not only those that have been assessed as experiencing payment difficulties or financial hardship.

Offering the assistance to all residential customers would ensure no customers are denied assistance. It would also remove the need for retailers to assess, under clause 6.1(1), if the customer is experiencing payment difficulties.¹⁴⁸

Question 5

Should the Code be amended to require retailers to offer a payment extension and an instalment plan¹⁴⁹ to all residential customers?

¹⁴⁵ For example, under a bill smoothing arrangement or an instalment plan.

¹⁴⁶ Shorter billing cycle (for example, monthly or fortnightly).

¹⁴⁷ Customers experiencing payment difficulties are currently entitled to a payment extension and an instalment plan. All customers are furthermore entitled to pay their bill in advance.

¹⁴⁸ A retailer would still have to assess if a customer is experiencing financial hardship if the customer informs the retailer that the customer is experiencing payment problems. This is because a customer who is experiencing financial hardship is not only entitled to a payment extension and instalment plan, but also to other assistance.

¹⁴⁹ These are the alternative payment arrangements that must be offered, under clause 6.4(1) of the Code, to residential customers who are experiencing payment difficulties or financial hardship.

The ECCC also seeks comment on whether bill smoothing should be made available to all residential customers as a form of assistance. Bill smoothing is one of the payment options retailers may offer under the Victorian *Energy Retail Code*.¹⁵⁰

Bill smoothing involves a retailer spreading, or 'smoothing', a customer's estimated electricity costs throughout the year with smaller, regular payments. It is similar to an instalment plan but, while an instalment plan is generally entered into for a defined period and usually includes repayment of outstanding debt, a bill smoothing arrangement is generally for an undefined period and does not involve repayment of debt.

Other issues

Question 6

Should the Code be amended to require retailers to offer bill smoothing to all residential customers as a form of assistance?

10.3 Assessment

[Clause 6.1 of the Code]

10.3.1 Identification by retailer

Retailers currently only have to offer a payment extension and an instalment plan to customers who have been assessed by their retailer as experiencing payment difficulties or financial hardship. A retailer only has to undertake an assessment if the customer informs the retailer that the customer is experiencing payment problems.

The NECF requires retailers to offer an instalment plan not only to customers who are hardship customers or who have informed their retailer that they are experiencing payment difficulties, but also if 'the retailer otherwise believes the customer is experiencing repeated difficulties in paying the customer's bill or requires payment assistance'.¹⁵¹

NECF retailers must therefore take a more proactive approach in identifying customers who may be experiencing payment difficulties or financial hardship. Such a proactive approach may help prevent customers from getting into severe hardship.

Proactive identification could, for example, consist of automated account monitoring or the use of debt triggers.¹⁵²

NECF

Question 7

Should the Code be amended to require retailers to offer a payment extension and

¹⁵⁰ Clause 76(2)(a) of the Victorian *Energy Retail Code* refers to 'making payments of an equal amount over a specified period'. This could refer to a bill smoothing arrangement or an instalment plan.

¹⁵¹ *National Energy Retail Law* s50(1)(b).

¹⁵² Australian Energy Regulator, 2019, [AER Customer Hardship Policy Guideline – Version 1](#), footnote 17.

an instalment plan¹⁵³ to customers who the retailer otherwise believes are experiencing repeated difficulties in paying their bill or require payment assistance?

10.3.2 *Referral to relevant consumer representatives*

Draft recommendation 47

- a) Delete clause 6.1(1)(b) of the Code.
- b) Delete clause 6.2 of the Code.

What would change

Retailers would always have to assess whether a customer is experiencing payment difficulties or financial hardship. Currently, retailers may refer customers to relevant consumer representatives, such as financial counsellors, for assessment.

Why the change is proposed

- According to a 2019 survey conducted by the Financial Counsellors' Association of WA, 50 to 80 per cent of financial counsellors' total workload involved energy issues. As financial counsellors have finite resources, customers should not be referred to a financial counsellor unnecessarily.
- Mandatory assessment by a retailer would ensure that a customer is assessed within five business days. Currently, assessments may take longer as some financial counsellors have long waiting lists.

10.3.3 *Assessment to remain valid*

Draft recommendation 48

Amend the Code so retailers do not have to make an assessment under clause 6.1(1) if the retailer has previously assessed the customer, unless the customer has indicated that their circumstances have changed since the assessment was made.

What would change

Retailers would no longer have to make a new assessment each time a customer advises the retailer of payment problems.

Why the change is proposed

A strict reading of clause 6.1(1) implies that retailers must make a new assessment each time the customer advises of payment problems. This is undesirable, both for the retailer and the customer.

¹⁵³ These are the alternative payment arrangements that must be offered, under clause 6.4(1) of the Code, to residential customers who are experiencing payment difficulties or financial hardship.

The proposed amendment would allow retailers to maintain their assessment, unless the customer has indicated that their circumstances have changed since the assessment was made.

What the new clauses may look like¹⁵⁴

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) —~~
 - ~~(a) within 5 business days, assess whether the residential customer is experiencing payment difficulties or financial hardship; and~~
 - ~~(b) if the retailer cannot make the assessment within 5 business days, refer the residential customer to a relevant consumer representative to make the assessment.~~
- (2) [...]
- (3) [...]
- (4) [...]
- (5) [To be drafted by the PCO:** The new subclause would include an exception to subclause (1). Retailers would not have to make an assessment under subclause (1) if the retailer previously assessed the customer, unless the customer has indicated that their circumstances have changed since the assessment was made.]

~~6.2 Temporary suspension of actions~~

- ~~(1) If a retailer refers a residential customer to a relevant consumer representative under clause 6.1(1)(b) then the retailer must grant the residential customer a temporary suspension of actions.~~
- ~~(2) If a residential customer informs a retailer that the residential customer is experiencing payment problems under clause 6.1, and the residential customer —~~
 - ~~(a) requests a temporary suspension of actions; and~~
 - ~~(b) demonstrates to the retailer that the residential customer has made an appointment with a relevant consumer representative to assess the residential customer's capacity to pay,~~~~the retailer must not unreasonably deny the residential customer's request.~~
- ~~(3) A temporary suspension of actions must be for at least 15 business days.~~
- ~~(4) If a relevant consumer representative is unable to assess a residential customer's capacity to pay within the period referred to in subclause (3) and the residential customer or relevant consumer representative requests additional time, a retailer must give reasonable consideration to the residential customer's or relevant consumer representative's request.~~

10.4 Available assistance: concession information

Draft recommendation 49¹⁵⁵

Amend the Code so retailers must advise customers experiencing payment difficulties that the customer may be eligible to receive concessions and how the customer may find out about their eligibility for those concessions.

¹⁵⁴ The mock-up drafting incorporates draft recommendations 47 and 48.

¹⁵⁵ If the answer to question 5 is affirmative, there would no longer be a need to assess if a customer is experiencing payment difficulties. This would likely make draft recommendation 49 obsolete as the retailer would not know if the customer is experiencing payment difficulties.

What would change

Retailers would have to advise customers experiencing payment difficulties that the customer may be eligible to receive concessions and how the customer may find out about their eligibility for those concessions.

Why the change is proposed

Currently, the Code only requires retailers to advise customers experiencing financial hardship of the concessions available to the customer and how to access them. This information should also be provided to customers who are experiencing payment difficulties. The information can help customers reduce their bill, thereby reducing the risk they get (further) into debt.

What the new clause may look like

[new clause] **Concession information**¹⁵⁶

[To be drafted by the PCO: The clause would require retailers to advise customers experiencing payment difficulties that the customer may be eligible to receive concessions and how the customer may find out about their eligibility for those concessions.]

10.5 Available assistance: instalment plans

10.5.1 *Offering a payment extension and instalment plan*

[Clause 6.4(1) of the Code]

Other issues

Draft recommendation 50

Amend clause 6.4(1) of the Code to clarify that retailers must offer customers additional time to pay their bill and an instalment plan; where the customer may choose with option they prefer.

What would change

The wording of clause 6.4(1) would be amended to clarify that a retailer must offer customers additional time to pay their bill and an instalment plan, but the customer can choose only one of these options.

Why the change is proposed

To improve clarity.

What the new clause may look like

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

¹⁵⁶ The words 'Concession information' are tentative only; they are not based on existing wording in the Code or NECF. The PCO to provide draft wording.

- (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.

In this clause “fee” means any fee or charge in connection with the establishment or operation of the instalment plan or other arrangement which would not otherwise be payable if the residential customer had not entered into the instalment plan or other arrangement.¹⁵⁷

[To be drafted by the PCO: The PCO to amend clause 6.4(1) to clarify that, while a retailer must offer customers additional time to pay their bill and an instalment plan, a customer can only choose one of these options.]

10.5.2 *Minimum requirements for instalment plans*

[Clause 6.4(2)(a) of the Code]

Draft recommendation 51

Replace clause 6.4(2)(a) of the Code with a requirement that retailers must ensure that an instalment plan is fair and reasonable and has regard to:

- the customer’s capacity to pay;
- any arrears owing by the customer; and
- the customer’s expected electricity consumption needs over the duration of the instalment plan.

What would change

When offering or amending an instalment plan, retailers would have to ensure that the plan takes into account the customer’s debt and expected electricity consumption needs over the duration of the plan. The plan would no longer have to take into account the customer’s consumption history.

Why the change is proposed

When ongoing consumption is not included in an instalment plan, customers continue to receive regular bills next to their instalment payments. This may impose additional stress on the customer and require them to enter into another instalment plan for the new bill(s).

The proposed amendment would reduce the need for customers to enter into multiple instalment plans for different bills.

What the new clause may look like

6.4 Alternative payment arrangements

- (2) When offering or amending an instalment plan, a retailer must—
- (a) ensure that the instalment plan is fair and reasonable ~~taking into account information about a residential customer’s capacity to pay and consumption history~~ **[To be drafted by the PCO:** The clause would require the instalment plan to have regard to:
 - (i) the customer’s capacity to pay;

¹⁵⁷ Item P in Appendix 2 (minor amendments) proposes an additional amendment to this paragraph.

- (ii) any arrears owing by the customer; and
- (iii) the customer's expected energy consumption needs over the duration of the instalment plan]; and

10.5.3 *Amending an instalment plan*

[Clauses 6.4(2) and (3) of the Code]

6.4 Alternative payment arrangements

- (2) When offering or amending an instalment plan, a retailer must—
 - (a) ensure that the instalment plan is fair and reasonable taking into account information about a residential customer's capacity to pay and consumption history; and¹⁵⁸
 - (b) comply with subclause (3).¹⁵⁹
- (3) If a residential customer accepts an instalment plan offered by a retailer, the retailer must—
 - (a) within 5 business days of the residential customer accepting the instalment plan provide the residential customer with information in writing or by electronic means that specifies—
 - (i) the terms of the instalment plan (including the number and amount of payments, the duration of payments and how the payments are calculated);
 - (ii) the consequences of not adhering to the instalment plan; and
 - (iii) the importance of contacting the retailer for further assistance if the residential customer cannot meet or continue to meet the instalment plan terms, and
 - (b) notify the residential customer in writing or by electronic means of any amendments to the instalment plan at least 5 business days before they come into effect (unless otherwise agreed with the residential customer) and provide the residential customer with information in writing or by electronic means that clearly explains and assists the residential customer to understand those changes.

The current drafting of clauses 6.4(2) and (3)(b) implies that a retailer can amend a customer's instalment plan without the customer's consent.

Amendments to an instalment plan can benefit a customer. For example, if a retailer adds a future bill to the instalment plan without the customer having to ask for this. The customer will not have to pay the bill in full by the due date but can spread payment as part of their instalment plan.

Amendments without a customer's consent can, however, also leave a customer worse off. For example, if the instalment amount increases as a result of the amendment, the customer would have to pay more than agreed. If the customer does not have sufficient funds in their account, the customer could incur additional costs, such as dishonour fees.

Although retailers must inform customers of an amendment at least five business days before the amendment takes effect, there is no requirement to consult with, or seek a customer's consent, before the amendment takes effect. A requirement to consult with, or seek a customer's consent of an amendment, would more likely result in an instalment plan that is

¹⁵⁸ Draft recommendation 51 proposes an amendment to this paragraph.

¹⁵⁹ Item Q in Appendix 2 (minor amendments) proposes the deletion of subclause (2)(b).

'fair and reasonable' and takes account of the 'customer's capacity to pay and consumption history'.¹⁶⁰

Other issues	<p>Question 8</p> <p>a) Should retailers continue to be able to amend a customer's instalment plan without the customer's consent?</p> <p style="padding-left: 40px;">or</p> <p>b) Should clauses 6.4(2) and (3) of the Code be amended to clarify that a retailer cannot amend an instalment plan without:</p> <p style="padding-left: 80px;">(i) consulting the customer?</p> <p style="padding-left: 80px;">or</p> <p style="padding-left: 80px;">(ii) obtaining the customer's consent?</p>
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10.5.4 *In writing*

[Clause 6.4(3) of the Code]

Other issues	<p>Draft recommendation 52</p> <p>a) Amend clause 6.4(3)(a) of the Code to provide that the information must be provided in writing, unless the information has already been provided in the previous 12 months.</p> <p>b) Delete the requirement that information must be provided 'in writing or by electronic means' from clause 6.4(3)(b) of the Code.</p>
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What would change

- Retailers would no longer have to provide the following information, if the information has already been provided in the last 12 months:
 - The terms of the instalment plan, including the number and amount of payments, the duration of the payments and how the payments are calculated.
 - The consequences of not adhering to the plan.
 - The importance of contacting the retailer if the customer can no longer meet the conditions of the plan.
- Retailers would be able to give information about amendments to an instalment plan verbally or in writing to a customer.

Why the changes are proposed

- Some customers enter multiple instalment plans in a year. The amendment would ensure that, if the same information has already been provided to the customer in the previous 12 months, it would not have to be provided again.

¹⁶⁰ Code of Conduct for the Supply of Electricity to Small Use Customers 2018 (WA) clause 6.4(2)(a).

- To provide retailers with more flexibility as to how they inform customers about amendments to their instalment plan.

What the new clause may look like

6.4 Alternative payment arrangements

- (3) If a residential customer accepts an instalment plan offered by a retailer, the retailer must—
- within 5 business days of the residential customer accepting the instalment plan provide the residential customer with information in writing or by electronic means that specifies¹⁶¹
 - the terms of the instalment plan (including the number and amount of payments, the duration of payments and how the payments are calculated);
 - the consequences of not adhering to the instalment plan; and
 - the importance of contacting the retailer for further assistance if the residential customer cannot meet or continue to meet the instalment plan terms, and

[To be drafted by the PCO: Paragraph (a) would be amended to provide that the information does not have to be provided if it has already been provided in the previous 12 months.]
 - notify the residential customer ~~in writing or by electronic means~~ of any amendments to the instalment plan at least 5 business days before they come into effect (unless otherwise agreed with the residential customer) and provide the residential customer with information ~~in writing or by electronic means~~ that clearly explains and assists the residential customer to understand those changes.¹⁶²

10.6 Available assistance: customers experiencing financial hardship

10.6.1 Additional assistance

Retailers must make additional assistance available to customers who are experiencing financial hardship, including:

- Giving reasonable consideration to a request by a customer to reduce fees, charges or debt.¹⁶³
- Giving reasonable consideration to a request by a customer for a change to their payment arrangement. This includes a request for an instalment plan (if the customer previously requested a payment extension) or an amendment to their existing instalment plan.¹⁶⁴
- Giving a customer relevant information, including information about concessions, financial counselling services and payment methods.¹⁶⁵

¹⁶¹ Draft recommendation 3 proposes an additional amendment to this paragraph.

¹⁶² Draft recommendation 3 also proposes an amendment to this paragraph.

¹⁶³ *Code of Conduct for the Supply of Electricity to Small Use Customers 2018* (WA) clause 6.6.

¹⁶⁴ *Code of Conduct for the Supply of Electricity to Small Use Customers 2018* (WA) clause 6.7.

¹⁶⁵ *Code of Conduct for the Supply of Electricity to Small Use Customers 2018* (WA) clause 6.8.

The Victorian *Energy Retail Code* also requires retailers to provide additional assistance to customers who are struggling to pay their bill. The assistance must be provided to any customer who is in arrears.

Assistance available under the Victorian *Energy Retail Code* includes:

- Instalment plans that allow the customer to repay arrears over (up to) two years. The customer may nominate the terms of the plan.
- Advice about different payment options that may help lower the customer's arrears.
- Advice about the likely costs of the customer's future electricity use and how this cost may be lowered.
- Advice about concessions.
- Practical assistance to help the customer lower their electricity costs, such as alternative tariffs or energy audits.
- Putting repayment of arrears on hold, and paying less than the full cost, for 6 months or more.
- The retailer proactively proposing an amendment to an instalment plan if the customer has missed a payment under their current plan.

The assistance that must be provided to customers is listed in clauses 77 to 83 of the Victorian *Energy Retail Code*. Appendix 6 includes a copy of Part 3 of the Victorian code, which includes clauses 77 to 83.

Question 9

Should the Code be amended to include one or more of the assistance measures that Victorian retailers must offer to their customers under clauses 77 to 83 of the Victorian *Energy Retail Code*?

10.6.2 *Revision of alternative payment arrangements*

[Clause 6.7 of the Code]

6.7 Revision of alternative payment arrangements

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

- offering the customer an instalment plan, if the customer had previously elected a payment extension; or
- offering to revise the instalment plan, if the customer had previously elected an instalment plan.

Customers who are experiencing financial hardship and who cannot meet the conditions of their payment extension or instalment plan may request a change to their payment arrangement. A retailer does not have to offer to change the arrangement; a retailer only has to 'give reasonable consideration to' making an offer if the customer 'reasonably demonstrates' to the retailer that the customer is unable to meet their obligations.

It could be argued that the words 'give reasonable consideration to' and 'reasonably demonstrates' unnecessarily limit customers' access to this protection. Even if a customer reasonably demonstrates that they cannot meet the conditions of their arrangement, a retailer does not have to offer to change the arrangement.

To improve access to the protection, the ECCC seeks feedback on whether the Code should be amended so:

- Retailers must continue to give reasonable consideration to a change in the arrangement, but customers no longer have to reasonably demonstrate that they cannot meet the conditions of their arrangement.

or

- Retailers must offer to change the arrangement if the customer reasonably demonstrates that they cannot meet the conditions of their arrangement.

Another option is to amend the Code consistent with clause 30(4)(b) of the *Water Services Code of Conduct (Customer Service Standards) 2018*, which provides:

[...] the licensee must [...] at the customer's request, review how the customer is paying the bill under a payment plan or other arrangement entered into under subclause (2) and, if the review indicates that the customer is unable to meet obligations under the plan or arrangement, revise it; and

An advantage of the Water Code is that it creates a clear entitlement for customers. A disadvantage is that it would require retailers to always revise an instalment plan if the customer is unable to meet their obligations, even if the customer has already been offered multiple plans previously.

Question 10

Should clause 6.7 be amended:

Other issues

- a) by providing that a retailer must give reasonable consideration to offering a (revised) instalment plan if the customer informs a retailer that they cannot meet the conditions of their payment extension or instalment plan?
or
- b) by providing that a retailer must offer a (revised) instalment plan if the customer reasonably demonstrates to a retailer that the customer cannot meet the conditions of their payment extension or instalment plan?
or
- c) consistent with clause 30(4)(b) of the Water Code?

10.6.3 *Provision of information: different types of meters*

[Clause 6.8(d) of the Code]

Other issues

Draft recommendation 53

Amend clause 6.8(d) of the Code by deleting reference to meters.

What would change

Retailers would no longer have to advise customers of the different types of meters available to the customer.

Why the change is proposed

As most residential customers are currently not contestable,¹⁶⁶ there are only limited metering options available to most customers. Where different metering options are available, they may not be appropriate for customers experiencing financial hardship.

The amendment would ensure that customers are not provided with information that is not relevant to them.

What the new clause may look like

6.8 Provision of information

A retailer must advise a customer experiencing financial hardship of the—

- (d) different types of ~~meters~~ tariffs available to the customer ~~and / or tariffs (as applicable);~~

10.7 Minimum payment in advance amount for customers experiencing payment difficulties or financial hardship

[Clause 6.9 of the Code]

Other issues

Draft recommendation 54

Delete clause 6.9 of the Code.

What would change

Retailers would no longer have to determine the minimum payment in advance amount for customers experiencing payment difficulties or financial hardship in consultation with relevant consumer organisations.

¹⁶⁶ Customers who consume less than 50 megawatt hours of electricity per year and are connected to the South West Interconnected System, currently cannot choose their retailer.

Why the change is proposed

Clause 5.4 provides that a retailer must accept payment in advance. The minimum amount that a retailer must accept for payment in advance is \$20.¹⁶⁷

Clause 6.9 expands on this by requiring a retailer to determine the minimum payment in advance amount for customers experiencing payment difficulties or financial hardship in consultation with relevant consumer organisations.

As the amount prescribed in clause 5.4 is relatively low (\$20), the ECCC considers it is unnecessary for retailers to consult with relevant consumer organisations on the minimum payment in advance amount for customers experiencing payment difficulties or financial hardship.

What the new clause may look like

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

10.8 Hardship policy and hardship procedures

10.8.1 *Hard-print copies*

[Clause 6.10(2)(j) of the Code]

Other issues

Draft recommendation 55

Amend clause 6.10(2)(j) of the Code so only hard-copies of the hardship policy have to be made available in large print.

What would change

Retailers would no longer have to provide electronic copies of their hardship policy in large print.

Why the change is proposed

Customers can adjust the font size of an electronic copy of the hardship policy to meet their needs.¹⁶⁸ There is therefore less need to regulate this matter.

What the new clause may look like

6.10 Obligation to develop hardship policy and hardship procedures

- (2) The hardship policy must— [...]

¹⁶⁷ A retailer may always accept a lower amount but may not require a higher amount.

¹⁶⁸ Clause 6.10(2)(i) of the Code provides that the hardship policy must be available on the retailer's website.

- (j) be available in large print copies; and

[To be drafted by the PCO: The amended paragraph would provide that only hard-copies of the hardship policy have to be made available in large print.]

10.8.2 *Review of hardship policy*

[Clause 6.10(6) of the Code]

Other issues

Draft recommendation 56

Amend clause 6.10(6) of the Code by deleting the words 'within 5 business days after it is completed'.

What would change

Retailers would no longer have to submit the results of a review of their hardship policy within five business days of completing the review.

Why the change is proposed

A retailer must currently submit the result of a review within 5 business days after it is completed. It is unclear when a review is considered completed. It would be clearer if the ERA specified in its direction when the results should be submitted.

The timeframe for submitting the results of a review is an administrative matter for the ERA and should not be regulated in the Code.

What the new clause may look like

6.10 Obligation to develop hardship policy and hardship procedures

- (6) If directed by the Authority, a retailer must review its hardship policy and hardship procedures in consultation with relevant consumer representatives and submit to the Authority the results of that review ~~within 5 business days after it is completed.~~

10.8.3 *Amendment of hardship policy*

[Clause 6.10(8) of the Code]

Other issues

Draft recommendation 57

Amend clause 6.10(8) of the Code by deleting the words 'within 5 business days of the amendment'.

What would change

The Code would no longer specify the timeframe within which retailers must submit a copy of their amended hardship policy to the ERA.

Why the change is proposed

- Retailers must submit a copy of their amended hardship policy 'within 5 business days of the amendment'. It is unclear what is meant by 'within 5 business days of the

amendment'. This could, for example, refer to the date the amendment is approved by the retailer or the date the amendment takes effect.

Most timeframes in the Code start from the moment the ERA or a customer asks the retailer to do something. Clause 6.10(8), however, applies to amendments initiated by the retailer. As each retailer will have its own process for approving amendments, it is difficult to identify a specific event that will trigger the commencement of the timeframe.

- The ECCC considers that the Code should only prescribe a timeframe if necessary. One of the reasons for this is that, under the WA regulatory framework, retailers must report on their compliance with the Code. This means that retailers must have processes in place to capture their compliance with each obligation, including any regulatory timeframes.

The ECCC considers that the timeframe prescribed in clause 6.10(8) is not necessary and should be removed from the Code.

What the new clause may look like

6.10 Obligation to develop hardship policy and hardship procedures

- (8) If a retailer makes a material amendment to the retailer's hardship policy, the retailer must consult with relevant consumer representatives, and submit to the Authority a copy of the retailer's amended hardship policy ~~within 5 business days of the amendment.~~

11. Part 7 of the Code: Disconnection

11.1 Limitations on disconnection for failure to pay bill

[Clause 7.2 of the Code]

11.1.1 Instalment plans and concessions

Draft recommendation 58

NECF

- a) Replace clause 7.2(1)(b) of the Code with rule 116(1)(d) of the NERR but do not adopt the words 'is a hardship customer or residential customer and'.¹⁶⁹
- b) Replace clause 7.2(1)(d) of the Code with rule 116(1)(e) of the NERR but replace the words 'a rebate, concession or relief available under any government funded energy rebate, concession or relief scheme' with 'a concession'.¹⁷⁰

What would change

- The restriction on disconnection for customers on an instalment plan would no longer be subject to the customer having used reasonable endeavours to settle the debt before the end of the disconnection warning period.
- Disconnection for failure to pay a bill would not be allowed if the customer has informed the retailer, or the retailer is otherwise aware, that the customer has applied for a concession. Currently, the restriction applies when 'the customer has made an application'.

Why the changes are proposed

- Customers who are on an instalment plan should not be expected to settle their debt before the end of the disconnection warning period (which would generally be before the end of their instalment plan) as long as they comply with the conditions of their plan.
- Retailers will not always be aware that a customer has applied for a concession. The new drafting ensures that the restriction only applies if the customer has informed the retailer, or the retailer is otherwise aware, that the customer has applied for a concession.

¹⁶⁹ The Code does not use the term 'hardship customer'. The words are also unnecessary if the reference to rule 33 or 72 is replaced with reference to clause 6.4(1). Under clause 6.4(1) of the Code, instalment plans only have to be offered to residential customers who are experiencing payment difficulties or financial hardship.

¹⁷⁰ Clause 1.5 of the Code defines concession as 'means a concession, rebate, subsidy or grant related to the supply of electricity available to residential customers only'.

11.1.2 Minimum disconnection amount

Other issues

Draft recommendation 59

- a) Replace 'an amount approved and published by the Authority in accordance with subclause (2)' with '\$300' in clause 7.2(1)(c) of the Code.
- b) Delete clause 7.2(2) of the Code.

What would change

Retailers would no longer be allowed to arrange for the disconnection of a customer's supply address for failure to pay a bill if the amount outstanding is less than \$300 and the customer has agreed to repay the amount.

Why the change is proposed

Currently, the Code provides that disconnection for failure to pay a bill is not allowed if the amount outstanding is less than an amount approved and published by the ERA. To date, the ERA has not approved or published an amount.

The Australian Energy Regulator set the amount at \$300 for NECF customers.¹⁷¹ The amount aimed to balance the interests of customers in maintaining supply, while at the same time avoiding unmanageable rising debt levels.¹⁷²

The ECCC considers the Code should include an amount below which disconnection is not allowed (provided the customer has agreed to repay the amount). It proposes that the amount is the same as that set by the AER; \$300.

What the new clause may look like¹⁷³

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 a 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;~~
 where the [customer] is adhering to an instalment plan under [clause 6.4(1)];
 - (c) if the amount outstanding is less than ~~an amount approved and published by the Authority in accordance with subclause (2)~~ \$300 and the customer has agreed with the retailer to repay the amount outstanding;

¹⁷¹ Australian Energy Regulator, 2017, [Final decision - Review of the Minimum Disconnection Amount](#)

¹⁷² Id, pg. 7

¹⁷³ The mock-up drafting incorporates draft recommendations 58 and 59.

- (d) ~~if the customer has made an application for a concession and a decision on the application has not yet been made;~~
where the customer informs the retailer, or the retailer is otherwise aware, that the customer has formally applied for assistance to an organisation responsible for a [concession] and a decision on the application has not been made;
- (e) if the customer has failed to pay an amount which does not relate to the supply of electricity;
- (f) if the supply address does not relate to the bill, unless the amount outstanding relates to a supply address previously occupied by the customer.¹⁷⁴
- ~~(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.~~

11.2 Disconnection for denying access to meter – general requirements

[Clause 7.4 of the Code]

11.2.1 Access for reasons other than a meter reading

Draft recommendation 60

Adopt rule 113(2) of the NERR but:

- do not adopt the words 'in accordance with any requirement under the energy laws or otherwise'.
- extend the application of the clause to distributors.

What would change

The Code would include new protections around disconnection for denying access to test, maintain, inspect, alter, check or replace the meter. Retailers and distributors would have to give customers a disconnection warning before they may disconnect a customer's supply address in these circumstances.

Currently the Code only includes protections around disconnection for denying access to read the meter.

Why the change is proposed

- The introduction of new protections around disconnection for denying access to test, maintain, inspect, alter, check or replace the meter would clarify the protections that apply when access is denied for these reasons.
- The application of the clause would be extended to include distributors as they are most likely to require access to a customer's meter to test, maintain, inspect, alter, check or replace the meter.

¹⁷⁴ Item EE in Appendix 2 (minor amendments) proposes an amendment to this paragraph.

11.2.2 Clarification

Other issues

Draft recommendation 61

Clarify that the protections of clauses 7.4(1)(c) to (e) of the Code must be met before a disconnection warning may be issued.

What would change

Not only the requirements of clause 7.4(1)(b) would have to be met before a disconnection warning may be issued, but also those of clauses 7.4(1)(c) to (e).

Why the changes are proposed

Currently, the Code only explicitly states that notice of a scheduled meter reading must be provided before the disconnection warning.

The protections of clauses 7.4(1)(c) to (e) should also be met before a disconnection warning may be issued – however, this is not explicitly stated. This should be clarified in the Code.

What the new clause may look like¹⁷⁵

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 9 consecutive months;
 - (b) the retailer has, prior to giving the customer a disconnection warning under subclause ~~(c)~~—
 - (i) at least once given the customer in writing 5 business days' notice—
 - ~~(i)(A)~~ advising the customer of the next date or timeframe of a scheduled meter reading at the supply address;
 - ~~(i)(B)~~ requesting access to the meter at the supply address for the purpose of the scheduled meter reading; and
 - ~~(i)(C)~~ advising the customer of the retailer's ability to arrange for disconnection if the customer fails to provide access to the meter;
 - ~~(e)(ii)~~ [the retailer has]¹⁷⁶ given the customer an opportunity to provide reasonable alternative access arrangements;
 - ~~(d)(iii)~~ where appropriate, [the retailer has]¹⁷⁷ informed the customer of the availability of alternative meters which are suitable to the customer's supply address;
 - ~~(e)(iv)~~ [the retailer has]¹⁷⁸ used its best endeavours to contact the customer to advise of the proposed disconnection; and
 - ~~(c)~~ the retailer has given the customer a disconnection warning with at least 5 business days notice of its intention to arrange for disconnection
- (2) A retailer may arrange for a distributor to carry out 1 or more of the requirements referred in subclause (1) on behalf of the retailer.
- (3) **[To be drafted by the PCO:** The clause will provide that a retailer or distributor may arrange for disconnection of, or disconnect, a customer's supply address if the customer does not provide the

¹⁷⁵ The mock-up drafting incorporates draft recommendations 60 and 61.

¹⁷⁶ Consequential amendment of draft recommendation 61.

¹⁷⁷ Consequential amendment of draft recommendation 61.

¹⁷⁸ Consequential amendment of draft recommendation 61.

retailer, distributor or their representatives safe access to the customer's supply address for the purposes of:]

(a) testing, maintaining, inspecting or altering any metering installation at the [supply address];

(b) checking the accuracy of metered consumption at the [supply address]; or

(c) replacing meters,

and if:

(d) the retailer has given the customer a [disconnection warning]; and

(e) the customer has not rectified the matter that gave rise to the right to arrange for [disconnection] of the [supply address].

11.3 General limitations on disconnection

[Clause 7.6 of the Code]

Draft recommendation 62

Retailers

a) Adopt rule 116(1)(a) of the NERR.

Distributors

b) Adopt rule 120(1)(a) of the NERR.

c) Replace clause 7.6(2)(b) of the Code with rule 120(1)(e) of the NERR but retain the ability for distributors to disconnect business customers during the protected period if the business's trading hours are only during that period and it is not practicable to disconnect at any other time.¹⁷⁹

Retailers and distributors

d) Replace clause 7.6(3) of the Code with rules 116(3), 120(2) and 120(3)(a) and (b) of the NERR.

Consequential amendment

e) Amend clause 1.5 of the Code to insert a definition of 'protected period', consistent with the definition of protected period in rule 108 of the NERR.

What would change

- The hours during which distributors may disconnect a supply address would be reduced.
- Retailers and distributors would only be allowed to disconnect supply to life support customers if the customer requested disconnection or in case of an emergency. Currently, disconnection is only not allowed if the reason for the disconnection is failure to pay a bill.

¹⁷⁹ The exception for business customers was included in 2008 after distributors raised concerns that in some circumstances a business does not open until after the prescribed period (such as a fish and chips shop). There are no compelling reasons for removing this exception.

- The Code would no longer provide that a retailer or distributor may arrange for interruption of a customer's supply address if the interruption was carried out for emergency reasons.
- The restrictions on disconnection would not apply if the disconnection was carried out for health or safety reasons.

Why the changes are proposed

- Disconnection would only be allowed on Mondays to Thursdays from 8am to 3pm (except for public holidays, the day before public holidays and the Christmas period). This would reduce the chance of customers being disconnected for a long time (for example, where disconnection is carried out on a Friday and the customer has to wait until Monday to be reconnected).
- Not allowing disconnection of life support customers would increase protections for these customers. There are no compelling reasons for not allowing life support customers to be disconnected for failure to pay a bill, but still allowing them to be disconnected (for example) for failure to provide access to the meter.
- The general limitations on disconnection, set out in clause 7.6, only apply when a retailer or distributor disconnects a customer's supply address. They do not apply to interruptions.¹⁸⁰ It is therefore not necessary to provide that retailers or distributors may arrange for interruption of a customer's supply address if the interruption was carried out for emergency reasons.
- Disconnection should be allowed at any time if the disconnection is carried out for health and safety reasons.

What the new clause may look like

7.6 General limitation on disconnection

- (1) Subject to subclause (3), a retailer must not arrange for disconnection of a customer's supply address ~~if—~~
 - (a) where the [supply address is] registered under [Part ...] as having life support equipment;
 - (b) if—
 - ~~(a)~~(i) a complaint has been made to the retailer directly related to the reason for the proposed disconnection; or
 - ~~(b)~~(ii) the retailer is notified by the distributor, electricity ombudsman or an external dispute resolution body that there is a complaint, directly related to the reason for the proposed disconnection, that has been made to the distributor, electricity ombudsman or external dispute resolution body, and the complaint is not resolved by the retailer or distributor or determined by the electricity ombudsman or external dispute resolution body.
- (2) Subject to subclause (3), a distributor must not disconnect a customer's supply address—
 - (a) where the [supply address is] registered under [Part ...] as having life support equipment;
 - ~~(a)~~(b) if—
 - (i) a complaint, has been made to the distributor directly related to the reason for the proposed disconnection; or

¹⁸⁰ The definition of disconnection specifically excludes interruptions. The *Electricity Industry (Network Quality and Reliability of Supply) Code 2005* sets standards around interruptions of supply.

- (ii) the distributor is notified by a retailer, the electricity ombudsman or an external dispute resolution body that there is a complaint, directly related to the reason for the proposed disconnection, that has been made to the retailer, electricity ombudsman or external dispute resolution body, and the complaint is not resolved by the retailer or distributor or determined by the electricity ombudsman or external dispute resolution body; or
- ~~(b)(c)~~ during ~~any time—~~
- ~~(i) —after 3.00 pm Monday to Thursday;~~
- ~~(ii) —after 12.00 noon on a Friday; or~~
- ~~(iii) —on a Saturday, Sunday, public holiday or on the business day before a public holiday;~~
- a protected period, unless—
- ~~(iv)(i)~~ the customer is a business customer; and
- ~~(v)(ii)~~ the business customer's normal trading hours—
- (A) fall within the ~~time frames set out in subclause (b)(i) (ii) or (iii)~~ protected period; and
- (B) do not fall within any other time period; and
- ~~(vi)(iii)~~ it is not practicable for the distributor to disconnect at any other time.
- (3) ~~A retailer or a distributor may arrange for disconnection or interruption of a customer's supply address if—~~
- ~~(a) —the disconnection was requested by the customer; or~~
- ~~(b) —the disconnection or interruption was carried out for emergency reasons.~~
- The restrictions in [subclauses (1) and (2)] do not apply if—
- (a) the customer has requested [disconnection];
- (b) there are health or safety reasons warranting [disconnection]; or
- (c) there is an emergency warranting [disconnection].

1.5 Definitions

"protected period" means:

- (a) a business day before 8am or after 3pm; or
- (b) a Friday or the day before a public holiday; or
- (c) a weekend or a public holiday; or
- (d) the days between 20 December and 31 December (both inclusive) in any year;

11.4 Life support

[Clause 7.7 of the Code]

11.4.1 Provision of information after registering

Draft recommendation 63

NECF

- a) Adopt rules 124(1)(b)(iv), (v) and (vi) of the NERR but:
- specify that the information has to be provided within 5 business days of the retailer registering the customer's supply address as a life support equipment address, rather than of 'receipt of advice from the customer'.¹⁸¹

¹⁸¹ The protections of the Code only apply if a customer has provided the retailer with confirmation from an appropriately qualified medical practitioner that a person residing at the supply address requires life support equipment. The proposed amendment would ensure that retailers only have to provide the information to customers who have provided the required confirmation; rather than only advice.

- amend rule 124(1)(b)(v) so retailers have to recommend customers to prepare a plan of action to deal with an unplanned interruption.
 - specify that the telephone service does not have to be available to mobile phones at the cost of a local call.¹⁸²
- b) Delete clause 7.7(4)(a) of the Code.¹⁸³

What would change

Retailers would have to provide additional written information to customers after a customer registers their supply address as a life support equipment address, including:

- Advice that the distributor must notify them of planned interruptions.
- A recommendation that the customer prepare a plan of action to deal with an unplanned interruption.
- The emergency contact phone numbers for the retailer and distributor (the charge for which is no more than the cost of a local call, excluding mobile phones).

Why the change is proposed

Providing this information would ensure customers are aware of their rights and obligations.

11.4.2 *Moving into a supply address*

Other issues

Draft recommendation 64

Amend clause 7.7(1) of the Code by allowing customers to register a supply address as a life support equipment address before they move in.

What would change

Customers would be able to register their supply address as a life support equipment address before they have moved in.

Why the change is proposed

Allowing customers to register their supply address before moving in ensures customers are protected from disconnection from the time they move in.

¹⁸² Other Code provisions also provide that telephone calls from mobile phones do not have to be available at the cost of a local call.

¹⁸³ Consequential amendment of draft recommendations 62(a) and (b). These draft recommendations propose adoption of rules 116(1)(a) and 120(1)(a) of the NERR, which provide that a retailer and distributor may only disconnect supply to life support customers if the customer requested disconnection or in case of an emergency. To avoid duplication, clause 7.7(4)(a) of the Code should be deleted.

11.4.3 Timeframes for registering customer details

Other issues

Draft recommendation 65

Amend clause 7.7(1) and (2) of the Code by providing that the timeframes for acting on information also apply to the registration requirements.

What would change

The maximum timeframes for acting on information would also apply to the registration requirements.¹⁸⁴ Currently, retailers must only comply with the timeframes when they pass the information on to the distributor.¹⁸⁵

Why the change is proposed

The timeframes were introduced following the 2011 review of the Code. The ECCC's final review report noted:¹⁸⁶

The ECCC also recommends that timeframes be introduced into the Code to cover the following requirements:

- for a retailer to register the customer's supply address as a life support equipment address;
- for a retailer to pass information regarding life support customers to a distributor; and
- for a distributor to register the customer's supply address as a life support equipment address

As currently drafted, the timeframes in clause 7.7(1) and (2) only apply to the requirement to pass information on to the distributor; not to the requirement to register a supply address or update contact details. The proposed amendment would ensure that the timeframes also apply to these requirements.

11.4.4 Information from relevant government agency

Other issues

Draft recommendation 66

- a) Amend clause 7.7(3) of the Code by removing the words 'or by a relevant government agency'.
- b) Delete clause 7.7(3)(b) of the Code.

¹⁸⁴ *Code of Conduct for the Supply of Electricity to Small Use Customers 2018* (WA) clause 7.7(1)(a), (b) and (2)(e)

¹⁸⁵ *Code of Conduct for the Supply of Electricity to Small Use Customers 2018* (WA) clause 7.7(1)(c) and (2)(f)

¹⁸⁶ ECCC, [Final Review Report - 2011 Review of the Code of Conduct for the Supply of Electricity to Small Use Customers](#), pg 30-31

What would change

Distributors would no longer be required to register a life support address on notification by a relevant government agency.

Why the change is proposed

Distributors do not receive notifications from relevant government agencies about customers requiring life support equipment. The Code also does not prescribe what a retailer must do if it is notified by a distributor.

11.4.5 Information to be provided when seeking re-certification or confirmation

Draft recommendation 67

Amend clause 7.7(7)(b) of the Code by specifying that the following information must be included in the written correspondence to the customer:

Other issues

- the date by which the customer must provide re-certification or confirm that a person residing at the supply address still requires life support equipment;
- that the retailer will deregister the customer's supply address if the customer does not provide the required information or informs the retailer that the person at the supply address no longer requires life support equipment; and
- that the customer will no longer receive the protections under the Code when the supply address is deregistered.

What would change

Retailers would have to provide additional written information to customers before they may deregister a customer's supply address.

Why the change is proposed

To ensure customers are aware of their rights and obligations, in particular that their supply address will be deregistered if they do not provide re-certification or confirmation of their life support requirements.

11.4.6 Retailer to advise distributor of de-registration

Draft recommendation 68

Amend clauses 7.7(7)(a) and (c) of the Code to provide that:

Other issues

- if a customer:
 - informs a retailer that:
 - a person who requires life support equipment has vacated the supply address; or

- a person who required life support equipment, no longer requires the life support equipment; or
 - has failed to provide the information requested by a retailer under clause 7.7(6)(a)(i) or re-certification under clause 7.7(6)(a)(ii), within the time period specified by the retailer,
- the retailer must:
 - remove the customer's supply address from its life support equipment address register within the timeframes set out in clauses 7.7(7)(a)(iv) and (v); and
 - notify the customer's distributor within the timeframes set out in clause 7.7(7)(c).
- upon notification by the retailer, the distributor must remove the customer's supply address from its life support equipment address register within the timeframes set out in clauses 7.7(7)(a)(iv) and (v).
- the retailer's and distributor's obligations under clauses 7.7(1) to (6), and clause 7.6 (to the extent that it provides a retailer or distributor must not disconnect a life support equipment address), terminate from the time the retailer or distributor has removed the customer's supply address from their life support equipment address register.

What would change

- Distributors could only remove a customer from their life support equipment address register upon notification by a retailer.
- Retailers would have to notify distributors if a customer has advised that the person requiring life support equipment has vacated the supply address or no longer requires the equipment.
- A retailer's or distributor's obligations for life support customers would end from the time the retailer or distributor removes the supply address from the life support equipment address register.¹⁸⁷

Why the changes are proposed

- The Code currently implies that customers can de-register with their retailer or distributor. This is different from the registration process; for registration, the Code clearly provides that customers must register with their retailer.

The Code also does not require distributors to notify retailers of a de-registration.

¹⁸⁷ Currently, the obligations end from:

- the time the customer vacates the supply address;
- the time the customer no longer requires the equipment; or
- the expiry of the time period referred to in the retailer's confirmation or re-certification request (if the customer has failed to provide confirmation or re-certification before that time).

The proposed changes would ensure all de-registrations are initially processed by the retailer, who must forward the information on to the distributor. This would minimise the chance of inconsistencies between the retailer's and distributor's registers.

- Retailers currently only have to notify distributors of a de-registration if the customer has not provided confirmation or recertification on time.¹⁸⁸

The proposed changes would ensure that retailers also have to notify distributors if the customer has advised the retailer that the person requiring life support equipment has vacated the supply address or no longer requires the equipment.

- The changes would clarify when a retailer's and distributor's obligations for life support customers will end.

Under the current drafting, the obligations end "when a person who required life support equipment no longer requires the life support equipment" or "vacates the supply address". A retailer will only know if a person no longer requires life support equipment or has vacated the supply address if the customer notifies the retailer accordingly. The provision, however, does not require the customer to notify the retailer of such a change.

The proposed amendment would ensure that the obligations end from the time the retailer or distributor has removed the customer from the life support equipment register.

What the new clause may look like¹⁸⁹

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—~~

[To be drafted by the PCO: The clause will provide that if a customer provides the retailer with confirmation from an appropriately qualified medical practitioner that a person residing at, or moving into, 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) register the customer's contact details; and
- (c) notify the customer's distributor that the customer's supply address is a life support equipment address, and of the contact details of the customer—
 - (i) ~~that same day, if the confirmation is received before 3pm on a business day; or~~
 - (ii) ~~no later than the next business day, if the confirmation is received after 3pm or on a Saturday, Sunday or public holiday; and~~¹⁹⁰
- ~~(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.~~¹⁹¹

- (2) If a customer registered with a retailer under subclause (1) notifies the retailer—
- (a) that the person residing at the customer's supply address who requires life support equipment is changing supply address;
 - (b) that the customer is changing supply address but the person who requires life support equipment is not changing supply address;

¹⁸⁸ *Code of Conduct for the Supply of Electricity to Small use Customers 2018* (WA) clause 7.7(7)(c).

¹⁸⁹ The mock-up drafting incorporates draft recommendations 63, 64, 65, 66, 67 and 68.

¹⁹⁰ This matter would be addressed in subclause (2A).

¹⁹¹ Consequential amendment of draft recommendations 62(a) and (b).

- (c) of a change in contact details; or
- (d) that the customer's supply address no longer requires registration as a life support equipment address,

the retailer must—

- (e) register the change; [and](#)
- (f) notify the customer's distributor of the change—
 - ~~(i) that same day, if the notification is received before 3pm on a business day; or~~
 - ~~(ii) no later than the next business day, if the notification is received after 3pm or on a Saturday, Sunday or public holiday; and~~¹⁹²
 - ~~(g) continue to comply with subclause (1)(d) with respect to that customer's supply address.~~¹⁹³

(2A) [To be drafted by the PCO: The clause will provide that a retailer must comply with subclauses (1) and (2) within the timeframes specified in current clauses 7.7(1)(c) and (2)(f).]

- (3) If 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 or update the details notified by the retailer under subclause (2)—~~
 - (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; ~~and~~
- ~~(b) if informed by a relevant government agency, notify the retailer in accordance with the timeframes specified in subclause (3)(a).~~

(3A) [To be drafted by the PCO: The clause will provide that, no later than 5 business days after registering the customer's supply address as a life support equipment address under subclause (1)(a), the retailer must in writing:

- (a) advise the customer that there may be planned or unplanned interruptions to the supply at the address and that the distributor is required to notify the customer of a planned interruption;
- (b) recommend that the customer prepare a plan of action in the case of an unplanned interruption; and
- (c) provide the customer with the emergency telephone contact number for the distributor and the retailer (the charge for which is no more than the cost of a local call, excluding mobile telephones).]

- (4) If life support equipment is registered at a customer's supply address under subclause (3)~~(a)~~, a distributor must—

- ~~(a) not disconnect 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; and~~¹⁹⁴
- ~~(b) prior to any planned interruption, provide at least 3 business days written notice to the customer's supply address and any other address nominated by the customer, or notice by electronic means to the customer, and unless expressly requested in writing by the customer not to, use best endeavours to obtain verbal acknowledgement, written acknowledgement or acknowledgement by electronic means from the customer or someone residing at the supply address that the notice has been received.~~

- (4A) Notwithstanding clause 7.7(4)~~(b)~~—

- (a) an interruption, planned or otherwise, to restore supply to a supply address that is registered as a life support equipment address is not subject to the notice requirements in subclause (1); however
- (b) a distributor must use best endeavours to contact the customer, or someone residing at the supply address, prior to an interruption to restore supply to a supply address that is registered as a life support equipment address.

- (5) If a distributor has already provided notice of a planned interruption under the Electricity Industry Code that will affect a supply address, prior to the distributor registering a customer's supply address as a life

¹⁹² This matter would be addressed in subclause (2A).

¹⁹³ Consequential amendment of deleting subclause (1)(d).

¹⁹⁴ This matter would be addressed by draft recommendations 62(a) and (b).

support equipment address under clause 7.7(3)(a), the distributor must use best endeavours to contact that customer or someone residing at the supply address prior to the planned interruption.

- (6) (a) No earlier than 3 months prior to the 12 month anniversary of the confirmation from the appropriately qualified medical practitioner referred to in subclause (1), and in any event no later than 3 months after the 12 month anniversary of the confirmation, a retailer must contact a 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 the initial certification or re-certification from an appropriately qualified medical practitioner within the last 3 years, request that the customer provide that re-certification.¹⁹⁵
- (b) A retailer must provide a minimum period of 3 months for a customer to provide the information requested by the retailer in subclause (6)(a).
- (7) (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 subclause (7)(b), a customer fails to provide the information requested by a retailer for the purposes of subclause (6)(a)(i) or the re-certification referred to in subclause (6)(a)(ii), within the time period referred to in subclause (6)(b), or greater period if allowed by the retailer,

the retailer's and distributor's obligations under **[To be drafted by the PCO: a reference would be inserted to the new paragraphs in clauses 7.6(1) and (2) that provide that a supply address that is registered under this clause 7.7 should not be disconnected.]** and subclauses 7.7(1) to (6) terminate and the retailer or distributor (as applicable) must remove the customer's details from the life support equipment address register upon being made aware of any of the matters in subclauses (7)(a)(i), (ii) or (iii)—

- (iv) the next business day, if the retailer or distributor (as applicable) becomes aware of the relevant matter in subclause (7)(a)(i), (ii) or (iii) before 3pm on a business day; or
- (v) within 2 business days, if the retailer or distributor (as applicable) becomes aware of the relevant matter in subclause (7)(a)(i), (ii) or (iii) after 3pm or on a Saturday, Sunday or public holiday.

[To be drafted by the PCO: Paragraph (a) would be amended to provide that:

- if a customer:
 - o informs a retailer that:
 - a person who requires life support equipment has vacated the supply address; or
 - a person who required life support equipment, no longer requires the life support equipment; or
 - o has failed to provide the information requested by a retailer under clause 7.7(6)(a)(i) or re-certification under clause 7.7(6)(a)(ii), within the time period specified by the retailer,
- the retailer must:
 - o remove the customer's supply address from the life support equipment address register within the timeframes set out in clauses 7.7(7)(a)(iv) and (v); and
 - o notify the customer's distributor within the timeframes set out in clause 7.7(7)(c).
- upon notification by the retailer, the distributor must remove the customer's supply address from its life support equipment address register within the timeframes set out in clauses 7.7(7)(a)(iv) and (v).
- the retailer's and distributor's obligations under clauses 7.7(1) to (6), and clause 7.6 (to the extent that it provides a retailer or distributor must not disconnect a life support

¹⁹⁵ Item GG in Appendix 2 (minor amendments) proposes an amendment to this paragraph.

equipment address), terminate from the time the retailer or distributor has removed the customer's supply address from their life support equipment address register.]

- (b) A customer will have failed to provide the information requested by a retailer for the purposes of subclause (6)(a)(i) or the re-certification referred to in subclause (6)(a)(ii) if 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 means¹⁹⁶
 - (A) electronic means;
 - (B) telephone;
 - (C) in person; or
 - (D) Not Used
 - (E) by post sent to the customer's supply address and any other address nominated by the customer.

(ba) [To be drafted by the PCO: The paragraph will require retailers to inform customers, as part of their written correspondence under subclause (7)(b), of:

- the date by which the customer must provide the information required under subclause (6)(a) to the retailer;
- that the retailer will deregister the customer's supply address if the customer does not provide the information by that date;
- that the customer will no longer receive the protections under the Code when the supply address is deregistered.]

- (c) If a distributor's obligations under subclauses (3), (4), (4A) and (5), terminate as a result of the operation of subclause (7)(a)(iii), a retailer must notify the distributor of this fact as soon as reasonably practicable, but in any event, within 3 business days.

[To be drafted by the PCO: This paragraph would be incorporated into amended clause 7.7(7)(a).]

- (d) For the avoidance of doubt, the retailer's and distributor's obligations under subclauses (1) to (6) do not terminate by operation of this subclause (7) if the retailer or distributor has been informed in accordance with subclause (1) that another person who resides at the supply address continues to require life support equipment.

¹⁹⁶ Item HH in Appendix 2 (minor amendments) proposes an amendment to this paragraph.

12. Part 8 of the Code: Reconnection

12.1 Reconnection by retailer

[Clause 8.1 of the Code]

NECF

Draft recommendation 69

- a) Replace clause 8.1(1) of the Code with rule 121(1) of the NERR but:
 - do not adopt the requirement that a customer must rectify the issue and request reconnection within 10 business days.¹⁹⁷
 - retain clause 8.1(1)(e)(ii) of the Code.¹⁹⁸
 - do not adopt the words ‘in accordance with any requirements under the energy laws’ and ‘or arrange to re-energise the customer’s premises remotely if permitted under energy laws’.¹⁹⁹
- b) Retain clauses 8.1(2)²⁰⁰ and (3)²⁰¹ of the Code.

What would change

Rather than setting out for each ground of disconnection how the customer must rectify the issue, the Code would include a general requirement that the customer must have ‘rectified the matter that led to the disconnection’.

The change would not materially affect retailers or customers.

Why the change is proposed

- To simplify the drafting of clause 8.1(1) of the Code.
- To improve consistency between the Code and the NECF.

What the new clause may look like

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;~~

¹⁹⁷ To retain the existing level of protection for customers.

¹⁹⁸ To retain the existing level of protection so customers can continue to pay their reconnection fee as part of an instalment plan.

¹⁹⁹ The words are likely unnecessary. A retailer should always comply with any requirements under other laws. Also, the Code does not distinguish between physical and remote reconnections.

²⁰⁰ To retain the existing level of protection for customers.

²⁰¹ Upon recommendation by the ECCC, the ERA inserted clause 8.1(3) in 2018 to clarify that retailers who have not met the timeframes of subclause (2), but have taken measures to ensure a customer is reconnected on time (for example, by issuing an urgent reconnection request), have not breached clause 8.1. Reasons for previous amendment still apply.

- ~~(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.~~

Where a retailer has arranged for the [disconnection] of a [customer's] [supply address] and the customer has—

- (a) if relevant, rectified the matter that led to the [disconnection] or made arrangements to the satisfaction of the retailer;
- (b) made a request for reconnection; and
- (c) [either—]
 - (i) paid any charge for reconnection; or
 - [(ii) accepted an offer of an instalment plan for the retailer's reasonable charges for reconnection, if any];²⁰²

the retailer must initiate a request to the distributor for [reconnection] of the [supply address].

- (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 3pm on 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.
- (3) If a retailer does not forward the request for reconnection to the relevant distributor within the timeframes in subclause (2), the retailer will not be in breach of this clause 8.1 if the retailer causes the customer's supply address to be reconnected by the distributor within the timeframes in clause 8.2(2) as if the distributor had received the request for reconnection from the retailer in accordance with subclause (2).

12.2 Reconnection by distributor

[Clause 8.2 of the Code]

Draft recommendation 70

NECF

- a) Replace clause 8.2(1) of the Code with rule 122(1) of the NERR except for the words 'in accordance with the distributor service standards'.²⁰³
- b) Adopt rule 122(2) of the NERR except for:

²⁰² Currently included in clause 8.1(1)(e)(ii) of the Code.

²⁰³ The term 'distributor service standards' is not defined in the NERR. As it is unclear to which standards the term refers, it is difficult to determine the equivalent standards for WA distributors. Also, clause 8.2 currently does not include a similar requirement.

- the requirement that a customer must rectify the issue and request reconnection within 10 business days.²⁰⁴
 - the words ‘in accordance with the distributor service standards’.²⁰⁵
- c) Retain clauses 8.2(2) and (3) of the Code.²⁰⁶

What would change

The Code would include a new provision that sets standards for reconnections following distributor initiated disconnections. Under the provision, distributors would have to reconnect a customer if the customer had rectified the matter that led to the disconnection, requested reconnection and paid the charge for reconnection (if any).

Why the change is proposed

To increase protections for customers. The Code currently does not set standards for reconnections following disconnections that were initiated by the distributor.

What the new clause may look like

8.2 Reconnection by distributor

- (1) ~~If a distributor has disconnected a customer's supply address on request by the customer's retailer, and a retailer has subsequently requested the distributor to reconnect the customer's supply address, the distributor must reconnect the customer's supply address.~~

Reconnection where disconnection was retailer-initiated

Where—

- (a) a distributor has [disconnected] a [customer's] [supply address] at the request of a retailer, and
- (b) the retailer has initiated a request to the distributor for [reconnection] of the [supply address], the distributor must [reconnect] the [supply address].

- (2) Reconnection where disconnection was not retailer-initiated

Where a distributor has [disconnected] a [customer's] [supply address] otherwise than at the request of a retailer and the customer has—

- (a) if relevant, rectified the matter that led to the [disconnection]; and
 - (b) made a request for [reconnection]; and
 - (c) paid any charge for [reconnection],
- the distributor must [reconnect] the [supply address].

- ~~(2)(3)~~ For the purposes of ~~subclause (1)~~ subclauses (1) and (2), a distributor must reconnect a 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;
- (b) for supply addresses located within the regional area—

²⁰⁴ To retain the existing level of protection for customers.

²⁰⁵ See footnote 203.

²⁰⁶ To retain the existing level of protection for customers.

- (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.

~~(3)~~(4) ~~Subclause (2)~~ Subclause (3) does not apply in the event of an emergency.

13. Part 9 of the Code: Pre-payment meters

13.1 Reversion

[Clause 9.4 of the Code]

Other issues

Draft recommendation 71

Delete clause 9.4(1)(a) from the Code.

What would change

Retailers would no longer have to give general information about the supply of electricity to a customer who switches from a pre-payment meter to a standard meter but continues to be supplied under the same contract.

Why the change is proposed

Retailers currently have to send a pre-payment meter customer who wants to switch to a standard meter the information 'referred to in clauses 2.3 and 2.4'. These clauses used to list the information a retailer had to give to a customer who entered into a standard form or non-standard contract.

Both clauses were extensively amended in 2014. Similar information requirements are now included in clauses 2.2 and 2.3.

Instead of amending the clause references, the ECCC proposes to delete clause 9.4(1)(a) because:

- If the customer enters into a different contract,²⁰⁷ the retailer will have to provide the same information under clause 2.2 or 2.3.
- If the customer continues to be supplied under the same contract, the customer would already have received this information when they entered into the pre-payment meter contract.

Furthermore, the information is unlikely to assist the customer understand the difference between their current pre-payment meter supply arrangement and the new arrangement. This is because only general supply information has to be provided, such as information on interpreter services, the Code, complaints and concessions. No information has to be provided, for example, on available payment methods or billing cycles.

What the new clause may look like

9.4 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 pre-payment meter customer in writing or by electronic means; and~~

²⁰⁷ From a standard form contract to a non-standard contract or vice versa, or from one non-standard contract to another non-standard contract.

~~(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.

13.2 Requirements for pre-payment meters

[Clause 9.6(a) of the Code]

Draft recommendation 72

Amend clause 9.6(a) of the Code to provide that:

- A retailer must ensure that a pre-payment meter customer has access to emergency credit of \$20 outside normal business hours.
- A retailer may only de-energise a pre-payment meter:
 - during normal business hours, if the customer has no more credit available (regardless of whether the customer still has emergency credit available); or
 - at any time, if the customer has no more emergency credit available.
- If a retailer has de-energised a pre-payment meter during normal business hours, a retailer does not have to re-energise the meter after business hours if the customer has not made a payment to the account, even if the customer still has all or some emergency credit available.

Other issues

What would change

- The wording of clause 9.6(a) would be amended to clarify that a retailer who has de-energised a pre-payment meter during normal business hours, does not have to re-energise the meter after business hours if the customer has not made a payment to the account, even if the customer still has emergency credit available.
- A pre-payment meter could be de-energised during normal business hours even if the customer still has all or some emergency credit available.

Why the changes are proposed

If a pre-payment meter customer runs out of credit outside of business hours, a retailer must make an emergency credit of up to \$20 available to the customer. The purpose of emergency credit is to ensure the customer continues to receive supply until the customer is able to go to a shop to purchase additional credit.

Once the customer has had an opportunity to purchase additional credit, the retailer should be allowed to de-energise the pre-payment meter. De-energisation of a meter that is operating in emergency credit should therefore be allowed on the next business day, during normal business hours. This is currently unclear.²⁰⁸

²⁰⁸ Currently, clause 9.6(a) implies that a pre-payment meter may only be de-energised once all emergency credit has been used.

Also, once a pre-payment meter has been de-energised, a retailer should not have to re-energise the meter until the customer has made a payment to the account; even if the customer still has all or some emergency credit available.²⁰⁹ The purpose of emergency credit is to ensure a customer continues to receive supply until the customer is able to go to a shop to purchase additional credit, not to provide a \$20 credit to the customer.

What the new clause may look like

9.6 Requirements for pre-payment meters

- (a) A retailer must ensure that a pre-payment customer has access to emergency credit of \$20 outside normal business hours. Once the emergency credit is used, and no additional credit has been applied, the pre-payment meter will be de-energised.

[To be drafted by the PCO: The clause would be amended to provide that:

- A retailer must ensure that a pre-payment meter customer has access to emergency credit of \$20 outside normal business hours.
- A retailer may only de-energise a pre-payment meter:
 - o during normal business hours, if the customer has no more credit available (regardless of whether the customer still has emergency credit available); or
 - o at any time, if the customer has no more emergency credit available.
- If a retailer has de-energised a pre-payment meter during normal business hours, a retailer does not have to re-energise the meter after business hours if the customer has not made a payment to the account, even if the customer still has all or some emergency credit available.]

13.3 Recharge facilities

[Clause 9.7(a) of the Code]

Other issues

Draft recommendation 73

Amend clause 9.7(a) of the Code to clarify that retailers must ensure that at least 1 physical recharge facility is located as close as practicable to a pre-payment customer, and in any case no further than 40 kilometres away.

What would change

The wording of clause 9.7(a) would be amended to clarify that retailers must offer customers physical access to a recharge facility. The requirements of clause 9.7(a) could no longer be met by only offering mobile recharge facilities (for example, through a mobile application (app) or the internet).

Why the changes are proposed

The Code defines a recharge facility as 'a facility where a pre-payment meter customer can purchase credit for the pre-payment meter'. A mobile application or other digital payment option would be a facility through which a customer can purchase credit.

²⁰⁹ Horizon Power currently re-energises customers after business hours if the customer still has (some) emergency credit available. This has resulted in a large increase in disconnection numbers. For 2019-20, Horizon Power reported 31,969 disconnections for 1,296 pre-payment meter customers.

This means that a retailer could currently comply with clause 9.7(a) by only providing a mobile application as a recharge facility. Retailer are not required to provide recharge facilities at a physical location (for example a service station or shop).

To use a mobile application to recharge a pre-payment meter, the customer will require access to the internet. Not all customers will have access to the internet at all times (for example, customers whose internet services have been terminated for failure to pay). If a retailer only provides a mobile application as a recharge facility, customers without access to the internet may not be able to recharge their pre-payment meter.

The proposed amendment would ensure that customers are not reliant on internet access to recharge their pre-payment meter.

What the new clause may look like

9.7 Recharge facilities

Unless otherwise agreed with the customer, a retailer must ensure that—

- (a) at least 1 recharge facility is located as close as practicable to a pre-payment meter, and in any case no further than 40 kilometres away;

[To be drafted by the PCO: The clause would be amended to provide a retailer must ensure that at least 1 physical recharge facility is located as close as practicable to a pre-payment customer, and in any case no further than 40 kilometres away.]

14. Part 10 of the Code: Information and communication

14.1 Information and communication

[Part 10 of the Code]

NECF

Draft recommendation 74

Adopt rules 56 and 80 of the NERR to the extent that they explain how information must be provided to customers²¹⁰ but do not adopt the words 'but information requested more than once in any 12 month period may be provided subject to a reasonable charge' (in rules 56(4) and 80(4)).²¹¹

What would change

- Several information provision clauses would be consolidated into two clauses: one for retailers and one for distributors.
- Retailers and distributors would have to make specified information available on their website.
- Clarify that a retailer or distributor may refer a customer to their website, unless the customer has requested a copy of the information.

Why the changes are proposed

- To ensure the specified information would also be available online.
- To clarify that a retailer or distributor only has to provide a copy of the information if specifically requested by the customer. In other cases, the retailer or distributor could either refer the customer to the retailer's or distributor's website or provide the information to the customer.
- To simplify the drafting of the Code.
- To improve consistency between the Code and the NECF.

What the new clause may look like

[new clause] **Provision of information to customers by retailers**

(1) A retailer must publish [the following information]²¹² on its website:

(a) [...];²¹³

(b) [...]; and

(c) [...]

²¹⁰ Adoption of subrules 56(1)(a) to (b) and 80(1)(c), (e), (f), (g) and (h) is discussed in draft recommendations 81 and 90.

²¹¹ To retain the existing level of protection for customers that the information must be provided free of charge.

²¹² Wording based on the proposed new clause 'Provision of information to customers by distributors'.

²¹³ See footnote 210.

- (2) If a [customer] requests information of the kind referred to in [subclause (1)], the retailer must either:
- (a) refer the customer to the retailer's website; or
 - (b) provide the information to the customer.
- (3) The retailer must provide a copy of any information of that kind to the customer if the customer requests a copy.
- (4) The information or a copy of the information requested under this [clause] must be provided without charge.

[new clause] Provision of information to customers by distributors

- (1) A distributor must publish the following information on its website:
- (a) [...];²¹⁴
 - (b) [...]; and
 - (c) [...]
- (2) If a customer requests information of the kind referred to in [subclause (1)], the distributor must either:
- (a) refer the customer to the distributor's website; or
 - (b) provide the information to the customer.
- (3) [The] distributor must provide a copy of any information of that kind to the customer if the customer requests a copy.
- (4) The information or a copy of the information requested under this [clause] must be provided without charge.

14.2 Tariff information

[Clause 10.1 of the Code]

14.2.1 Advance notice of tariff changes

Draft recommendation 75

NECF

- a) Adopt rules 46(3), (4)(a), (4A) (except for (4A)(e)),²¹⁵ (4B)(a), (c) and (e) of the NERR for customers whose tariffs are not regulated, but:
 - amend rule 46(4A)(f) by deleting the words 'and, if they are being sold electricity, energy consumption data'.²¹⁶
 - amend rule 46(4B)(a) by deleting the words 'pursuant to rule 46A and section 39(1)(a) of the Law'.
- b) Amend clause 10.1(1) of the Code so it only applies to customers whose tariffs are regulated.

What would change

Customers whose tariffs are not regulated would receive 5 business days advance notice of tariff variations. The Code would also prescribe the information that must be included in the notice.

²¹⁴ See footnote 210.

²¹⁵ This subrule requires a notice to specify that the tariffs and charges are inclusive of GST. However, subrules (4A)(c) and (d) already require the retailer to identify the tariffs and charges inclusive of GST.

²¹⁶ Under the Code, retailers are not required to provide historical consumption data to customers.

The following exceptions would apply:

- Where the customer entered into a contract less than 10 business days before the variation and the retailer already advised the customer of the upcoming variation.
- Where the customer is supplied on a tariff that continually varies in relation to the prevailing spot price of electricity.
- Where the variations are a direct result of a change to any bank charges or fees, credit card charges or fees, or payment processing charges or fees applicable to the customer.

Why the change is proposed

- Customers whose tariffs are not regulated should receive prior notice of tariff variations so they can make an informed choice about whether to stay with their retailer or switch.
- To improve consistency between the Code and the NECF.

14.2.2 Maximum timeframe for providing tariff information

Other issues

Draft recommendation 76

Delete clause 10.1(3) of the Code.

What would change

Retailers would no longer have to provide general tariff information within 8 business days of a customer's request.

Why the change is proposed

Under the WA regulatory framework, retailers and distributors must report on their compliance with the Code. This means that retailers and distributors must have processes in place to capture their compliance with each obligation, including any regulatory timeframes. To minimise regulatory burden, the Code should only prescribe a timeframe if necessary.

The provision of general tariff information is not critical to the supply of electricity; unlike for example timeframes for connecting or reconnecting a customer's supply address. It seems overly prescriptive to regulate the timeframe within which tariff information must be provided.

What the new clause may look like²¹⁷

10.1 Tariff information

(1) **Customers whose tariffs, fees or charges are regulated**²¹⁸

~~A retailer must give notice to each of its customers affected by a variation in its tariffs, fees and charges no later than the next bill in a customer's billing cycle.~~

[To be drafted by the PCO: The clause will provide that a retailer must notify a customer whose tariffs, fees or charges are regulated of any variation to the tariffs, fees or charges payable by the customer. Notification must occur no later than the next bill in a customer's billing cycle.]

(2) **Customers whose tariffs, fees or charges are not regulated**²¹⁹

[To be drafted by the PCO: The clause will provide that a retailer must give notice to a customer whose tariffs, fees or charges are not regulated of any variation to the tariffs, fees or charges that affects the customer.]

(3) The notice [under subclause (2)] must be given at least five business days before the variation in the [tariffs, fees or charges] are to apply to the customer.

(4) The notice [under subclause (2)] must—

(a) specify that the customer's [tariffs, fees or charges] are being varied;

(b) specify the date on which the variation will come into effect;

(c) identify the customer's existing [tariffs, fees or charges] inclusive of GST;

(d) identify the customer's [tariffs, fees or charges] as varied inclusive of GST; and

(e) specify that the customer can request historical billing data from the retailer.

(5) Despite this [clause 10.1], a retailer is not required to provide a notice under [subclause (2)]—

(a) where the customer has entered into a [contract] with the retailer within 10 business days before the date on which the variation referred to in subclause (2) is to take effect, and the retailer has already informed the customer of such variation;

(b) with respect to a [tariff, fee or charge] that continually varies in relation to the prevailing spot price of [electricity]. For the avoidance of doubt, this exemption does not apply (and the retailer must provide notice under [subclause (2)]) with respect to variations to any remaining [tariffs, fees or charges] that form part of the same [contract];

(c) where the variations to the [tariffs, fees or charges] are a direct result of a change to any bank charges or fees, credit card charges or fees, or payment processing charges or fees applicable to the customer.

[10.1A General tariff information]²²⁰

~~(2) A retailer must give or make available to a customer on request, at no charge, reasonable information on the retailer's tariffs, fees and charges, including any alternative tariffs that may be available to that customer.~~²²¹

~~(3) A retailer must give or make available to a customer the information referred to under subclause (2) (3) within 8 business days of the date of receipt. If requested by the customer, the retailer must give the information in writing.~~

²¹⁷ The mock-up drafting incorporates draft recommendations 75 and 76.

²¹⁸ The words 'Customers whose tariffs, fees or charges are regulated' are tentative only; they are not based on existing wording in the Code or NECF. The PCO to provide draft wording.

²¹⁹ The words 'Customers whose tariffs, fees and charges are not regulated' are tentative only; they are not based on existing wording in the Code or NECF. The PCO to provide draft wording.

²²⁰ The words 'General tariff information' are tentative only; they are not based on existing wording in the Code or NECF. The PCO to provide draft wording.

²²¹ Item II in Appendix 2 (minor amendments) proposes an amendment to clause 10.1(2) of the Code.

14.3 Historical billing data

[Clause 10.2 of the Code]

14.3.1 *Maximum timeframe for providing historical billing data*

Other issues

Draft recommendation 77

Delete clause 10.2(3) of the Code.

What would change

Retailers would no longer have to provide historical billing data within 10 business days of a customer's request.

Why the change is proposed

To minimise regulatory burden, the Code should only prescribe a timeframe if necessary. As both Synergy and Horizon Power allow customers to access their historical billing data online at any time, it should not be necessary to prescribe a maximum timeframe in the Code for providing the data.

14.3.2 *Minimum timeframe for keeping historical billing data*

Other issues

Draft recommendation 78

Delete clause 10.2(4) of the Code.

What would change

The Code would no longer require retailers to keep billing data for seven years.

Why the change is proposed

The Corporations Act requires financial records to be kept for at least seven years after the transactions covered by the records are complete.²²² A similar requirement applies to Synergy and Horizon Power under the Electricity Corporations Act.²²³

To avoid duplication with these Acts, clause 10.2(4) of the Code should be deleted.

What the new clause may look like²²⁴

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 2 years and no more than once a year; or

²²² Corporations Act 2001 section 286.

²²³ Electricity Corporations Act 2005 (WA) Schedule 4, clause 2.

²²⁴ The mock-up drafting incorporates draft recommendations 77 and 78.

- (b) in relation to a dispute with a 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.~~

14.4 Concessions

[Clause 10.3 of the Code]

Other issues

Draft recommendation 79

Retain clause 10.3 of the Code but:

- incorporate into the new, general information provision.²²⁵
- delete the words 'to the residential customer'.

What would change

- Clause 10.3 would be moved into the new, general information provision.
- Retailers would have to publish information about concessions on their websites.
- Retailers would only be required to provide general concession information, instead of information on the types of concessions that 'are available to' the residential customer.

Why the changes are proposed

- To make it easier for customers to access concession information (as the information would be available on the retailer's website).
- As retailers would be required to publish concession information on their website, the information cannot be specific to the customer's individual circumstances.

What the new clause may look like

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).~~

[new clause] Provision of information to customers by retailers

(1) A retailer must publish the following information on its website:

- (a) information on the types of concessions available and the name and contact details of the organisation responsible for administering those concessions (if the retailer is not responsible); and
- [...]

²²⁵ See draft recommendation 74.

14.5 Energy efficiency advice

[Clause 10.4 of the Code]

Other issues

Draft recommendation 80

Retain clause 10.4 of the Code but:

- incorporate into a new, general information provision.²²⁶
- insert 'electrical' before 'appliances' in paragraph (b).²²⁷

What would change

- Clause 10.4 would be moved into the new, general information provision.
- Retailers would have to publish energy efficiency advice on their websites.

Why the changes are proposed

To make it easier for customers to access energy efficiency advice (as the information would be available on the retailer's website).

What the new clause may look like

~~10.4 Energy efficiency advice~~

~~A retailer must give, or make available to a customer on request, at no charge, general information on—~~
~~(a) cost effective and efficient ways to utilise electricity (including referring the customer to a relevant information source); and~~
~~(b) the typical running costs of major domestic appliances.~~

[new clause] **Provision of information to customers by retailers**

(1) A retailer must publish the following information on its website: [...]

(b) general information on—

- (i) cost effective and efficient ways to utilise electricity (including [reference] to a relevant information source); and
- (ii) the typical running costs of major domestic electrical appliances.

[...]

²²⁶ See draft recommendation 74.

²²⁷ To clarify that retailers only have to provide information on the typical running costs of electrical appliances.

14.6 Obligations particular to distributors – general information

[Clause 10.6 of the Code]

Draft recommendation 81

NECF

- a) Replace clauses 10.6(a), (d), (e) and (f) of the Code with rule 80(1)(g) of the NERR but:
 - incorporate the clauses into the new, general information provision.²²⁸
 - amend rule 80(1)(g) by replacing the term ‘customer connection services’ with a description of those services.²²⁹
- b) Adopt rules 80(1)(c), (e) and (f) of the NERR and incorporate the clauses into the new, general information provision.²³⁰
- c) Retain clauses 10.6(g), (h) and (i) of the Code, but incorporate the clauses into the new, general information provision.²³¹
- d) Retain clauses 10.6(b) and (c) of the Code.²³²

What would change

- Distributors would have to publish information on their website about their connection and distribution services. Currently, the information only has to be given to customers on request.
- Distributors would have to provide the following new information:
 - Details of charges for connection services.
 - Details of applicable connection and reconnection timeframes.
- The Code would no longer set out explicitly the type of distribution information a distributor must provide to a customer on request. Instead, it would require distributor to provide customers with a description of the distributor’s and customer’s rights and obligations.

Why the changes are proposed

- To make a broader range of information available to customers.
- To make it easier for customers to access distribution information (as the information would be available on the distributor’s website).
- To improve consistency between the Code and the NECF.

²²⁸ See draft recommendation 74.

²²⁹ The term ‘customer connection services’ is not a defined term in the Code.

²³⁰ See draft recommendation 74.

²³¹ See draft recommendation 74.

²³² To retain the existing level of protection for customers.

What the new clause may look like

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)~~(a) an explanation for any unplanned or approved change in the quality of supply of electricity outside of the limits prescribed by law; and
- ~~(c)~~(b) 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.~~

[new clause] **Provision of information to customers by distributors**

(1) A distributor must publish the following information on its website:

- (a) details of applicable [connection] and [reconnection] timeframes;
- (b) [To be drafted by the PCO: The clause will require distributors to publish details of charges for connecting a supply address];
- (c) information relating to new connections or connection alterations;
- (d) [To be drafted by the PCO: The clause will require distributors to publish a description of the distributor's and customer's respective rights and obligations concerning the connection and supply of electricity];
- (e) general information on safe use of electricity;
- (f) general information on quality of supply;
- (g) general information on reliability of supply;
- [...]

14.7 Historical consumption data

[Clause 10.7 of the Code]

14.7.1 *Maximum timeframe for providing historical consumption data*

Other issues

Draft recommendation 82

Delete clause 10.7(3) of the Code.

What would change

Distributors would no longer have to provide historical consumption data within 10 business days of a customer's request.

Why the change is proposed

Removing the requirement to provide historical consumption data within 10 business days would reduce regulatory burden and compliance costs for distributors.

Under the WA regulatory framework, retailers and distributors must report on their compliance with the Code. This means that retailers and distributors must have processes in place to capture their compliance with each obligation, including any regulatory timeframes. To minimise regulatory burden, the Code should only prescribe a timeframe if necessary.

As the provision of historical consumption data is not critical to the supply of electricity (unlike for example connection and reconnection), it seems unnecessary to regulate the timeframe within which the data must be provided.

14.7.2 *Minimum timeframe for keeping historical consumption data*

Other issues

Draft recommendation 83

Delete clause 10.7(4) of the Code.

What would change

Distributors would no longer have to keep consumption data for 7 years.

Why the change is proposed

The requirement to keep consumption data for 7 years appears unnecessary. To comply with clause 10.7, a distributor would have to keep the data for at least 2 years.

Also, Western Power and Horizon Power have recordkeeping obligations under the *State Records Act 2000* (WA).

What the new clause may look like²³³

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 2 years, 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 a 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.~~

²³³ The mock-up drafting incorporates draft recommendations 82 and 83.

14.8 Distribution standards

[Clause 10.8 of the Code]

Other issues

Draft recommendation 84

Retain clause 10.8 of the Code but incorporate into the new, general information provision.²³⁴

What would change

Clause 10.8 would be moved into the new, general information provision. The change would not materially affect distributors or customers.

Why the change is proposed

To simplify the drafting of the Code.

What the new clause may look like

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).~~

[new clause] Provision of information to customers by distributors

- (1) A distributor must publish the following information on its website: [...]
(h) information on distribution standards and metering arrangements—
(i) prescribed under the Act or the *Electricity Act 1945*; or
(ii) adopted by the distributor,
that are relevant to its customers;
[...]

14.9 Code of Conduct

[Clause 10.10 of the Code]

Other issues

Draft recommendation 85

Retain clause 10.10 of the Code but incorporate into the new, general information provision.²³⁵

²³⁴ See draft recommendation 74.

²³⁵ Id.

What would change

Clause 10.10 would be moved into the new, general information provision. The change would not materially affect retailers, distributors or customers.

Why the change is proposed

To simplify the drafting of the Code.

What the new clause may look like

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.~~
- ~~(2) A retailer and a distributor must make electronic copies of the Code available, at no charge, on the retailer's or distributor's website.~~
- ~~(3) Not Used~~

[new clause] Provision of information to customers by retailers

- (1) A retailer must publish the following information on its website: [...]
 - (c) the Code;
 - [...]

[new clause] Provision of information to customers by distributors

- (1) A distributor must publish the following information on its website: [...]
 - (i) the Code;
 - [...]

14.10 Special information needs

[Clause 10.11 of the Code]

Other issues

Draft recommendation 86

- a) Delete clause 10.11(2)(b) of the Code.
- b) Delete the words 'and the words "Interpreter Services"' from clause 10.11(2)(c) of the Code.

What would change

- The duplication between clauses 10.11(2)(b) and (c) would be removed.
- Retailers and distributors would have more flexibility in the wording they use when informing customers about the availability of interpreter services.

Why the change is proposed

- Currently, clause 10.11(2)(b) requires retailers and distributors to include the telephone number for 'independent multi-lingual services' on the bill and bill related information, while clause 10.11(2)(c) requires inclusion of the telephone number for 'interpreter services'.

The amendment would remove the duplication between both clauses.

- The ERA amended clause 10.11(2)(c) of the *Compendium of Gas Customer Licence Obligations* in November 2019:

10.11 Special Information Needs

- (2) A retailer and, if appropriate, a distributor must include in relation to residential customers—
 - (c) the telephone number for interpreter services together with the National Interpreter Symbol ~~and the words "Interpreter Services".~~

The amendment followed a similar amendment to the *Gas Marketing Code of Conduct*. The amendment was made to provide retailers and distributors with more flexibility for the wording they use when informing customers about the availability of interpreter services.

What the new clause may look like

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 interpreter and TTY services, and large print copies).²³⁶
- (2) A retailer and, if appropriate, a distributor must include in relation to residential customers—
 - (a) the telephone number for its TTY services;²³⁷
 - ~~(b) the telephone number for independent multi-lingual services; and~~
 - ~~(c)~~(b) the telephone number for interpreter services together with the National Interpreter Symbol ~~and the words "Interpreter Services",~~
 on the—
 - ~~(d)~~(c) bill and bill related information (including, for example, the notice referred to in clause 4.2(3) and statements relating to an instalment plan);
 - ~~(e)~~(d) reminder notice; and
 - ~~(f)~~(e) disconnection warning.

²³⁶ Draft recommendation 4 proposes an amendment to this subclause.

²³⁷ Draft recommendation 4 proposed an amendment to this paragraph.

15. Part 12 of the Code: Complaints and dispute resolution

15.1 Obligation to establish complaints handling process

[Clause 12.1 of the Code]

15.1.1 *Responding to complaints*

Draft recommendation 87

NECF

- a) Insert the words 'including the obligations set out in [clause ...]' in clause 12.1(2)(b)(ii)(B) of the Code.²³⁸
- b) Delete clause 12.1(3) of the Code and include a new clause that requires retailers and distributors, when they respond to a complaint, to inform the customer of the information set out in:
 - Section 82(4) of the NERL, other than the words 'as soon as reasonably possible but, in any event, within any time limits applicable under the retailer's or distributor's standard complaints and dispute resolution procedures'.²³⁹
 - Section 82(5) of the NERL, other than the words 'may make a complaint or' and 'if the customer is not satisfied with the outcome' and provide instead that the information does not have to be provided if the customer has advised the retailer or distributor that the complaint has been resolved in a manner acceptable to the customer.

What would change

- Following every complaint, customers would have to be advised of the:
 - outcome of the decision;
 - reasons for the decision; and
 - availability of the electricity ombudsman, unless the customer has advised the retailer that their complaint has been resolved in a manner acceptable to them.

Currently, retailers and distributors only have to advise customers of the reasons for the outcome if the complaint 'has not been resolved internally in a way acceptable to the customer'.

- Customers would no longer have to be advised of external dispute resolution bodies other than the electricity ombudsman.

²³⁸ Consequential amendment of draft recommendation 87(b).

²³⁹ The reference to time limits would not be necessary as clause 12.1(4) of the Code already prescribes time limits for acknowledging and responding to complaints.

Why the changes are proposed

- A customer should always have to be advised of the reasons for the outcome.
- Under the existing wording of the Code, it is unclear when information about the availability of the electricity ombudsman must be provided. The amendment would ensure that the information must always be provided when responding to a complaint unless the customer has advised the retailer or distributor that the complaint has been resolved in a manner acceptable to the customer.
- The Energy and Water Ombudsman is a free, independent body that is available to all small use customers. It should be sufficient for retailers and distributors to advise customers of the existence of this free service, without also having to advise them of other external dispute resolution services.

15.1.2 *Removing duplication*

Other issues

Draft recommendation 88

Delete clause 12.1(2)(c) of the Code.

What would change

The Code would no longer explicitly require retailers to detail in their complaints handling process how they will handle complaints. The change would not materially affect retailers or customers.

Why the change is proposed

The requirement is very similar to clause 12.1(2)(b)(ii), which requires the complaints handling process to address how complaints will be handled. Deleting clause 12.1(2)(c) would remove unnecessary duplication.

15.1.3 *Compliance with response times for complaints*

Other issues

Draft recommendation 89

Move clause 12.1(4) of the Code to a new clause and delete the words 'for the purposes of subclause (2)(b)(iii)'.

What would change

Clarify that retailers and distributors must comply with the complaint response times in the Code.

Why the change is proposed

It could be argued that retailers and distributors currently only have to address their response times for complaints in their complaints handling processes. The amendment would clarify that these matters not only have to be addressed in a complaints handling process but are also obligations retailers and distributors must comply with.

15.1.4 Summary of complaints procedure online

NECF

Draft recommendation 90

Add the following subclauses to the new, general information provisions:²⁴⁰

- a summary of the customer's rights, entitlements and obligations under the retailer's or distributor's standard complaints and dispute resolution procedure.
- the contact details for the electricity ombudsman.

What would change

Retailers and distributors would have to publish on their websites:

- a summary of the customer's rights, entitlements and obligations under their complaints handling process
- the contact details of the electricity ombudsman.

Why the change is proposed

To make it easier for customers to access the information (as the information would be available on the retailer's and distributor's website).

What the new clause may look like²⁴¹

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.²⁴²
- (2) The complaints handling process²⁴³ under subclause (1) must—
 - (a) comply with Australian Standard AS/NZS 10002:2014;
 - (b) address at least—
 - (i) how complaints must be lodged by customers;
 - (ii) how complaints will be handled by a retailer or distributor, including—
 - (A) a right of a 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 [including the obligations set out in \[clause ...\]](#).²⁴⁴
 - (iii) response times for complaints; and
 - (iv) method of response; and
 - (c) ~~detail how a retailer will handle complaints about the retailer, electricity marketing agents or marketing; and~~
 - ~~(d)~~ be available at no cost to customers.

²⁴⁰ See draft recommendation 74.

²⁴¹ The mock-up drafting incorporates draft recommendations 87, 88, 89 and 90.

²⁴² Item JJ in Appendix 2 (minor amendments) proposes an amendment to this subclause.

²⁴³ Item KK in Appendix 2 (minor amendments) proposes an amendment to this subclause.

²⁴⁴ This paragraph would refer to new clause 'Responding to complaints'.

- ~~(3) For the purposes of subclause (2)(b)(ii)(B), a retailer or distributor must at least—²⁴⁵~~
- ~~(a) when responding to a 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 a 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.~~
- ~~(4) For the purpose of subclause (2)(b)(iii), a retailer or distributor must, on receipt of a written complaint by a customer—²⁴⁶~~
- ~~(a) acknowledge the complaint within 10 business days; and~~
 - ~~(b) respond to the complaint by addressing the matters in the complaint within 20 business days.~~

[new clause] Responding to complaints²⁴⁷

- (1) [To be drafted by the PCO: The clause will provide that, when responding to a complaint, a retailer or distributor must inform the customer:]
- (a) of the outcome of the complaint process;
 - (b) of the retailer's or distributor's reasons for the decision regarding the outcome;
 - (c) that the customer may take a dispute to the electricity ombudsman; and
 - (d) of the telephone number and other contact details of the electricity ombudsman.
- [To be drafted by the PCO:** The information in paragraphs (c) and (d) would not have to be provided if the customer has advised the retailer that the complaint has been resolved in a manner acceptable to the customer.]
- (2) A retailer or distributor must, on receipt of a written complaint by a customer—²⁴⁸
- (a) acknowledge the complaint within 10 business days; and
 - (b) respond to the complaint by addressing the matters in the complaint within 20 business days.

[new clause] Provision of information to customers by retailers

- (1) A retailer must publish the following information on its website— [...]
- (d) a summary of the rights, entitlements and obligations of customers under the retailer's standard complaints and dispute resolution procedure; and
 - (e) the contact details for the [electricity] ombudsman.

[new clause] Provision of information to customers by distributors

- (1) A distributor must publish the following information on its website— [...]
- (j) a summary of the rights, entitlements and obligations of customers under the distributor's standard complaints and dispute resolution procedure; and
 - (k) the contact details for the [electricity] ombudsman.

²⁴⁵ This matter would be addressed in new clause 'Responding to complaints'.

²⁴⁶ This matter would be addressed in new clause 'Responding to complaints'.

²⁴⁷ The words 'Responding to complaints' are tentative only; they are not based on existing wording in the Code or NECF. The PCO to provide draft wording.

²⁴⁸ Currently addressed in clause 12.1(4) of the Code.

15.2 Obligation to comply with guideline that distinguishes customer queries from complaints

[Clause 12.2 of the Code]

Other issues

Draft recommendation 91

Delete clause 12.2 of the Code.

What would change

Retailers would no longer have to comply with guidelines published by the ERA that distinguish complaints from queries.

Why the change is proposed

- The ERA's current guidelines do not include any obligations that retailers must comply with. Therefore, there is no need for the Code to require retailers to comply with the guidelines.
- Removing clause 12.2 would not affect the ERA's ability to publish guidelines that explain the difference between a complaint and a query.

What the new clause may look like

~~12.2 Obligation to comply with a guideline that distinguishes customer queries from complaints~~

~~A retailer must comply with any guideline developed by the Authority relating to distinguishing customer queries from complaints.~~

15.3 Information provision

[Clause 12.3 of the Code]

Other issues

Draft recommendation 92

Delete clause 12.3 of the Code.

What would change

Retailers and distributors would no longer have to give customers on request, at no charge, information that will assist them in 'utilising' the complaints handling process.

Why the change is proposed

- The complaints handling process must set out how complaints must be lodged, the response times, the method of response and how complaints will be handled. Under the new, general information provision, a summary of the process would also have to be published on the retailer's and distributor's website.

This information should be sufficient for a customer to follow and use the procedure process without retailers and distributors also having to provide information on utilising the process.

- Retailers' and distributors' complaints handling processes must comply²⁴⁹ with AS/NZS 1002:2014, which requires organisations to provide support and practical assistance to people to make a complaint if required.²⁵⁰

What the new clause may look like

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.~~

²⁴⁹ *Code of Conduct for the Supply of Electricity to Small Use Customers 2018* (WA) clause 12.1(2)(a).

²⁵⁰ Standards Australia, 2014, *AS/NZS 1002:2014 Guidelines for complaint management in organizations*, clause 8.2.

16. Part 13 of the Code: Reporting

16.1 Performance reporting

[Part 13 of the Code]

Other issues

Draft recommendation 93

Delete Part 13 of the Code.

What would change

The Code would no longer deal with performance reporting. The change would not materially affect retailers, distributors or customers.

Why the change is proposed

Part 13 of the Code deals with reporting. It requires retailers and distributors to 'prepare a report in respect of each reporting year setting out the information specified by the Authority'. The Code does not specify what information must be included in the report.

Until 30 June 2014, Part 13 set out performance indicators that retailers and distributors had to report on to the ERA. The indicators were removed from the Code as the same (and other) indicators were also included in the ERA's Electricity Retail and Distribution Licence Performance Reporting Handbooks.

At the time, the ECCC agreed to retain the requirement in the Code that retailers and distributors must prepare a report, publish it, and provide a copy to the ERA.

Under the electricity retail and distribution licences, the ERA can also direct a licensee to provide and publish specified information. In fact, the Electricity Retail and Distribution Licence Performance Reporting Handbooks refer to the licence rather than the Code:

Electricity licences contain terms and conditions, including a requirement for licensees to provide to the ERA specified information on matters relevant to the licence.

To remove duplication, the ECCC proposes to remove Part 13 from the Code.

What the new clause may look like

13.1 Preparation of an annual report

~~A retailer and a distributor must prepare a report in respect of each reporting year setting out the information specified by the Authority.~~

13.2 Provision of annual report to the Authority

~~A report referred to in clause 13.1 must be provided to the Authority by the date, and in the matter and form, specified by the Authority.~~

13.3 Publication of reports

~~(1) A report referred to in clause 13.1 must be published by the date specified by the Authority.~~

~~(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.~~

17. Family violence

17.1 Background

In November 2019, the ERA received a request from the Hon. Bill Johnston MLA, Minister for Energy, to consider including obligations on retailers in the Code, to assist customers affected by family and domestic violence.

In his letter, the Minister referred to provisions that were recently adopted by the Victorian State Government in its Energy Retail Code. The provisions require retailers to comply with minimum standards of conduct when assisting customers affected by family violence and to have a family violence policy.

17.2 Approaches in other jurisdictions

17.2.1 Victoria

The family violence provisions in the Victorian *Energy Retail Code* were adopted following a recommendation made by the Victorian Royal Commission into Family Violence.²⁵¹

The Commission was concerned that essential services were sometimes used by perpetrators of family violence as a form of economic abuse, particularly due to the critical function essential services play in daily life. For example, some perpetrators would:

- Put a service in the sole name of the victim without the victim's knowledge or consent.
- Refuse to contribute to bills leading to high debt in the victim's name or disconnection of the victim's supply.
- Intercept mail from a service provider that identifies a victim's safe location.

The family violence provisions in the Victorian code aim to address these concerns by providing "customers affected by family violence with an entitlement to safe, supportive and flexible assistance from their energy retailer in managing their personal and financial security. In particular, the code [requires] retailers to have a family violence policy and meet minimum standards of conduct relating to training, account security, customer service, debt management, external support and evidence."²⁵²

²⁵¹ State of Victoria, [Royal Commission into Family Violence: Summary and recommendations](#), Parl Paper No 132 (2014–16), recommendation 109.

²⁵² Essential Services Commission 2019, [Energy Retail Code Changes to Support Family Violence Provisions for Retailers: Final Decision](#), 22 May, pg. iii.

17.2.2 Western Australian water service providers

The Department of Water and Environmental Regulation (DWER) is currently developing the Water Services Code of Practice (Family Violence) 2020.²⁵³

The proposed Water Code of Practice is broadly similar to the Victorian *Energy Retail Code*. The main difference is that the Victorian code places direct obligations on retailers to do, or not do, certain things, whereas the proposed Water Code of Practice will only oblige a water service provider to have a family violence policy. The proposed Water Code of Practice will specify the minimum requirements that the family violence policy must address, including training, identifying vulnerable customers and protecting customer information.

17.3 ECCC's proposed approach

The ECCC proposes that the Code be amended to include protections for customers affected by family violence.

As each customer's circumstances will differ, the ECCC considers any obligations should be flexible enough to ensure retailers can tailor their assistance to suit the needs of their customers. Therefore, rather than prescribing detailed obligations in the Code, the ECCC proposes that retailers should have to have a family violence policy. The Code should prescribe what matters must be addressed in the policy but not how those matters must be addressed.²⁵⁴ For example, the ECCC proposes that a retailer's family violence policy must provide for the training of staff about family violence, but does not propose to prescribe which staff members must be trained and what the training must cover. This approach ensures minimum standards are set, while providing flexibility for retailers to tailor their family violence policy to suit the needs of their customers.

The draft recommendations in this section are based on the ECCC's consideration of both the Victorian *Energy Retail Code* and the Water Code of Practice. However, this section of the report does not include mock-up drafting for each recommendation. This is because the ECCC's approach does not directly follow the approach taken by either Victoria or DWER.

17.4 Definitions

17.4.1 Definition of family violence

Other issues

Draft recommendation 94

Insert a definition of 'family violence' in the Code, being the meaning given in section 5A of the *Restraining Orders Act 1997*.

²⁵³ Under section 26 of the *Water Services Act 2012*, the Minister for Water can make a code of practice for water service providers.

²⁵⁴ The exception to this approach is draft recommendation 96, which proposes to restrict when retailers may request evidence of family violence. This recommendation would place a direct obligation on retailers in the Code.

What would change

The Code would define 'family violence'. The definition would refer to the definition of family violence within the *Restraining Orders Act 1997* (WA), which is:

- (a) violence, or a threat of violence, by a person towards a family member of the person; or
- (b) any other behaviour by the person that coerces or controls the family member or causes the member to be fearful.

Why the change is proposed

For the proposed family violence provisions to operate, it is necessary to set out what is meant by 'family violence' within those provisions.

17.4.2 Definition of affected customer

Other issues

Draft recommendation 95

Insert a definition of 'affected customer' in the Code, meaning any residential customer, including a former residential customer, who may be affected by family violence.

What would change

The Code would define an 'affected customer'.

Why the change is proposed

To clarify that the proposed family violence provisions would apply only to residential customers who may be affected by family violence.

The definition of an affected customer would capture both current and former residential customers. This would ensure the protections are extended to customers who are no longer supplied by the retailer but who may still require the retailer's support.

17.5 Evidence of family violence

Other issues

Draft recommendation 96

A retailer must not request written evidence of family violence from an affected customer unless the evidence is reasonably necessary to enable the retailer to assess appropriate measures that it may take in relation to debt collection or disconnection.

What would change

Retailers would be prohibited from requesting evidence of family violence other than when the retailer is considering debt collection or disconnection.

When a retailer requests evidence of family violence, the evidence would need to be reasonably necessary to enable the retailer to assess appropriate measures that it may take in relation to debt collection or disconnection.

Why the change is proposed

Restricting when a retailer may require evidence of family violence would help ensure that affected customers are not prevented or deterred from accessing assistance.

Retailers should be allowed to ask for evidence of family violence to inform their decisions about debt collection or disconnection. However, a retailer's right to request evidence should be limited to evidence which is reasonably required for the retailer to assess whether, or how, to proceed with debt collection or disconnection. This would ensure the evidence that an affected customer is required to provide is fair and reasonable.

17.6 Family violence policy

17.6.1 Requirement to have a family violence policy

Other issues

Draft recommendation 97

- a) A retailer must have a family violence policy.
- b) A retailer must develop its family violence policy in consultation with relevant consumer representatives.

What would change

Retailers would be required to have a family violence policy. The policy would have to be developed in consultation with relevant consumer representatives.

Why the change is proposed

Requiring retailers to have a family violence policy would provide affected customers with information about how their retailer can assist them if the customer is experiencing family violence. Requiring a retailer to develop its family violence policy in consultation with relevant consumer representatives would ensure the policy is suitably tailored to meet the needs of affected customers.

17.6.2 Minimum content of family violence policy

The following sections list the matters that retailers must, as a minimum, address in their family violence policy.

17.6.2.1 Training

Other issues

Draft recommendation 98

A family violence policy must require a retailer to provide for training of staff about family violence. The training must be developed in consultation with, or delivered by, relevant consumer representatives.

What would change

A retailer's family violence policy would have to provide for the training of staff about family violence. The training would have to be developed in consultation with, or delivered by, relevant consumer representatives.

Why the change is proposed

Providing staff with training about family violence is essential to ensure staff can identify affected customers and apply the retailer's family violence policy.

Retailers would have to work with relevant consumer representatives to develop or deliver the training, to ensure that the training adequately covers the issues surrounding family violence.

17.6.2.2 *Account security*

Draft recommendation 99

Other issues

- a) A family violence policy must require a retailer to protect an affected customer's information, including from a person that is or has been a joint account holder with the affected customer.
- b) A family violence policy must require the retailer to take reasonable steps to establish a safe method of communication with an affected customer and, if that method is not practicable, offer alternative methods of communication.
- c) A family violence policy must require the retailer to comply with an established safe method of communication, including when other parts of the Code direct how information must be given.
- d) A family violence policy must require the retailer to keep a record of the established safe method of communication that has been agreed with the affected customer.

What would change

A retailer's family violence policy would have to require the retailer to:

- Protect an affected customer's information, including from a person that is or has been a joint account holder with the affected customer.
- Take reasonable steps to establish a safe method of communication with an affected customer and, if that method is not practicable, offer alternative methods of communication.
- Ensure that an affected customer's entitlement to receive information by their established safe method of communication would take precedence over any other Code requirement to provide information to the customer in a particular way.
- Keep a record of the established safe method of communication that has been agreed with an affected customer.

Why the change is proposed

A perpetrator may use personal details they know about an affected customer to obtain account information. Requiring a retailer's family violence policy to provide for additional security measures on the account of an affected customer would reduce the risk of a perpetrator accessing an affected customer's account information.

17.6.2.3 Customer service

Other issues

Draft recommendation 100

A family violence policy must require a retailer to have a process that avoids an affected customer needing to repeatedly disclose or refer to their experience of family violence.

What would change

A retailer's family violence policy would require a retailer to have a process to avoid an affected customer needing to repeatedly disclose or refer to their experience of family violence.

Why the change is proposed

Requiring a retailer to have a process to avoid an affected customer having to repeatedly disclose their experience of family violence can reduce the distress experienced by the customer. For example, a retailer may place an account identifier on the account of an affected customer. This may also allow for the retailer's staff to better engage with an affected customer and assess if a request or transaction may lead to an unsafe outcome for the customer.

17.6.2.4 Debt management

Other issues

Draft recommendation 101

- a) A family violence policy must require the retailer to consider the potential impact of debt collection on the affected customer and whether another person is responsible for the electricity usage that resulted in the debt.
- b) A family violence policy must require the retailer to consider reducing and/or waiving fees, charges and debt.

What would change

A retailer's family violence policy would have to require the retailer to consider:

- The potential impact of debt collection at that time on the affected customer.
- Whether another person is responsible for the for the debt before taking action to recover arrears from an affected customer.
- Reducing and/or waiver of fees, charges, and debt. This is similar to the Code requirement for a retailer's hardship procedures.²⁵⁵

²⁵⁵ Clause 6.10(3)(d)(iv)

Why the change is proposed

An affected customer's debt may have been accumulated due to the actions of a perpetrator. A perpetrator may use debt as a means of control.

To reduce the risk of debt being used as a form of economic abuse against an affected customer, it is important that a retailer consider the potential impact of debt collection on an affected customer, and whether another person is responsible for the affected customer's debt before taking action.

17.6.3 *Publication of family violence policy*

Other issues

Draft recommendation 102

Include a requirement for a retailer to publish its family violence policy under the new, general information provision in the Code.²⁵⁶

What would change

Retailers would be required to publish their family violence policy on their website. A retailer would be required to provide a hard copy of the policy on request and at no charge. This requirement would be included in the new, general information provision of the Code.

Why the change is proposed

Requiring retailers to publish their family violence policy on their website would ensure the policy is widely accessible to the retailer's customers.

Requiring retailers to provide a hard copy on request and at no charge ensures customers who prefer to have the policy in hard copy are not disadvantaged.

17.6.4 *Review of family violence policy*

Other issues

Draft recommendation 103

- a) A retailer must review its family violence policy if directed to do so by the ERA.
- b) The review must be conducted in consultation with relevant consumer representatives.
- c) The retailer must submit the results of its review to the ERA.

What would change

- Retailers would have to review their family violence policy if directed to do so by the ERA.
- A retailer's review of its family violence policy would have to be conducted in consultation with relevant consumer representatives.

²⁵⁶ The general information provision is discussed at recommendation 74.

- The retailer would be required to submit the results of the review of its family violence policy to the ERA.

Why the change is proposed

To ensure that the ERA can direct retailers to review their family violence policy when required, for example, if the Code requirements for family violence policies are amended. This would ensure a retailer's family violence policy remains current and reflects the retailer's obligations under the Code.

It is also consistent with the Code requirements for the review of a retailer's financial hardship policy.²⁵⁷

17.7 Disconnection

17.7.1 Customer circumstances

Other issues

Draft recommendation 104

A family violence policy must require the retailer to take into account the circumstances of an affected customer before disconnecting the customer's supply address for failure to pay a bill.

What would change

A retailer's family violence policy would have to include a statement that the retailer will take into account the circumstances of an affected customer before disconnecting the customer's supply address.

Why the change is proposed

To ensure that, before the retailer takes action to disconnect an affected customer's supply address, the affected customer receives the assistance the customer is entitled to under the Code and the retailer's family violence policy.

17.7.2 Prohibition on disconnection

Draft recommendation 104 is that, as a minimum, a retailer's family violence policy must require the retailer to take an affected customer's circumstances into account before disconnection. The ECCC is considering whether further protections are needed, in particular whether a retailer should be temporarily prevented from disconnecting an affected customer.

For an affected customer, their electricity supply can be essential for the operation of important safety measures such as home security systems. Prohibiting retailers from disconnecting an affected customer would also provide the customer additional time to pay

²⁵⁷ Clause 6.10(6) of the Code requires retailers to review their financial hardship policy if directed to do so by the ERA.

their bill and may assist the customer by providing time to seek help and support from external support services.

There may be disadvantages to prohibiting retailers from disconnecting an affected customer. A disconnection warning can serve as a prompt for a customer to contact their retailer, at which point a retailer can advise the customer of the assistance available. A prohibition on disconnection may mean customers delay contact with their retailer, and subsequently, do not have this crucial conversation with their retailer.

If the Code were to prohibit a retailer from disconnecting an affected customer, the ECCC would also need to consider how long the prohibition should stay in place. An extended prohibition, without a prompt to contact the customer's retailer, may lead to an affected customer's debt rising to a level that is unmanageable.

Other issues

Question 11

- a) Should the Code prohibit disconnection of an affected customer's supply address?
- b) If so, what period should disconnection action be prohibited for?

Appendix 1 List of draft recommendations and questions

General

Draft recommendation 1	Request the PCO to review the drafting of the Code to improve clarity.
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Part 1 of the Code: Preliminary

Draft recommendation 2		<p>Provide that a retailer, distributor or electricity marketing agent that has to give information on request to a customer:</p> <ul style="list-style-type: none"> • May either give the information to the customer or, if the information is available on its website, refer the customer to its website. • Must give the information, if the customer requests the information is given.
Draft recommendation 3	6.4(3)(a) 6.4(3)(b) 7.7(4)(b) 9.3(5) 9.4(1)(a)	Delete the words 'or by electronic means' in clauses 6.4(3)(a), 6.4(3)(b), 9.3(5) and 9.4(1)(a) of the Code.
Question 1	1.10	<p>a) Should any of the clauses listed in clause 1.10 be removed from clause 1.10? If so, should any of those clauses instead include the words 'unless otherwise agreed'?</p> <p>b) Should the words 'unless otherwise agreed' be removed from any clauses that currently include those words? If so, should any of those clauses be added to clause 1.10?</p> <p>For a list of relevant clauses, see Appendix 5.</p>

Question 2	1.10	Should the Code be amended to require that, if one or more Code clauses do not apply or apply differently in a customer's non-standard contract, the customer is informed of this before they enter into the contract?
Draft recommendation 4	2(2)(g)(ii) 2.3(2)(h)(ii) 4.5(1)(cc) 6.10(2)(h)(iii) 9.3(2)(m) 10.11(1) 10.11(2)(a)	Replace 'TTY services', in clauses 2.2(2)(g)(ii), 2.3(2)(h)(ii), 4.5(1)(cc), 6.10(2)(h)(iii), 9.3(2)(m), 10.11(1) and 10.11(2)(a) of the Code, with a reference to services that assist customers with a speech or hearing impairment.

Part 2 of the Code: Marketing

Draft recommendation 5	2.2(2)	Amend clause 2.2(2) of the Code to be consistent with clause 2.2(2) of the Gas Marketing Code.
Draft recommendation 6	2.2(2)(e) 2.3(2)(f)	Amend clauses 2.2(2)(e) and 2.3(2)(f) of the Code to be consistent with clauses 2.2(2)(e) and 2.3(2A)(e) of the Gas Marketing Code, respectively.
Draft recommendation 7	2.2(2)(g) 2.3(2)(h)	Amend clauses 2.2(2)(g) and 2.3(2)(h) of the Code to be consistent with clauses 2.2(2)(g) and 2.3(2A)(g) of the Gas Marketing Code, respectively.
Draft recommendation 8	2.3(1)(a)	Amend clause 2.3(1)(a) of the Code to be consistent with clause 2.3(1)(a) of the Gas Marketing Code.
Draft recommendation 9	2.3(2)	Amend clauses 2.3(2)(b) to (e) and (g) to (j) of the Code to be consistent with clause 2.3(2A) of the Gas Marketing Code.
Draft recommendation 10	2.3(5)	<p>a) Amend clause 2.3(5) of the Code to be consistent with clause 2.3(4) of the Gas Marketing Code.</p> <p>Consequential amendment</p> <p>b) Amend clause 1.5 of the Code to insert a definition of 'verifiable confirmation', consistent with the definition of verifiable confirmation in the Gas Marketing Code.</p>

Draft recommendation 11	2.5(2)(a)	Amend clause 2.5(2)(a) of the Code by replacing 'wear' with 'display'.
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Part 3 of the Code: Connection

Draft recommendation 12	3.1	Delete clause 3.1(3) of the Code.
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Part 4 of the Code: Billing

Draft recommendation 13	4.1	a) Replace clauses 4.1(a) and (b)(i) of the Code with rules 24(1) and (2) of the NERR but replace: <ul style="list-style-type: none"> – 'retailer's usual recurrent period' with 'customer's standard billing cycle' in rule 24(2). – 'explicit informed consent' with 'verifiable consent' in rule 24(2). b) Retain clause 4.1(b)(ii) of the Code but replace 'metering data' with 'energy data'. c) Retain clause 4.1(b)(iii) of the Code.
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Draft recommendation 14	4.2	a) Replace clauses 4.2(1) and (2) of the Code with rule 34(2) of the NERR: <ul style="list-style-type: none"> – except for subrules (2)(c)(i) to (v); instead insert clauses 4.2(1)(a) to (d) of the Code and amend clause 4.2(1)(a) by inserting 'or disconnection warning' after 'reminder notice'. – but retain the requirement that customers may only be placed on a shortened billing cycle without their verifiable consent after 3 reminder notices (instead of 2). – but clarify that the information in rule 34(2)(c) must have been given before the retailer gives the customer a reminder notice or disconnection warning for the third consecutive bill. b) Replace clause 4.2(3) of the Code with rule 34(3) of the NERR but remove 'without a further reminder notice' from subrule (c). c) Retain clauses 4.2(4), (5) and (6) of the Code.
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Draft recommendation 15	4.3	a) Delete clause 4.3. b) Insert a new clause that requires retailers to inform customers who have agreed to be billed 'on any other method', in writing of the method they have agreed to. The information must be provided before the arrangement commences.
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Question 3	4.3	<p>The ECCC considers that retailers should have to notify customers with a fixed term contract that their contract is about to end. The ECCC seeks feedback as to whether:</p> <ul style="list-style-type: none"> a) This matter should be addressed in the Code or in the <i>Electricity Industry (Customer Contracts) Regulations 2005</i>. b) If the matter is addressed in the Code, should the new provision follow rule 48 of the NERR?
Draft recommendation 16	4.5(1)(r)	Amend clause 4.5(1)(r) to be consistent with clause 4.5(1)(p) of the <i>Compendium of Gas Customer Licence Obligations</i> .
Draft recommendation 17	4.5(1)(bb)	Amend clause 4.5(1)(bb) to be consistent with clause 4.5(1)(z) of the <i>Compendium of Gas Customer Licence Obligations</i> .
Draft recommendation 18	4.5	Insert a new subclause, in clause 4.5 of the Code, consistent with clause 4.5(4)(a) of the <i>Compendium of Gas Customer Licence Obligations</i> .
Draft recommendation 19	4.5(1)(cc)	Amend clause 4.5(1)(cc) so the telephone number for TTY services only has to be included on bills for residential customers.
Question 4	4.5	<ul style="list-style-type: none"> a) Is the amount of information that must currently be included on a bill appropriate? Could some of the minimum bill items be removed from clause 4.5, or should additional information be included on the bill? b) Should clause 4.5 be amended to allow retailers to provide (some of) the information in different formats for customers who have agreed to receive their bill electronically.
Draft recommendation 20	4.6	<ul style="list-style-type: none"> a) Replace clause 4.6(a) of the Code with rule 20(1)(a)(i) of the NERR but: <ul style="list-style-type: none"> – replace ‘metering data’ with ‘energy data’. – replace ‘metering coordinator’ with ‘distributor or metering data agent’. – remove ‘and determined in accordance with the metering rules’. b) Delete clause 4.6(b) of the Code. c) Replace clause 4.6(c) of the Code with rule 20(3) of the NERR but replace ‘applicable energy laws’ with ‘the metrology procedure, the Metering Code or any other applicable law’.

		d) Adopt rule 20(1)(a)(iii) of the NERR.
Draft recommendation 21	4.7	Retain clause 4.7 but incorporate in clause 4.6 of the Code.
Draft recommendation 22	4.7	Replace 'metering data' with 'actual value' in clause 4.7 of the Code; and define actual value by reference to the <i>Electricity Industry Metering Code 2012</i> .
Draft recommendation 23	4.7	Clarify that clause 4.7 does not apply if the bill is based on a method agreed between the customer and the retailer.
Draft recommendation 24	4.8(1)	Delete clause 4.8(1) of the Code.
Draft recommendation 25	4.9	Delete clause 4.9 of the Code.
Draft recommendation 26	4.10	Replace the requirement, in clause 4.10 of the Code, for a retailer to use best endeavours with an absolute obligation to replace an estimated bill with a bill based on an actual meter reading.
Draft recommendation 27	4.10(1)	Replace 'an actual reading of the customer's meter', in clause 4.10(1) of the Code, with 'an actual value'.
Draft recommendation 28	4.11	<p>a) Replace clause 4.11(1) of the Code with rule 29(5)(a) of the NERR but:</p> <ul style="list-style-type: none"> – replace 'meter reading or metering data' with 'energy data'. – retain clause 4.11(1)(b) and add the words 'checking the energy data'. – replace 'responsible person or metering coordinator (as applicable)' with 'distributor or metering data agent' in subrule (5)(a)(ii). <p>b) Amend clause 4.11(2) of the Code to take account of the fact that customers may also request a check of the energy data.</p> <p>c) Incorporate amended clause 4.11 into clause 4.15 of the Code (Review of bill).</p>
Draft recommendation 29	4.12	Replace clause 4.12 of the Code with rules 37(1) and (2) of the NERR but clarify that 'transfer' in subrule (2) refers to a transfer under subrule (1).
Draft recommendation 30	4.13	a) Delete clause 4.13(a) of the Code.

		<ul style="list-style-type: none"> b) Delete the words 'more beneficial' from clause 4.13(b) of the Code. c) Delete reference to a customer's use of electricity at the supply address from clause 4.13 of the Code.
Draft recommendation 31	4.13	Delete the requirement that notice must be 'written' from clause 4.13 of the Code.
Draft recommendation 32	4.14(1)	Replace clause 4.14(1) of the Code with rule 35(1) of the NERR.
Draft recommendation 33	4.14(3)	Delete the requirement that notice must be 'written' from clause 4.14(3) of the Code.
Draft recommendation 34	4.16	<ul style="list-style-type: none"> a) Adopt rule 29(6)(b)(ii) of the NERR. b) Amalgamate clauses 4.15 and 4.16 of the Code.
Draft recommendation 35	4.16(1)(a)(iii)	Replace 'any applicable external complaints handling processes', in clause 4.16(1)(a)(iii) of the Code, with 'the electricity ombudsman'.
Draft recommendation 36	4.17	<ul style="list-style-type: none"> a) Delete clause 4.17(1) of the Code. b) Replace clauses 4.17(2) and (4) of the Code with rules 30(1) to (3) of the NERR but: <ul style="list-style-type: none"> – replace '9 months' with '12 months' in rule 30(2)(a) of the NERR. – except for rule 30(2)(b) of the NERR; instead insert clause 4.17(2)(d) of the Code but provide that the clause does not apply if the amount was undercharged as a result of the customer's fault or unlawful act or omission. – except for rule 30(2)(c) of the NERR; instead insert clause 4.17(2)(c) of the Code. – amend rule 30(2)(d) of the NERR to provide that instalment plans only have to be offered to residential customers and must meet the requirements of clause 6.4(2) of the Code.
Draft recommendation 37	4.18	<ul style="list-style-type: none"> a) Delete clause 4.18(1) of the Code. b) Replace clause 4.18(2) of the Code with rule 31(1) of the NERR but retain the requirement that retailers must ask customers for instructions as to whether the amount should be credited to the customer's account or repaid to the customer . c) Replace clauses 4.18(3) and (4) of the Code with rule 31(2) of the NERR but retain the timeframes for: <ul style="list-style-type: none"> – retailers refunding the amount in accordance with the customer's instructions.

- customers responding to retailer’s request for instructions.
- d) Replace clause 4.18(5) of the Code with rule 31(4) of the NERR.
- e) Replace clause 4.18(6) of the Code with rule 31(3) of the NERR but retain the option for retailers to ask customers for instructions if the credit is less than the threshold amount.
- f) Adopt rule 31(5) of the NERR.
- g) Adopt rule 31(6) of the NERR but:
 - retain the threshold amount at \$100.
 - do not adopt the words ‘or such other amount as the AER determines under subrule (7)’.
- h) Clarify that clause 4.18 applies from the time a retailer becomes aware of an overcharge or, if the overcharge is the result of an estimation carried out in accordance with the *Electricity Industry Metering Code 2012*, from the time the retailer receives an actual value from the distributor. The actual value must be based on a meter reading undertaken in accordance with clause 5.4(1A)(b) of the Metering Code.

Draft recommendation 38	4.18(7)	Delete the requirement that notice must be ‘written’ from clause 4.18(7) of the Code.
Draft recommendation 39	4.19	<p>a) Delete clause 4.19 of the Code.</p> <p>Consequential amendments</p> <p>b) Delete the definition of ‘adjustment’ in clause 1.5 of the Code.</p> <p>c) Amend the definition of ‘overcharging’, in clause 1.5 of the Code, to provide that an overcharge is the amount charged that is more than the amount that would have been charged if the bill had been based on an actual value determined in accordance with clause 5.4(1A)(b) of the <i>Electricity Industry Metering Code 2012</i>.</p> <p>d) Amend the definition of ‘undercharging’, in clause 1.5 of the Code, to provide that an undercharge is the amount charged that is less than the amount that would have been charged if the bill had been based on an actual value determined in accordance with clause 5.4(1A)(b) of the <i>Electricity Industry Metering Code 2012</i>.</p>

Part 5 of the Code: Payment

Draft recommendation 40	5.1	a) Replace clause 5.1(1) of the Code with rule 26(1) of the NERR but retain the right of customers to agree to a different minimum due date.
		b) Delete clause 5.1(2) of the Code.
		Consequential amendments
		c) Amend clause 1.5 of the Code to insert a definition of 'bill issue date' consistent with the definition of bill issue date in rule 3 of the NERR.
Draft recommendation 41	5.2	d) Insert a new paragraph, in clause 4.5(1) of the Code, consistent with rule 25(1)(e) of the NERR.
		Replace clause 5.2 of the Code with rule 32(1) of the NERR but:
		– do not adopt rule 32(1)(e) of the NERR.
		– retain the requirement that the customer must be able to pay in person at one or more payment outlets within the customer's Local Government District (clause 5.2(a) of the Code).
		– retain Centrepay as a minimum payment method for all residential customers (clause 5.2(c) of the Code).
Draft recommendation 42	5.3	– retain the ability for retailers and customers to agree otherwise.
		Delete clause 5.3 of the Code.
Draft recommendation 43	5.4	a) Amend clause 5.4 of the Code to be consistent with clause 5.4 of the <i>Compendium of Gas Customer Licence Obligations</i> .
		Consequential amendment
Draft recommendation 44	5.5	b) Amend clause 1.5 of the Code to insert a definition of 'maximum credit amount' consistent with the definition of maximum credit amount in clause 1.3 of the <i>Compendium of Gas Customer Licence Obligations</i> .
		Retain clause 5.5 of the Code but:

- remove the words ‘if a residential customer is unable to pay by way of the methods described in clause 5.2, due to illness or absence’.
- replace the requirement to offer redirection of the bill, with a requirement to redirect the bill.
- replace the words ‘third person’ with ‘different address’.

Draft recommendation 45 5.7(4)(c) Delete clause 5.7(4)(c) of the Code.

Part 6 of the Code: Payment difficulties and financial hardship

Draft recommendation 46 1.5 a) Amend the definition of ‘financial hardship’, in clause 1.5 of the Code, by replacing ‘more than immediate’ with ‘long term’.

b) Amend the definition of ‘payment difficulties’, in clause 1.5 of the Code, by replacing ‘immediate’ with ‘short term’.

Question 5 Should the Code be amended to require retailers to offer a payment extension and an instalment plan to all residential customers?

Question 6 Should the Code be amended to require retailers to offer bill smoothing to all residential customers as a form of assistance?

Question 7 6.1 Should the Code be amended to require retailers to offer a payment extension and an instalment plan to customers who the retailer otherwise believes are experiencing repeated difficulties in paying their bill or require payment assistance?

Draft recommendation 47 6.1(1)(b) a) Delete clause 6.1(1)(b) of the Code.

6.2 b) Delete clause 6.2 of the Code.

Draft recommendation 48 6.1(1) Amend the Code so retailers do not have to make an assessment under clause 6.1(1) if the retailer has previously assessed the customer, unless the customer has indicated that their circumstances have changed since the assessment was made.

Draft recommendation 49		Amend the Code so retailers must advise customers experiencing payment difficulties that the customer may be eligible to receive concessions and how the customer may find out about their eligibility for those concessions.
Draft recommendation 50	6.4(1)	Amend clause 6.4(1) of the Code to clarify that retailers must offer customers additional time to pay their bill and an instalment plan; where the customer may choose with option they prefer.
Draft recommendation 51	6.4(2)(a)	Replace clause 6.4(2)(a) of the Code with a requirement that retailers must ensure that an instalment plan is fair and reasonable and has regard to: <ul style="list-style-type: none"> – the customer’s capacity to pay; – any arrears owing by the customer; and – the customer’s expected electricity consumption needs over the duration of the instalment plan.
Question 8	6.4(2) 6.4(3)	<p>a) Should retailers continue to be able to amend a customer’s instalment plan without the customer’s consent?</p> <p>or</p> <p>b) Should clauses 6.4(2) and (3) of the Code be amended to clarify that a retailer cannot amend an instalment plan without:</p> <p>(i) consulting the customer?</p> <p>or</p> <p>(ii) obtaining the customer’s consent?</p>
Draft recommendation 52	6.4(3)(a) 6.4(3)(b)	<p>a) Amend clause 6.4(3)(a) of the Code to provide that the information must be provided in writing, unless the information has already been provided in the previous 12 months.</p> <p>b) Delete the requirement that information must be provided ‘in writing or by electronic means’ from clause 6.4(3)(b) of the Code.</p>
Question 9		Should the Code be amended to include one or more of the assistance measures that Victorian retailers must offer to their customers under clauses 77 to 83 of the Victorian <i>Energy Retail Code</i> ?
Question 10	6.7	Should clause 6.7 be amended:

		a) by providing that a retailer must give reasonable consideration to offering a (revised) instalment plan if the customer informs a retailer that they cannot meet the conditions of their payment extension or instalment plan? or b) by providing that a retailer must offer a (revised) instalment plan if the customer reasonably demonstrates to a retailer that the customer cannot meet the conditions of their payment extension or instalment plan? or c) consistent with clause 30(4)(b) of the Water Code?
Draft recommendation 53	6.8(d)	Amend clause 6.8(d) of the Code by deleting reference to meters.
Draft recommendation 54	6.9	Delete clause 6.9 of the Code.
Draft recommendation 55	6.10(2)(j)	Amend clause 6.10(2)(j) of the Code so only hard-copies of the hardship policy have to be made available in large print.
Draft recommendation 56	6.10(6)	Amend clause 6.10(6) of the Code by deleting the words 'within 5 business days after it is completed'.
Draft recommendation 57	6.10(8)	Amend clause 6.10(8) of the Code by deleting the words 'within 5 business days of the amendment'.

Part 7 of the Code: Disconnection

Draft recommendation 58	7.2(1)(b) 7.2(1)(d)	a) Replace clause 7.2(1)(b) of the Code with rule 116(1)(d) of the NERR but do not adopt the words 'is a hardship customer or residential customer and'. b) Replace clause 7.2(1)(d) of the Code with rule 116(1)(e) of the NERR but replace the words 'a rebate, concession or relief available under any government funded energy rebate, concession or relief scheme' with 'a concession'.
Draft recommendation 59	7.2(1)(c) 7.2(2)	a) Replace 'an amount approved and published by the Authority in accordance with subclause (2)' with '\$300' in clause 7.2(1)(c) of the Code.

		b) Delete clause 7.2(2) of the Code.
Draft recommendation 60	7.4	Adopt rule 113(2) of the NERR but: <ul style="list-style-type: none"> – do not adopt the words ‘in accordance with any requirement under the energy laws or otherwise’. – extend the application of the clause to distributors.
Draft recommendation 61	7.4(1)(c) 7.4(1)(d) 7.4(1)(e)	Clarify that the protections of clauses 7.4(1)(c) to (e) of the Code must be met before a disconnection warning may be issued.
Draft recommendation 62	7.6	<p><u>Retailers</u></p> <p>a) Adopt rule 116(1)(a) of the NERR.</p> <p><u>Distributors</u></p> <p>b) Adopt rule 120(1)(a) of the NERR.</p> <p>c) Replace clause 7.6(2)(b) of the Code with rule 120(1)(e) of the NERR but retain the ability for distributors to disconnect business customers during the protected period if the business’s trading hours are only during that period and it is not practicable to disconnect at any other time.</p> <p><u>Retailers and distributors</u></p> <p>d) Replace clause 7.6(3) of the Code with rules 116(3), 120(2) and 120(3)(a) and (b) of the NERR.</p> <p>Consequential amendment</p> <p>e) Amend clause 1.5 of the Code to insert a definition of ‘protected period’, consistent with the definition of protected period in rule 108 of the NERR.</p>
Draft recommendation 63	7.7 7.7(4)(a)	<p>a) Adopt rules 124(1)(b)(iv), (v) and (vi) of the NERR but:</p> <ul style="list-style-type: none"> – specify that the information has to be provided within 5 business days of the retailer registering the customer’s supply address as a life support equipment address, rather than of ‘receipt of advice from the customer’. – amend rule 124(1)(b)(v) so retailers have to recommend customers to prepare a plan of action to deal with an unplanned interruption.

		<ul style="list-style-type: none"> – specify that the telephone service does not have to be available to mobile phones at the cost of a local call.
		b) Delete clause 7.7(4)(a) of the Code.
Draft recommendation 64	7.7(1)	Amend clause 7.7(1) of the Code by allowing customers to register a supply address as a life support equipment address before they move in.
Draft recommendation 65	7.7(1) 7.7(2)	Amend clause 7.7(1) and (2) of the Code by providing that the timeframes for acting on information also apply to the registration requirements.
Draft recommendation 66	7.7(3)	a) Amend clause 7.7(3) of the Code by removing the words 'or by a relevant government agency'. b) Delete clause 7.7(3)(b) of the Code.
Draft recommendation 67	7.7(7)(b)	Amend clause 7.7(7)(b) of the Code by specifying that the following information must be included in the written correspondence to the customer: <ul style="list-style-type: none"> – the date by which the customer must provide re-certification or confirm that a person residing at the supply address still requires life support equipment; – that the retailer will deregister the customer's supply address if the customer does not provide the required information or informs the retailer that the person at the supply address no longer requires life support equipment; and – that the customer will no longer receive the protections under the Code when the supply address is deregistered.
Draft recommendation 68	7.7(7)(a) 7.7(7)(c)	Amend clauses 7.7(7)(a) and (c) of the Code to provide that: <ul style="list-style-type: none"> – if a customer: <ul style="list-style-type: none"> – informs a retailer that: <ul style="list-style-type: none"> o a person who requires life support equipment has vacated the supply address; or o a person who required life support equipment, no longer requires the life support equipment; or – has failed to provide the information requested by a retailer under clause 7.7(6)(a)(i) or re-certification under clause 7.7(6)(a)(ii), within the time period specified by the retailer,

the retailer must:

- remove the customer’s supply address from its life support equipment address register within the timeframes set out in clauses 7.7(7)(a)(iv) and (v); and
- notify the customer’s distributor within the timeframes set out in clause 7.7(7)(c).
- upon notification by the retailer, the distributor must remove the customer’s supply address from its life support equipment address register within the timeframes set out in clauses 7.7(7)(a)(iv) and (v).
- the retailer’s and distributor’s obligations under clauses 7.7(1) to (6), and clause 7.6 (to the extent that it provides a retailer or distributor must not disconnect a life support equipment address), terminate from the time the retailer or distributor has removed the customer’s supply address from their life support equipment address register.

Part 8 of the Code: Reconnection

Draft recommendation 69	8.1	<p>a) Replace clause 8.1(1) of the Code with rule 121(1) of the NERR but:</p> <ul style="list-style-type: none"> – do not adopt the requirement that a customer must rectify the issue and request reconnection within 10 business days. – retain clause 8.1(1)(e)(ii) of the Code. – do not adopt the words ‘in accordance with any requirements under the energy laws’ and ‘or arrange to re-energise the customer’s premises remotely if permitted under energy laws’. <p>b) Retain clauses 8.1(2) and (3) of the Code.</p>
Draft recommendation 70	8.2	<p>a) Replace clause 8.2(1) of the Code with rule 122(1) of the NERR except for the words ‘in accordance with the distributor service standards’.</p> <p>b) Adopt rule 122(2) of the NERR except for:</p> <ul style="list-style-type: none"> – the requirement that a customer must rectify the issue and request reconnection within 10 business days. – the words ‘in accordance with the distributor service standards’. <p>c) Retain clauses 8.2(2) and (3) of the Code.</p>

Part 9 of the Code: Pre-payment meters

Draft recommendation 71	9.4(1)(a)	Delete clause 9.4(1)(a) from the Code.
Draft recommendation 72	9.6(a)	<p>Amend clause 9.6(a) of the Code to provide that:</p> <ul style="list-style-type: none"> – A retailer must ensure that a pre-payment meter customer has access to emergency credit of \$20 outside normal business hours. – A retailer may only de-energise a pre-payment meter: <ul style="list-style-type: none"> ○ during normal business hours, if the customer has no more credit available (regardless of whether the customer still has emergency credit available); or ○ at any time, if the customer has no more emergency credit available. – If a retailer has de-energised a pre-payment meter during normal business hours, a retailer does not have to re-energise the meter after business hours if the customer has not made a payment to the account, even if the customer still has all or some emergency credit available.
Draft recommendation 73	9.7(a)	Amend clause 9.7(a) of the Code to clarify that retailers must ensure that at least 1 physical recharge facility is located as close as practicable to a pre-payment customer, and in any case no further than 40 kilometres away.

Part 10 of the Code: Information and communication

Draft recommendation 74	Part 10	Adopt rules 56 and 80 of the NERR to the extent that they explain how information must be provided to customers but do not adopt the words 'but information requested more than once in any 12 month period may be provided subject to a reasonable charge' (in rules 56(4) and 80(4)).
Draft recommendation 75	10.1	<p>a) Adopt rules 46(3), (4)(a), (4A) (except for (4A)(e)), (4B)(a), (c) and (e) of the NERR for customers whose tariffs are not regulated, but:</p> <ul style="list-style-type: none"> – amend rule 46(4A)(f) by deleting the words 'and, if they are being sold electricity, energy consumption data'.

		<ul style="list-style-type: none"> – amend rule 46(4B)(a) by deleting the words ‘pursuant to rule 46A and section 39(1)(a) of the Law’.
		b) Amend clause 10.1(1) of the Code so it only applies to customers whose tariffs are regulated.
Draft recommendation 76	10.1(3)	Delete clause 10.1(3) of the Code.
Draft recommendation 77	10.2(3)	Delete clause 10.2(3) of the Code.
Draft recommendation 78	10.2(4)	Delete clause 10.2(4) of the Code.
Draft recommendation 79	10.3	Retain clause 10.3 of the Code but: <ul style="list-style-type: none"> – incorporate into the new, general information provision. – delete the words ‘to the residential customer’.
Draft recommendation 80	10.4	Retain clause 10.4 of the Code but: <ul style="list-style-type: none"> – incorporate into a new, general information provision. – insert ‘electrical’ before ‘appliances’ in paragraph (b).
Draft recommendation 81	10.6	a) Replace clauses 10.6(a), (d), (e) and (f) of the Code with rule 80(1)(g) of the NERR but: <ul style="list-style-type: none"> – incorporate the clauses into the new, general information provision. – amend rule 80(1)(g) by replacing the term ‘customer connection services’ with a description of those services. b) Adopt rules 80(1)(c), (e) and (f) of the NERR and incorporate the clauses into the new, general information provision. c) Retain clauses 10.6(g), (h) and (i) of the Code, but incorporate the clauses into the new, general information provision. d) Retain clauses 10.6(b) and (c) of the Code.
Draft recommendation 82	10.7(3)	Delete clause 10.7(3) of the Code.
Draft recommendation 83	10.7(4)	Delete clause 10.7(4) of the Code.

Draft recommendation 84	10.8	Retain clause 10.8 of the Code but incorporate into the new, general information provision.
Draft recommendation 85	10.10	Retain clause 10.10 of the Code but incorporate into the new, general information provision.
Draft recommendation 86	10.11(2)	a) Delete clause 10.11(2)(b) of the Code. b) Delete the words 'and the words "Interpreter Services"' from clause 10.11(2)(c) of the Code.

Part 12 of the Code: Complaints and dispute resolution

Draft recommendation 87	12.1(2) 12.1(3)	a) Insert the words 'including the obligations set out in [clause ...]' in clause 12.1(2)(b)(ii)(B) of the Code. b) Delete clause 12.1(3) of the Code and include a new clause that requires retailers and distributors, when they respond to a complaint, to inform the customer of the information set out in: <ul style="list-style-type: none"> – Section 82(4) of the NERL, other than the words 'as soon as reasonably possible but, in any event, within any time limits applicable under the retailer's or distributor's standard complaints and dispute resolution procedures'. – Section 82(5) of the NERL, other than the words 'may make a complaint or' and 'if the customer is not satisfied with the outcome' and provide instead that the information does not have to be provided if the customer has advised the retailer or distributor that the complaint has been resolved in a manner acceptable to the customer.
Draft recommendation 88	12.1(2)(c)	Delete clause 12.1(2)(c) of the Code.
Draft recommendation 89	12.1(4)	Move clause 12.1(4) of the Code to a new clause and delete the words 'for the purposes of subclause (2)(b)(iii)'.
Draft recommendation 90		Add the following subclauses to the new, general information provisions: <ul style="list-style-type: none"> – a summary of the customer's rights, entitlements and obligations under the retailer's or distributor's standard complaints and dispute resolution procedure. – the contact details for the electricity ombudsman.
Draft recommendation 91	12.2	Delete clause 12.2 of the Code.

Draft recommendation 92	12.3	Delete clause 12.3 of the Code.
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Part 13 – Reporting

Draft recommendation 93	13.1 13.2 13.3	Delete Part 13 of the Code.
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Family and domestic violence

Draft recommendation 94	Insert a definition of ‘family violence’ in the Code, being the meaning given in section 5A of the <i>Restraining Orders Act 1997</i> .
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Draft recommendation 95	Insert a definition of ‘affected customer’ in the Code, meaning any residential customer, including a former residential customer, who may be affected by family violence.
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Draft recommendation 96	A retailer must not request written evidence of family violence from an affected customer unless the evidence is reasonably necessary to enable the retailer to assess appropriate measures that it may take in relation to debt collection or disconnection.
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Draft recommendation 97	<ul style="list-style-type: none"> a) A retailer must have a family violence policy. b) A retailer must develop its family violence policy in consultation with relevant consumer representatives.
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Draft recommendation 98	A family violence policy must require a retailer to provide for training of staff about family violence. The training must be developed in consultation with, or delivered by, relevant consumer representatives.
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Draft recommendation 99	<ul style="list-style-type: none"> a) A family violence policy must require a retailer to protect an affected customer’s information, including from a person that is or has been a joint account holder with the affected customer. b) A family violence policy must require the retailer to take reasonable steps to establish a safe method of communication with an affected customer and, if that method is not practicable, offer alternative methods of communication.
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	<ul style="list-style-type: none">c) A family violence policy must require the retailer to comply with an established safe method of communication, including when other parts of the Code direct how information must be given.d) A family violence policy must require the retailer to keep a record of the established safe method of communication that has been agreed with the affected customer.
Draft recommendation 100	A family violence policy must require a retailer to have a process that avoids an affected customer needing to repeatedly disclose or refer to their experience of family violence.
Draft recommendation 101	<ul style="list-style-type: none">a) A family violence policy must require the retailer to consider the potential impact of debt collection on the affected customer and whether another person is responsible for the electricity usage that resulted in the debt.b) A family violence policy must require the retailer to consider reducing and/or waiving fees, charges and debt.
Draft recommendation 102	Include a requirement for a retailer to publish its family violence policy under the new, general information provision in the Code
Draft recommendation 103	<ul style="list-style-type: none">a) A retailer must review its family violence policy if directed to do so by the ERA.b) The review must be conducted in consultation with relevant consumer representatives.c) The retailer must submit the results of its review to the ERA.
Draft recommendation 104	A family violence policy must require the retailer to take into account the circumstances of an affected customer before disconnecting the customer's supply address for failure to pay a bill.
Question 11	<ul style="list-style-type: none">a) Should the Code prohibit disconnection of an affected customer's supply address?b) If so, what period should disconnection action be prohibited for?

Appendix 2 Minor amendments

Table 2: Minor amendments

Item	Clause	Proposed amendment	Reason
A	1.5	Amend the definition of 'appropriately qualified medical practitioner', in clause 1.5 of the Code, to be consistent with the requirements of the Life Support Equipment Energy Subsidy scheme.	To ensure consistency with the requirements of the Life Support Equipment Electricity Subsidy Scheme. ²⁵⁸
B	1.5	<ul style="list-style-type: none"> Replace 'metering agent' with 'metering data agent' Replace the definition with a reference to the definition in the Metering Code. 	To improve consistency with the Metering Code.
C	2.2(2)(g)(i) 2.3(2)(h)(i) 9.3(2)(l) 10.11(1)	Replace 'multi-lingual services' with 'interpreter services'.	To improve consistency. Various other clauses use the term 'interpreter services'.
D	2.3(4)	Replace 'Before arranging' with 'Before entering into'.	To improve consistency with clause 2.3(2) of the Code, which uses the words 'Before entering into'.
E	2.5(2)(b)	<p>Amend as follows:</p> <p>A retailer or electricity marketing agent who meets with a customer face to face for the purposes of marketing must—</p> <ul style="list-style-type: none"> (a) wear a clearly visible and legible identity card that shows— <ul style="list-style-type: none"> (i)-(iv) [...] (b) provide the customer, in writing— <ul style="list-style-type: none"> (i)-(vi) [...] <p>as soon as practicable following a request by the customer for the information.</p> <p><u>as soon as practicable following a request by the</u></p>	<p>To correct a formatting error.</p> <p>The proposed amendment is consistent with the equivalent clause in the <i>Gas Marketing Code of Conduct 2017</i>.</p>

²⁵⁸ The [Life Support Equipment Energy Subsidy Scheme](#) is administered by the Office of State Revenue and offers subsidies to eligible people for the electricity costs of operating life support equipment at home.

		customer for the information.	
F	2.10	<ul style="list-style-type: none"> Delete clause 2.10(a) of the Code. Amend clause 2.10(b) of the Code to provide that electricity marketing agents must keep records for at least 2 years after the last time the person (to whom the information relates) received any contact from or on behalf of the electricity marketing agent. 	To simplify the drafting of clause 2.10.
G	4.5(1)(b)	<p>Delete:</p> <p>the calculation of the tariff in accordance with the procedures set out in clause 4.6(1)(c)</p> <p>and provide that, if the customer has a Type 7 connection point, the bill should include the basis on which the amount due was calculated.</p>	<ul style="list-style-type: none"> To remove duplication: Clause 4.6(1)(c) already provides that tariffs for type 7 meters must be calculated in accordance with the procedures set out in that clause. To improve clarity: The proposed amendment clarifies what information must be included on bills for type 7 meters.
H	4.5(1)(c)	Delete '(whether or not the customer has entered into an export purchase agreement with a retailer)'.	Unnecessary. The clause applies 'if the customer has an accumulation meter installed'.
I	4.5(1)(e)(i)	Amend to provide that the bill should include the customer's consumption or estimated consumption, and the customer's export or estimated export.	<p>Subclause (d)(i) allows for estimations if the customer has not entered into an export purchase agreement.</p> <p>If consumption can be estimated without an export agreement, it should also be allowed to be estimated if the customer has entered into an export agreement.</p>
J	4.5(1)(e)(ii)	Amend to provide that the bill should include the customer's consumption or estimated consumption, and the customer's export or estimated export, for the total of each time band in the time of use tariff.	To improve consistency with subclause (d)(i) and proposed changes to subclauses (e)(i).
K	4.5(1)(o)	Delete '(clearly placed on the part of the bill that is retained by the customer)'.	To reduce unnecessary regulation.
L	4.8(4)	Replace 'metering agent' with 'metering data agent'.	See item A.

M	4.16(1)(a)(ii)	Delete 'in accordance with applicable law'.	Unnecessary. Also, it is unclear whether the words relate to the customer's request or the meter test.
N	6.3(1)(a)	Replace: if, due to financial hardship, the residential customer would be unable to meet its obligations under an agreed alternative payment arrangement with a requirement to advise the customer that additional assistance is available if the customer's circumstances change and the retailer assesses that the customer is experiencing financial hardship.	<p>This clause requires retailers to advise customers experiencing payment difficulties that additional assistance may be available if, due to hardship, the customer would be unable to comply with a payment plan or extension.</p> <p>As currently drafted, the clause implies that additional assistance may only be available if the customer is 'unable to meet its obligations under' a payment plan or extension (due to hardship). However, the additional assistance available under clauses 6.6 to 6.9 must be offered from the time a customer is assessed as experiencing financial hardship (regardless of whether the customer is able to meet their obligations under the payment plan or extension).</p> <p>The intent of clause 6.3(1) could be clarified by requiring retailers to advise customers that additional assistance is available if the customer's circumstances change and the retailer assesses that the customer is experiencing financial hardship.</p>
O	6.3(1)(b)(ii)	Delete reference to clause 6.9.	<p>Under this clause, retailers must offer customers who are experiencing financial hardship assistance in accordance with clauses 6.6 to 6.9.</p> <p>Clause 6.9 provides that retailers must determine any payment in advance amount for customers experiencing payments difficulties or financial hardship in consultation with relevant consumer organisations. As clause 6.9 does not require retailers to provide specific assistance to customers it should not be listed in clause 6.3(1)(b)(ii).</p>
P	6.4(1)(b)	Move: 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 or reconnection	<p>Clause 6.4(1)(b) contains much detail about instalment plans. More information about instalment plans is included in the definition of instalment plan.</p> <p>To improve clarity, clause 6.4(1)(b) could be streamlined by replacing the current text with the term 'instalment plan' and</p>

		<p>charges) and is permitted to continue consumption.</p> <p>In this clause, "fee" means any fee or charge in connection with the establishment or operation of the instalment plan or other arrangement which would not otherwise be payable if the residential customer had not entered into the instalment plan or other arrangement.</p> <p>to the definition of instalment plan.</p> <p>Replace the text in clause 6.4(1)(b) with 'instalment plan'.</p>	moving the requirements into the definition of instalment plan.
Q	6.4(2)(b)	Delete paragraph (b): comply with subclause (3).	Unnecessary. Subclause (3) already requires the retailer to comply.
R	6.6	<p>Amend the heading of clause 6.6 as follows:</p> <p>Reduction of fees, charges and or debt</p>	To improve consistency with the wording of clause 6.6.
S	6.8(c)	Amend to clarify that retailers have to advise customers of concessions that 'may be' available.	<p>Currently, retailers have to advise customers experiencing financial hardship of 'concessions available to the customer'.</p> <p>As not all concessions are administered by retailers, retailers may not always know what concessions are available to a customer.</p> <p>The proposed amendment clarifies that retailers have to inform customers of concessions that may be available.</p>
T	6.8(f)	Delete 'and grants schemes'.	<p>To remove duplication.</p> <p>Clause 6.8(c) already requires retailers to advise customers experiencing financial hardship of the concessions available to the customer and how to access them.</p> <p>The term concession is defined as 'means a concession, rebate, subsidy or <u>grant</u> related to the supply of electricity available to residential customers only'.</p>
U	6.8(f)	Clarify that the clause applies to financial assistance, other than concessions, that may be offered by the retailer.	<p>To improve clarity.</p> <p>Clause 6.8(f) was inserted following the 2008 Code review. At the time, WACOSS made the following submission:</p> <p><i>In addition to rebates and concessions being available to the customer to help</i></p>

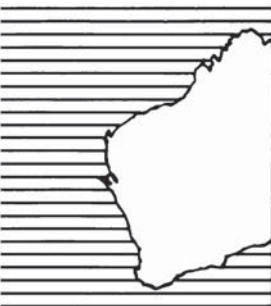
			<p><i>cover the cost of their electricity, there are a number of grant schemes available such as the Hardship Utilities Scheme (HUGS), Power Assist and Power on Payment. These schemes should be encouraged by the utilities as they help ensure that the customer's debt is paid off.</i></p> <p>As grant schemes like HUGS are already covered by clause 6.8(c), clause 6.8(f) mainly applies to financial assistance (other than concessions) that may be offered by retailers, such as incentive payments or payment matching. These are schemes where, for every regular instalment the customer makes towards paying the bill, the retailer will also contribute toward the bill.</p>
V	6.10(1)	Amend so retailers must not only develop, but also maintain and implement, their hardship policy and hardship procedures.	<p>To improve consistency with the <i>National Energy Retail Law</i>, section 43(2).</p> <p>For hardship policies and procedures to be effective, retailers should not only be required to develop them but also to maintain and implement them.</p>
W	6.10(2)(a), 3(a), (6) and (8)	All four subclauses require retailers to consult with relevant consumer representatives when developing, reviewing and amending their hardship policies. Delete this requirement from the four individual clauses and amalgamate these requirements in a single, new subclause.	To improve clarity.
X	6.10(2)(f)(ii)	Include the words 'a statement' at the start of the subclause.	To improve clarity.
Y	6.10(2)(h)(i)	Amend to provide that retailers must include in their hardship policy the telephone number for interpreter services together with the National Interpreter Symbol.	<ul style="list-style-type: none"> To correct an error: Retailers currently only have to include the National Interpreter Symbol together with the words 'Interpreter Services' in the hardship policy. Without the relevant telephone number to access this service, this information is of little use to customers. The ERA amended the equivalent of clause 6.10(2)(h)(i) in the <i>Compendium of Gas Customer Licence Obligations</i> in November 2019: The hardship policy must— [...] (h) include—

			<p>(i) the National Interpreter Symbol with the words "Interpreter Services";</p> <p>The amendment was made to provide retailers and distributors with more flexibility for the wording they use when informing customers about the availability of interpreter services.</p>
Z	6.10(2)(h)(ii)	Delete clause 6.10(2)(h)(ii) of the Code.	<p>To remove duplication.</p> <p>Under the proposed amendments to clause 6.10(2)(h)(i), retailers would have to include the telephone number for interpreter services together with the National Interpreter Symbol in their hardship policy. Clause 6.10(2)(h)(ii) further requires retailers to include 'information on the availability of independent multi-lingual services' in their hardship policy.</p>
AA	6.10(2)(i) 6.10(4)	Delete clauses 6.10(2)(i) and 6.10(4) and include reference to financial hardship policies in the new, general information provision for retailers.	<p>For simplicity. The amendment would ensure all information that must be published on a retailer's website is listed in a single clause.</p> <p>The amendment would also clarify that, if a customer requests information about the hardship policy, the retailer may refer a customer to its website but must, if the customer requests a copy of the policy, provide a copy free of charge to the customer.</p>
BB	6.10(3)(d)(i) and (ii)	Replace 'assist' with 'assists'.	To correct a grammatical error.
CC	6.10(7)	Amend to provide that a retailer must ensure that its hardship policy and hardship procedures comply with the ERA's <i>Financial Hardship Policy Guidelines</i> .	To improve clarity.
DD	6.11	Replace 'payment difficulties' with a description of the circumstances under which a retailer must consider a request from a business customer for an alternative payment arrangement.	<p>This clause uses the term 'payment difficulties'. However, the term payment difficulties applies to residential customers only:</p> <p>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.</p>

			As the term payment difficulties does not apply to business customers, the term should be removed from clause 6.11. It could be replaced with a description of the circumstances under which a retailer must consider a request from a business customer for an alternative payment arrangement. Those circumstances could be the same as those used in the definition of payment difficulties but without the reference to residential customer.
EE	7.2(1)(f)	<p>Amend as follows:</p> <p>(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—</p> <p>(f) if the supply address bill does not relate to the bill <u>supply address</u>, unless the amount outstanding bill relates to a supply address previously occupied by the customer; or</p>	To improve clarity.
FF	7.7	Move clause 7.7 of the Code into a new Part that deals with life support only.	The life support clause (7.7) is currently included in Part 7 which deals with disconnection. As the scope of clause 7.7 is much wider than disconnection, it would be clearer to insert a new Part in the Code that deals exclusively with life support. In this new Part, clause 7.7 could be separated into multiple clauses, each dealing with a different aspect of life support.
GG	7.7(6)(a)(ii)	Delete 'from an appropriately qualified medical practitioner'	It is already clear from clause 7.7(6)(a) and the definition of 're-certification' that any confirmation or re-certification must be provided by an appropriately qualified medical practitioner.
HH	7.7(7)(b)(ii)	<p>Delete subclauses (A) to (E):</p> <p>A customer will have failed to provide the information requested by a retailer for the purposes of subclause (6)(a)(i) or the re-certification referred to in subclause (6)(a)(ii) if the contact by the retailer consisted of at least the following, each a minimum of 10 business days</p>	<p>The term contact is defined in clause 1.5 as:</p> <p>means contact that is face to face, by telephone or by post, facsimile or electronic means.</p> <p>As the term 'contact' is already defined to include the forms of contact listed in subclauses (A) to (E), there is no need to list these forms of contact again.</p>

		<p>from the date of the last contact—</p> <p>(i) [...]; and</p> <p>(ii) a minimum of 2 other attempts to contact the customer by any of the following means—</p> <p>(A) electronic means;</p> <p>(B) telephone;</p> <p>(C) in person; or</p> <p>(D) Not Used</p> <p>(E) by post sent to the customer's supply address and any other address nominated by the customer.</p>	
II	10.1	Replace references to 'tariffs, fees and charges' with 'tariffs, fees or charges'.	The words 'tariffs, fees and charges' imply a retailer only has to notify a customer if all three change. For clarity, it is proposed to amend the clause to read 'tariffs, fees or charges'.
JJ	12.1(1)	Replace 'an internal process for handling complaints and resolving disputes' with 'a standard complaints and dispute resolution procedure'.	To improve consistency with the NECF.
KK	12.1(2)	Replace 'complaints handling process' with 'procedures'.	Consequential amendment of item JJ.
LL	14.2(1)(a)	<p>Amend as follows:</p> <p>Subject to clause 14.6, if a retailer—</p> <p>(a) fails to comply with any of the procedures prescribed under Part 6 (if applicable and other than clauses 6.8, 6.9 or 6.10) or Part 7 (other than clauses 7.4, 7.5, 7.6, 7.7(1)(a), 7.7(1)(b), or 7.7(2)(e)) of the Code prior to arranging for disconnection or disconnecting a customer for failure to pay a bill; or</p>	To correct an error.

Appendix 3 Code of Conduct for the Supply of Electricity to Small Use Customers 2018



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ELECTRICITY INDUSTRY ACT 2004

**CODE OF CONDUCT FOR THE
SUPPLY OF ELECTRICITY TO
SMALL USE CUSTOMERS 2018**

ELECTRICITY INDUSTRY ACT 2004**CODE OF CONDUCT FOR THE SUPPLY OF ELECTRICITY TO
SMALL USE CUSTOMERS 2018**

The Economic Regulation Authority—

- (a) repeals the “Code of Conduct for the Supply of Electricity to Small Use Customers 2016” gazetted 17 June 2016 (No. 104), which repeal is to take effect on 1 July 2018;
- (b) approves the “Code of Conduct for the Supply of Electricity to Small Use Customers 2018”, gazetted 11 June 2018 (No. 85); and
- (c) prescribes 1 July 2018 as the date on which the “Code of Conduct for the Supply of Electricity to Small Use Customers 2018”, gazetted 11 June 2018 (No. 85) comes into operation,

pursuant to section 79 of the *Electricity Industry Act 2004*.

Ms NICOLA CUSWORTH, Chair,
Economic Regulation Authority.

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ELECTRICITY INDUSTRY ACT 2004

CODE OF CONDUCT FOR THE SUPPLY OF ELECTRICITY
TO SMALL USE CUSTOMERS 2018

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 2018*.

1.2 Authority

The **Code** is made by the **Authority** under section 79 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 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**.

“**Act**” means the *Electricity Industry Act 2004*.

“**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 clauses 4.3(2)(a)-(c),

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 a 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 2014.

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

(a) within the Perth Metropolitan Area, a specialist medical practitioner, a hospice doctor, or a practitioner working in a specialist department of a hospital; 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 a hospice doctor.

“**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 cycle**” means the regular recurrent period in which a **customer** receives a bill from a **retailer**.

“**business customer**” means a **customer** who is not a **residential customer**.

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

“**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 1 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 2018* as amended by the **Authority** under section 79 of the **Act**.

“**collective customer**” means a **customer**—

- (a) who receives a single bill from the **retailer** for electricity supplied at two or more **supply addresses**; or
- (b) who is supplied electricity from the same **retailer** at multiple sites at a single **supply address**.

“**complaint**” means an expression of dissatisfaction made to or about an organisation, related to its products, services, staff or the handling of a complaint, where a response or resolution is explicitly or implicitly expected or legally required.

“**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 supply address** 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**” means the period specified in the **contract** as the cooling-off period.

“**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.

“**de-energise**” means the removal of the supply voltage from the **meter** at the **supply address** while leaving the **supply address attached**.

“**direct debit facility**” means a facility offered by a **retailer** to automatically deduct a payment from a **customer’s** nominated account and entered into with a **customer** in accordance with clause 5.3.

“**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**.

“**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 Industry Code**” means the *Electricity Industry (Network Quality and Reliability of Supply) Code 2005*.

“**electricity marketing agent**” means—

- (a) a person who acts on behalf of a **retailer**—
 - (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 engages in any other activity relating to the **marketing** of electricity that is prescribed for the purposes of this definition; or
- (c) a representative, agent or employee of a person referred to in subclause (a) or (b), but does not include a person who is a **customer** representative or the **Housing Authority**.

“**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 Generation and Retail Corporation**” means the body corporate established as such by the *Electricity Corporations Act 2005*.

“**electronic means**” means the internet, email, facsimile, SMS 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 data**” has the same meaning as in the *Metering Code*.

“**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**.

“**Housing Authority**” means the body corporate in existence pursuant to section 6 of the *Housing Act 1980*.

“**instalment plan**” means an arrangement between a **retailer** and a **customer** to assist the **customer** to remain **connected**, reduce its arrears and minimise the risk of the **customer** getting into further debt where the **customer** pays in arrears or in advance and continued usage on its account according to an agreed payment schedule (generally involving payment of at least 3 instalments) taking into account the **customer’s** capacity to pay. It does not include **customers** using an instalment 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.

“**interval meter**” has the same meaning as in the *Metering Code*.

“**life support equipment**” means the equipment designated under the Life Support Equipment Electricity Subsidy Scheme.

“**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 identification number**” means a unique number assigned by a **retailer** to each **electricity marketing agent** acting on its behalf.

“**meter**” has the same meaning as in the *Metering Code*.

“**metering agent**” means a person responsible for reading the **meter** on behalf of the **distributor**.

“**Metering Code**” means the *Electricity Industry (Metering) Code 2012*.

“**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*.

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

“**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*.

“**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*.

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

“**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*.

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

“**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 *supply address*.

“**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**” means a person who may reasonably be expected to represent the interests of *residential customers* who are experiencing *payment difficulties* or *financial hardship*, and includes financial counsellors.

“**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 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.

“**resolved**” means the decision or determination made by the *retailer* or *distributor* (as relevant) with respect to the *complaint*, where the *retailer* or *distributor*, having regard to the nature and particular circumstances of the *complaint*, has used all reasonable steps to ensure the best possible approach to addressing the *complaint*.

“**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 *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.

“**TTY**” means a teletypewriter.

“**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.

1.6 Application

Subject to clause 1.10, the *Code* applies to—

- (a) *retailers*;
- (b) *distributors*; and
- (c) *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 and 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 throughout) do not apply, or are to be amended in their application, in a *non-standard contract*—

- (a) 4.1;
- (b) 4.2;
- (c) 5.1;
- (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 *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) and the *Privacy Act 1988* (Cth).

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.

*Division 2—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 **electricity 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 **electricity 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
 - (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 **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**; and
- (i) general information on the safe use of electricity.

(3) For the purposes of subclause (2), a **retailer** or **electricity marketing agent** is taken to have given the **customer** the required information if—

- (a) the **retailer** or **electricity marketing agent** has provided the information to that **customer** within the preceding 12 months; or
- (b) the **retailer** or **electricity 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 **electricity 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 **electricity marketing agent** must give the **customer** the following information—

- (a) 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**;
- (b) 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**,
- (c) the scope of the **Code**;
- (d) that a **retailer** and **electricity marketing agent** must comply with the **Code**;
- (e) how the **retailer** may assist if the **customer** is experiencing **payment difficulties** or **financial hardship**;
- (f) with respect to a **residential customer**, the **concessions** that may apply to the **residential customer**;

- (g) the **distributor's** 24 hour **telephone** number for faults and emergencies;
 - (h) 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;
 - (i) how to make an enquiry of, or **complaint** to, the **retailer**; and
 - (j) general information on the safe use of electricity.
- (3) For the purposes of subclauses (2)(b)-(j), a **retailer** or **electricity marketing agent** is taken to have given the **customer** the required information if—
- (a) the **retailer** or **electricity marketing agent** has provided the information to that **customer** within the preceding 12 months; or
 - (b) the **retailer** or **electricity marketing agent** has informed the **customer** how the **customer** may obtain the information, unless the **customer** requests to receive the information.
- (4) Before arranging a **non-standard contract**, the **Electricity Generation and Retail Corporation** or **Regional Power Corporation**, or an **electricity marketing agent** acting on behalf of it, must give a **customer** the following information—
- (a) that the **customer** is able to choose the **standard form contract** offered by the relevant **retailer**; and
 - (b) the difference between the **non-standard contract** and the **standard form contract**.
- (5) Subject to subclause (3), a **retailer** or **electricity marketing agent** must obtain the **customer's verifiable consent** that the information in clause 2.3(2) and clause 2.3(4) (if applicable) has been given.

Division 3—Marketing Conduct

2.4 Standards of Conduct

- (1) A **retailer** or **electricity 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 **retailer** or **electricity marketing agent** must ensure that a **customer** is able to **contact** the **retailer** or **electricity marketing agent** on the **retailer's** or **electricity marketing agent's** contact details, including **telephone** number, during the normal business hours of the **retailer** or **electricity marketing agent** for the purposes of enquiries, verifications and **complaints**.

2.5 Contact for the purposes of marketing

- (1) A **retailer** or **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** on whose behalf the **contact** is being made;
 - (b) provide the **customer** with the **telephone** number of the **electricity ombudsman**; and
 - (c) for **contact** by an **electricity marketing agent**, provide the **customer** with the **electricity marketing agent's marketing identification number**.
- (2) A **retailer** or **electricity marketing agent** who meets with a **customer** face to face for the purposes of **marketing** must—
- (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 an **electricity marketing agent**); and
 - (iv) the name of the **retailer** on whose behalf the **contact** is being made; and
 - (b) provide the **customer**, in writing—
 - (i) his or her first name;
 - (ii) his or her **marketing identification number** (for contact by an **electricity marketing agent**);
 - (iii) the name of the **retailer** on whose behalf the **contact** is being made;
 - (iv) the **complaints telephone** number of the **retailer** on whose behalf the **contact** is being made;
 - (v) the business address and Australian Business or Company Number of the **retailer** on whose behalf the **contact** is being made; and
 - (vi) the **telephone** number of the **electricity ombudsman**,

as soon as practicable following a request by the **customer** for the information.

2.6 No canvassing or advertising signs

A **retailer** or **electricity marketing agent** who visits a person's **premises** for the purposes of **marketing** must comply with any clearly visible signs at the 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 4—Miscellaneous***2.7 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**.

2.8 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.

2.9 Electricity marketing agent complaints

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**.

2.10 Records to be kept

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.

PART 3—CONNECTION**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**.

(3) In this clause—

“**customer**” includes a **customer's** nominated representative.

[Note: The **Obligation to Connect Regulations** provide regulations in relation to the obligation upon a **distributor** to **energise** and **connect a premises**.]

PART 4—BILLING*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;
 - (ii) given the **customer**—
 - (A) a **reminder notice** in respect of 3 consecutive bills; and
 - (B) notice as contemplated under clause 4.2;

- (iii) received a request from the **customer** to change their **supply address** or issue a final bill, in which case the **retailer** may issue a bill more than once a month for the purposes of facilitating the request; or
 - (iv) less than a month after the last bill was issued, received metering data from the **distributor** for the purposes of preparing the **customer's** next bill;
- (b) no less than once every 3 months, unless the **retailer**—
- (i) has obtained the **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 3 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 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 3 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 3 months that, if the **customer** pays 3 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) Notwithstanding clause 4.1, in respect of any 12 month period, on receipt of a request by a **customer**, a **retailer** may provide the **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 that—
- (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) the initial estimate is based on the **customer's** historical billing data or, if 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) in or before the seventh month—
 - (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
 - (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) 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 clause 4.19; and
- (e) the **retailer** has obtained the **customer's verifiable consent** to the **retailer** billing on that basis; and
- (f) if the bill smoothing arrangement between the **retailer** and the **customer** is for a defined period or has a specified end date, the **retailer** must no less than one month before the end date of the bill smoothing arrangement notify the **customer** in writing—
 - (i) that the bill smoothing arrangement is due to end; and
 - (ii) the options available to the **customer** after the bill smoothing arrangement has ended.

4.4 How bills are issued

A **retailer** must issue a bill to a **customer** at the address nominated by the **customer**, which may be an email address.

Division 2—Contents of a Bill

4.5 Particulars on each bill

(1) Unless a **customer** agrees otherwise, a **retailer** must include at least the following information on the **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 calculation of the tariff in accordance with the procedures set out 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**)—
 - (i) the current **meter** reading or estimate; or
 - (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**—
 - (i) the **customer's 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, if different from the range of dates of the metering supply period or the range of dates of the metering supply period have not been included on the bill already;
- (h) the applicable 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) if applicable, the value and type of any **concessions** provided to the **residential customer** that are administered by the **retailer**;
- (l) if applicable, a statement on the bill that an additional fee may be imposed to cover the costs of late payment from the **customer**;
- (m) the average daily cost of **consumption**, including charges ancillary to the **consumption** of electricity, unless the **customer** is a **collective customer**;
- (n) the average daily **consumption** unless the **customer** is a **collective customer**;
- (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;
 - (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**;
 - (bb) with respect to **residential customers**, the **telephone** number for interpreter services together with the **National Interpreter Symbol** and the words "Interpreter Services";
 - (cc) the **telephone** number for **TTY** services; and
 - (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), a **retailer** is not obliged to include a graph or bar chart on the bill if the bill is—
- (a) not indicative of a **customer's** actual **consumption**;
 - (b) not based upon a **meter** reading; or
 - (c) for a **collective customer**.
- (3) If a **retailer** identifies a **historical debt** and wishes to bill a **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

Subject to clauses 4.3 and 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**;
- (b) the **customer's** reading of the **meter** at the **customer's supply address**, provided the **distributor** has expressly or impliedly consented to the **customer** reading the **meter** for the purpose of determining the amount due; or
- (c) if the connection point is a **Type 7** connection point, the procedure as set out in the **metrology procedure** or **Metering Code**, or otherwise as set out in any applicable law.

4.7 Frequency of meter readings

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.

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 clearly specify 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 **energy data**; 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) For the purpose of this clause, where the **distributor's** or **metering agent's** reading of the **meter** at the **customer's supply address** is partly based on estimated data, then subject to any applicable law—

- (a) where more than ten per cent of the **interval meter** readings are estimated **interval meter** readings; and
- (b) the actual **energy data** cannot otherwise be derived,

for that billing period, the bill is deemed to be an estimated bill.

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 a **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,

a **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.

Division 6—Final bill

4.14 Request for final bill

(1) If a **customer** requests a **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 a **customer's** account is in credit at the time of account closure, subject to subclause (3), a **retailer** must, at the time of the final bill, ask the **customer** for instructions whether the **customer** requires the **retailer** to transfer the amount of credit to—

- (a) another account the **customer** has, or will have, with the **retailer**; or
- (b) a bank account nominated by the **customer**, and

the **retailer** must credit the account, or pay the amount of credit in accordance with the **customer's** instructions, within 12 **business days** of receiving the instructions or other such time as agreed with the **customer**.

(3) If a **customer's** account is in credit at the time of account closure, and the **customer** owes a debt to a **retailer**, the **retailer** may, with written notice to the **customer**, use that credit to set off the debt owed to the **retailer**. If, after the set off, there remains an amount of credit, the **retailer** must ask the **customer** for instructions to transfer the remaining amount of credit in accordance with subclause (2).

Division 7—Review of bill

4.15 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**.

4.16 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 4.17 and 4.18.
- (2) A **retailer** must inform a **customer** of the outcome of the review as soon as practicable.
- (3) If a **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.

Division 8—Undercharging, overcharging and adjustment

4.17 Undercharging

- (1) 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 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 a **customer** is incorrect, if a **retailer** has changed the **customer** to an **alternative tariff** in the circumstances set out in clause 4.13 and, as a result of the **customer** being ineligible to receive the tariff charged prior to the change, the **retailer** has **undercharged** the **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) notify the **customer** of the amount to be recovered no later than the next bill, together with an explanation of that amount;
 - (d) subject to subclause (3), 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.
- (3) If, after notifying a **customer** of the amount to be recovered in accordance with subclause (2)(c), the **customer** has failed to pay the amount to be recovered by the due date and has not entered into an **instalment plan** under subclause (2)(e), a **retailer** may charge the **customer** interest on that amount from the due date or require the **customer** to pay a late payment fee.
- (4) For the purpose of subclause (2), an **undercharge** that has occurred as a result of a **customer** denying access to the **meter** is not an **undercharge** as a result of an error, defect or default for which a **retailer** or **distributor** is responsible.

4.18 Overcharging

- (1) 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 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 subclauses (6) and (7), 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 5 **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) If the amount referred to in subclause (2) is less than \$100, a **retailer** may notify a **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 under 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** next bill.

(7) If a **customer** has been **overcharged** by a **retailer**, and the **customer** owes a debt to the **retailer**, then provided that the **customer** is not a **residential customer** experiencing **payment difficulties** or **financial hardship**, the **retailer** may, with written notice to the **customer**, use the amount of the **overcharge** to set off the debt owed to the **retailer**. If, after the set off, there remains an amount of credit, the **retailer** must deal with that amount of credit in accordance with subclause (2) or, if the amount is less than \$100, subclause (6).

- (a) Not Used
- (b) Not Used

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 a **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) notify the **customer** of the amount of the **adjustment** no later than 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 under 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 subclauses (5) and (7), 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 if 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 5 **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) If the amount referred to in subclause (2) is less than \$100, the **retailer** may 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 under 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** next bill.

(6) No interest shall accrue to an **adjustment** amount under subclause (1) or (2).

(7) If the amount of the **adjustment** is an amount owing to the **customer**, and the **customer** owes a debt to the **retailer**, then provided that the **customer** is not a **residential customer** experiencing **payment difficulties** or **financial hardship**, the **retailer** may, with written notice to the **customer**, use the amount of the **adjustment** to set off the debt owed to the **retailer**. If, after the set off, there remains an amount of credit, the **retailer** must deal with that amount of credit in accordance with subclause (2) or, if the amount is less than \$100, subclause (5).

- (a) Not Used
- (b) Not Used

PART 5—PAYMENT

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 unless otherwise agreed with a **customer**.

(2) Unless a **retailer** specifies a later date, the date of dispatch is the date of the bill.

5.2 Minimum payment methods*

Unless otherwise agreed with a **customer**, a **retailer** must offer the **customer** at least the following payment methods—

- (a) in person at 1 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 BPay or credit card; and
- (e) by **telephone** by means of credit card or debit card.

5.3 Direct debit

If a **retailer** offers the option of payment by a **direct debit facility** to a **customer**, the **retailer** must, prior to the **direct debit facility** commencing, obtain the **customer's verifiable consent**, and agree with the **customer** the date of commencement of the **direct debit facility** and the frequency of the direct debits.

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 a **retailer** will accept advance payments unless otherwise agreed with a **customer**.

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 2 or more **reminder notices** within the previous 12 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) subject to subclause (2), 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—
 - (i) the **complaint** has not been **resolved** by the **retailer**;
 - (ii) the **complaint** is **resolved** by the **retailer** in favour of the **residential customer**. If the complaint is not **resolved** in favour of the **residential customer**, any late payment fee shall only be calculated from the date of the **retailer's** decision; or
 - (iii) the **complaint** has not been determined or has been upheld by the electricity **ombudsman** (if a **complaint** has been made to the **electricity ombudsman**). If the **complaint** is determined by the **electricity ombudsman** 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 late payment fee in the circumstances set out in subclause (1)(c) because the **retailer** was not aware of the **complaint**, the **retailer** will not contravene subclause (1)(c) but must refund the late payment fee on the **customer's** next bill.
- (3) 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.
- (4) A **retailer** must not charge a **residential customer** more than 2 late payment fees in relation to the same bill or more than 12 late payment fees in a year.
- (5) If a **residential customer** has been assessed as being in **financial hardship** under clause 6.1(1), a **retailer** must retrospectively waive any late payment fee charged under 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) a **customer** giving a **retailer** notice; and
 - (c) the **customer** vacating the **supply address** at the time specified in the notice,

the **retailer** must not require the **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 5 days' notice; or
- (e) 5 days after the **customer** gave notice, in any other case,

unless the **retailer** and the **customer** have agreed to an alternative date.

(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**, the **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

(1) 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.

(2) A **retailer** must not recover or attempt to recover a debt relating to a **supply address** from a person other than a **customer** with whom the **retailer** has or had entered into a **contract** for the supply of electricity to that **customer's supply address**.

(3) If a **customer** with a debt owing to a **retailer** requests the **retailer** to transfer the debt to another **customer**, the **retailer** may transfer the debt to the other **customer** provided that the **retailer** obtains the other **customer's verifiable consent** to the transfer.

PART 6—PAYMENT DIFFICULTIES AND FINANCIAL HARDSHIP

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)—

- (a) within 5 **business days**, assess whether the **residential customer** is experiencing **payment difficulties** or **financial hardship**; and
- (b) if the **retailer** cannot make the assessment within 5 **business days**, refer the **residential customer** to a **relevant consumer representative** to make the assessment.

(2) If a **residential customer** provides a **retailer** with an assessment from a **relevant consumer representative** the **retailer** may adopt that assessment as its own assessment for the purposes of subclause (1)(a).

(3) When undertaking the assessment required by subclause (1)(a), unless a **retailer** adopts an assessment from a **relevant consumer representative**, the **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 a **relevant consumer representative** (if any).

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

6.2 Temporary suspension of actions

(1) If a **retailer** refers a **residential customer** to a **relevant consumer representative** under clause 6.1(1)(b) then the **retailer** must grant the **residential customer** a **temporary suspension of actions**.

(2) If a **residential customer** informs a **retailer** that the **residential customer** is experiencing **payment problems** under clause 6.1, and the **residential customer**—

- (a) requests a **temporary suspension of actions**; and
- (b) demonstrates to the **retailer** that the **residential customer** has made an appointment with a **relevant consumer representative** to assess the **residential customer's** capacity to pay, the **retailer** must not unreasonably deny the **residential customer's** request.

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

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

6.3 Assistance to be offered

(1) If the assessment carried out under clause 6.1 indicates to a **retailer** that a **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**.

In this clause “fee” means any fee or charge in connection with the establishment or operation of the **instalment plan** or other arrangement which would not otherwise be payable if the **residential customer** had not entered into the **instalment plan** or other arrangement.

(2) When offering or amending an **instalment plan**, a **retailer** must—

- (a) ensure that the **instalment plan** is fair and reasonable taking into account information about a **residential customer's** capacity to pay and **consumption** history; and
- (b) comply with subclause (3).

(3) If a **residential customer** accepts an **instalment plan** offered by a **retailer**, the **retailer** must—

- (a) within 5 **business days** of the **residential customer** accepting the **instalment plan** provide the **residential customer** with information in writing or by **electronic means** that specifies—
 - (i) the terms of the **instalment plan** (including the number and amount of payments, the duration of payments and how the payments are calculated);
 - (ii) the consequences of not adhering to the **instalment plan**; and
 - (iii) the importance of contacting the **retailer** for further assistance if the **residential customer** cannot meet or continue to meet the **instalment plan** terms, and
- (b) notify the **residential customer** in writing or by **electronic means** of any amendments to the **instalment plan** at least 5 **business days** before they come into effect (unless otherwise agreed with the **residential customer**) and provide the **residential customer** with information in writing or by **electronic means** that clearly explains and assists the **residential customer** to understand those changes.

(4) If a **residential customer** has, in the previous 12 months, had 2 **instalment plans** cancelled due to non-payment, a **retailer** does not have to offer that **residential customer** another **instalment plan** under subclause (1), unless the **retailer** is satisfied that the **residential customer** will comply with the **instalment plan**.

(5) For the purposes of subclause (4), 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**, 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 hardship procedures referred to in clause 6.10(3).

6.7 Revision of alternative payment arrangements

If a **customer experiencing financial hardship**, or a **relevant consumer representative**, reasonably demonstrates to a **retailer** that the **customer** is unable to meet the **customer’s** obligations under a 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; or
- (b) offering to revise the **instalment plan**, if the **customer** had previously elected an **instalment plan**.

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** and / or tariffs (as applicable);
- (e) independent financial counselling services and **relevant consumer representatives** available to assist the **customer**; and
- (f) 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 representatives**.

(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 and hardship procedures***6.10 Obligation to develop hardship policy and hardship procedures**

(1) A **retailer** must develop a hardship policy and hardship procedures 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 representatives**;
- (b) include a statement encouraging **customers** to contact their **retailer** if a **customer** is having trouble paying the **retailer’s** bill;
- (c) include a statement advising that the **retailer** will treat all **customers** sensitively and respectfully;
- (d) include a statement that the **retailer** may reduce and/or waive fees, charges and debt;
- (e) include an objective set of hardship indicators;
- (f) include—
 - (i) an overview of the assistance available to **customers** in **financial hardship** or **payment difficulties** in accordance with Part 6 of the **Code** (other than the **retailer’s** requirement to advise the **customer** of the ability to pay in advance and the matters referred to in clauses 6.8(a), (b) and (d));
 - (ii) that the **retailer** offers **residential customers** the right to pay their bill by Centrepay; and
 - (iii) a statement that the **retailer** is able to provide further detail on request.
- (g) include an overview of any **concessions** that may be available to the **retailer’s customers**;

- (h) include—
 - (i) the **National Interpreter Symbol** with the words “Interpreter Services”;
 - (ii) information on the availability of independent multi-lingual services; and
 - (iii) information on the availability of **TTY** services;
 - (i) be available on the **retailer’s** website;
 - (j) be available in large print copies; and
 - (k) include a statement specifying how the **retailer** will treat information disclosed by the **customer** to the **retailer** and information held by the **retailer** in relation to the **customer**.
- (3) The hardship procedures must—
- (a) be developed in consultation with **relevant consumer representatives**;
 - (b) provide for the training of staff—
 - (i) including **call centre** staff, all subcontractors employed to engage with **customers experiencing financial hardship** and field officers;
 - (ii) on issues related to **financial hardship** and its impacts, and how to deal sensitively and respectfully with **customers experiencing financial hardship**;
 - (c) Not Used
 - (d) include guidance—
 - (i) that assist the **retailer** in identifying **residential customers** who are experiencing **financial hardship**;
 - (ii) that assist the **retailer** in determining a **residential customer’s** usage needs and capacity to pay when determining the conditions of an **instalment plan**;
 - (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.
 - (e) require that the **retailer’s** credit management staff have a direct **telephone** number and that number be provided to **relevant consumer representatives**;
- (4) If requested, a **retailer** must give **residential customers** and **relevant consumer representatives** a copy of the hardship policy, including by post at no charge.
- (5) Not Used
- (6) If directed by the **Authority**, a **retailer** must review its hardship policy and hardship procedures in consultation with **relevant consumer representatives** and submit to the **Authority** the results of that review within **5 business days** after it is completed.
- (7) A **retailer** must comply with the **Authority’s** Financial Hardship Policy Guidelines.
- (8) If a **retailer** makes a material amendment to the **retailer’s** hardship policy, the **retailer** must consult with **relevant consumer representatives**, and submit to the **Authority** a copy of the **retailer’s** amended hardship policy within **5 business days** of the amendment.

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**.

PART 7—DISCONNECTION AND INTERRUPTION

Division 1—Conduct in relation to disconnection or interruption

Subdivision 1—Disconnection for failure to pay bill

7.1 General requirements

- (1) Prior to arranging for **disconnection** of a **customer’s supply address** for failure to pay a bill, a **retailer** must—
- (a) give the **customer** a **reminder notice**, not less than **15 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** to advise of the proposed **disconnection**; and
 - (c) give the **customer** a **disconnection warning**, not less than **20 business days** from the date of dispatch of the bill, advising the **customer**—
 - (i) that the **retailer** may **disconnect** the **customer** with at least **5 business days** notice to the **customer**; 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 amount outstanding relates to 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 **residential 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 **residential customer**,

the **retailer** must not arrange for **disconnection** of the **residential customer's** **supply address** for failure to pay a bill within 15 **business days** from the date of **disconnection** of the **residential 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 9 consecutive months;
- (b) the **retailer** has, prior to giving the **customer** a **disconnection warning** under subclause (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**.

(2) A **retailer** may arrange for a **distributor** to carry out 1 or more of the requirements referred in subclause (1) on behalf of the **retailer**.

Subdivision 3—Disconnection or interruption for emergencies

7.5 General requirements

If a **distributor disconnects** or **interrupts** 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 (excluding mobile **telephones**), 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.

*Division 2—Limitations on disconnection***7.6 General limitations on disconnection**

(1) Subject to subclause (3), a **retailer** must not arrange for **disconnection** of a **customer's supply address** if—

- (a) a **complaint** has been made to the **retailer** directly related to the reason for the proposed **disconnection**; or
- (b) the **retailer** is notified by the **distributor, electricity ombudsman** or an external dispute resolution body that there is a **complaint**, directly related to the reason for the proposed **disconnection**, that has been made to the **distributor, electricity ombudsman** or external dispute resolution body,

and the **complaint** is not **resolved** by the **retailer** or **distributor** or determined by the **electricity ombudsman** or external dispute resolution body.

(2) Subject to subclause (3), a **distributor** must not **disconnect** a **customer's supply address**—

- (a) if—
 - (i) a **complaint** has been made to the **distributor** directly related to the reason for the proposed **disconnection**; or
 - (ii) the **distributor** is notified by a **retailer, the electricity ombudsman** or an external dispute resolution body that there is a **complaint**, directly related to the reason for the proposed **disconnection**, that has been made to the **retailer, electricity ombudsman** or external dispute resolution body,
 and the **complaint** is not **resolved** by the **retailer** or **distributor** or determined by the **electricity ombudsman** or external dispute resolution body; or

(b) during any time—

- (i) after 3.00 pm Monday to Thursday;
- (ii) after 12.00 noon on a Friday; or
- (iii) on a Saturday, Sunday, **public holiday** or on the **business day** before a **public holiday**,

unless—

- (iv) the **customer** is a **business customer**; and
- (v) the **business customer's** normal trading hours—
 - (A) fall within the time frames set out in subclause (b)(i) (ii) or (iii); and
 - (B) do not fall within any other time period; and
- (vi) it is not practicable for the **distributor** to **disconnect** at any other time.

(3) A **retailer** or a **distributor** may arrange for **disconnection** or **interruption** of a **customer's supply address** if—

- (a) the **disconnection** was requested by the **customer**; or
- (b) the **disconnection** or **interruption** was carried out for **emergency** reasons.

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) register the **customer's** contact details;
- (c) notify the **customer's distributor** that the **customer's supply address** is a **life support equipment** address, and of the contact details of the **customer**—
 - (i) that same day, if the confirmation is received before 3pm on a **business day**; or
 - (ii) no later than 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**—
- (a) that the person residing at the **customer's supply address** who requires **life support equipment** is changing **supply address**;
 - (b) that the **customer** is changing **supply address** but the person who requires **life support equipment** is not changing **supply address**;
 - (c) of a change in contact details; or
 - (d) that the **customer's supply address** no longer requires registration as a **life support equipment** address,
- the **retailer** must—
- (e) register the change;
 - (f) notify the **customer's distributor** of the change—
 - (i) that same day, if the notification is received before 3pm on a **business day**; or
 - (ii) no later than the next **business day**, if the notification is received after 3pm or on a Saturday, Sunday or **public holiday**; and
 - (g) continue to comply with subclause (1)(d) with respect to that **customer's supply address**.
- (3) If 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 or update the details notified by the **retailer** under subclause (2)—
 - (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**; and
 - (b) if informed by a relevant government agency, notify the **retailer** in accordance with the timeframes specified in subclause (3)(a).
- (4) If **life support equipment** is registered at a **customer's supply address** under subclause (3)(a), a **distributor** must—
- (a) not **disconnect** 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**; and
 - (b) prior to any planned **interruption**, provide at least 3 **business days** written notice to the **customer's supply address** and any other address nominated by the **customer**, or notice by **electronic means** to the **customer**, and unless expressly requested in writing by the **customer** not to, use best endeavours to obtain verbal acknowledgement, written acknowledgement or acknowledgement by **electronic means** from the **customer** or someone residing at the **supply address** that the notice has been received.
- (4A) Notwithstanding clause 7.7(4)(b)—
- (a) an **interruption**, planned or otherwise, to restore supply to a **supply address** that is registered as a **life support equipment** address is not subject to the notice requirements in clause 7.7(4)(b); however
 - (b) a **distributor** must use best endeavours to **contact** the **customer**, or someone residing at the **supply address**, prior to an **interruption** to restore supply to a **supply address** that is registered as a **life support equipment** address.
- (5) If a **distributor** has already provided notice of a planned **interruption** under the **Electricity Industry Code** that will affect a **supply address**, prior to the **distributor** registering a **customer's supply address** as a **life support equipment** address under clause 7.7(3)(a), the **distributor** must use best endeavours to **contact** that **customer** or someone residing at the **supply address** prior to the planned **interruption**.
- (6) (a) No earlier than 3 months prior to the 12 month anniversary of the confirmation from the **appropriately qualified medical practitioner** referred to in subclause (1), and in any event no later than 3 months after the 12 month anniversary of the confirmation, a **retailer** must **contact** a **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 the initial certification or **re-certification** from an **appropriately qualified medical practitioner** within the last 3 years, request that the **customer** provide that **re-certification**.
- (b) A **retailer** must provide a minimum period of 3 months for a **customer** to provide the information requested by the **retailer** in subclause (6)(a).
- (7) (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 subclause (7)(b), a **customer** fails to provide the information requested by a **retailer** for the purposes of subclause (6)(a)(i) or the **re-certification** referred to in

- subclause (6)(a)(ii), within the time period referred to in subclause (6)(b), or greater period if allowed by the **retailer**,
- the **retailer's** and **distributor's** obligations under subclauses (1) to (6) terminate and the **retailer** or **distributor** (as applicable) must remove the **customer's** details from the **life support equipment** address register upon being made aware of any of the matters in subclauses (7)(a)(i), (ii) or (iii)—
- (iv) the next **business day**, if the **retailer** or **distributor** (as applicable) becomes aware of the relevant matter in subclause (7)(a)(i), (ii) or (iii) before 3pm on a **business day**; or
 - (v) within 2 **business days**, if the **retailer** or **distributor** (as applicable) becomes aware of the relevant matter in subclause (7)(a)(i), (ii) or (iii) after 3pm or on a Saturday, Sunday or **public holiday**.
- (b) A **customer** will have failed to provide the information requested by a **retailer** for the purposes of subclause (6)(a)(i) or the **re-certification** referred to in subclause (6)(a)(ii) if 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; or
 - (D) Not Used
 - (E) by post sent to the **customer's supply address** and any other address nominated by the **customer**.
- (c) If a **distributor's** obligations under subclauses (3), (4), (4A) and (5) terminate as a result of the operation of subclause (7)(a)(iii), a **retailer** must notify the **distributor** of this fact as soon as reasonably practicable, but in any event, within 3 **business days**.
- (d) For the avoidance of doubt, the **retailer's** and **distributor's** obligations under subclauses (1) to (6) do not terminate by operation of this subclause (7) if the **retailer** or **distributor** has been informed in accordance with subclause (1) that another person who resides at the **supply address** continues to require **life support equipment**.

PART 8—RECONNECTION

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 3pm on 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**.
- (3) If a **retailer** does not forward the request for **reconnection** to the relevant **distributor** within the timeframes in subclause (2), the **retailer** will not be in breach of this clause 8.1 if the **retailer** causes the **customer's supply address** to be **reconnected** by the **distributor** within the timeframes in clause 8.2(2) as if the **distributor** had received the request for **reconnection** from the **retailer** in accordance with subclause (2).

8.2 Reconnection by distributor

- (1) If a **distributor** has **disconnected** a **customer's supply address** on request by the **customer's retailer**, and a **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** a **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**;
 - (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**.
- (3) Subclause (2) does not apply in the event of an **emergency**.

PART 9—PRE-PAYMENT METERS

9.1 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*.

9.2 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) Not Used
- (4) Subject to any applicable law, a **retailer** is not obliged to offer a **pre-payment meter service** to a **customer**.

9.3 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) No later than 10 **business days** after the time a **residential customer** enters into a **pre-payment meter contract** at the **residential customer's supply address**, a **retailer** must give, or make available to 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) Not Used
 - (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 **residential 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**;
 - (q) general information on the safe use of electricity;
 - (r) details of the initial **recharge facilities** available to the **residential customer**; and
 - (s) 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** if the **residential pre-payment meter customer** replaces or switches the **pre-payment meter** to a standard **meter**.
- (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; and
 - (d) the **distributor's** 24 hour **telephone** number for faults and **emergencies**.
- (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) A **retailer** must, within 10 **business days** of the change, use reasonable endeavours to notify a **pre-payment meter customer** in writing or by **electronic means** if the **recharge facilities** available to the **residential customer** change from the initial **recharge facilities** referred to in subclause (2)(r).

(6) The information to be provided in this clause, with the exception of the information in subclause (3), may be provided in writing to a **pre-payment meter customer** at the **pre-payment meter customer's supply address**, another address nominated by the **pre-payment meter customer** or an email address nominated by the **pre-payment meter customer**.

9.4 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 **pre-payment meter 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 a **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) If a **pre-payment meter customer** requests reversion of a **pre-payment meter** under subclause (1) after the date calculated in accordance with subclause (2), a **retailer** may charge the **pre-payment meter customer** a reasonable charge for reversion to a standard **meter**. However, the **retailer's** obligations under subclause (1)—

- (a) if the **pre-payment meter customer** is a **residential pre-payment meter customer**, are not conditional on the **pre-payment meter customer** paying the **retailer's** reasonable charge for reversion to a standard **meter** (if any); and
- (b) if the **pre-payment meter customer** is not a **residential pre-payment meter customer**, may be made conditional on the **pre-payment meter customer** paying the **retailer's** reasonable charge for reversion to a standard **meter** (if any).

(4) If a **retailer** requests a **distributor** to revert a **pre-payment meter** under subclause (1), the **distributor** must revert the **pre-payment meter** at that **supply address**—

- (a) for **supply addresses** located within the **metropolitan area**, within 5 **business days** of receipt of the request; or
- (b) for **supply addresses** located within the **regional area**, within 10 **business days** of receipt of the request.

9.5 Life support equipment

(1) If a **pre-payment meter customer** provides a **retailer** with confirmation from an **appropriately qualified medical practitioner** that a person residing at the **pre-payment meter customer's**

supply address requires **life support equipment**, the **retailer** must not provide a **pre-payment meter service** at that **supply address** and 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**.

(2) If a **retailer** requests a **distributor** to revert a **pre-payment meter** under subclause (1), the **distributor** must revert the **pre-payment meter** at that **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**;
- (b) for **supply addresses** located within the **regional area**—
 - (i) within 9 **business days** of receipt of the request, if the request is received prior to 3pm on a **business day**; and
 - (ii) within 10 **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**.

9.6 Requirements for pre-payment meters

- (a) A **retailer** must ensure that a **pre-payment meter customer** has access to emergency credit of \$20 outside normal business hours. Once the emergency credit is used, and no additional credit has been applied, the **pre-payment meter service** will be **de-energised**.
- (b) A **retailer** must ensure that a **pre-payment meter service**—
 - (i) is capable of informing the **retailer** of—
 - (A) the number of instances where a **pre-payment meter customer** has been **disconnected**; and
 - (B) the duration of each of those **disconnections** referred to in subclause (b)(i)(A), at least every month, and
 - (ii) is capable of recommencing supply and supply is recommenced as soon as information is communicated to the **pre-payment meter** that a payment to the account has been made.

9.7 Recharge Facilities

Unless otherwise agreed with the **customer**, a **retailer** must ensure that—

- (a) at least 1 **recharge facility** is located as close as practicable to a **pre-payment meter**, and in any case no further than 40 kilometres away;
- (b) a **pre-payment meter customer** can access a **recharge facility** at least 3 hours per day, 5 days per week;
- (c) it uses best endeavours to ensure that the **pre-payment meter customer** can access a **recharge facility** for periods greater than required under subclause (b); and
- (d) the minimum amount to be credited by a **recharge facility** does not exceed \$20 per increment.

9.8 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**.

9.9 Meter check or test

(1) If a **pre-payment meter customer** requests that the whole or part of a **pre-payment meter** be checked or tested, a **retailer** must, at the request of the **pre-payment meter 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 a **distributor** to check or test a **pre-payment meter** under subclause (1), the **distributor** must check or test the **pre-payment meter**.

(3) A **pre-payment meter customer** who requests a check or test of a **pre-payment meter** under subclause (1) must pay a **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), a **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 any charges paid by the *pre-payment meter customer* under this clause for the testing of the *pre-payment meter*.

9.10 Credit retrieval, overcharging and undercharging

(1) Subject to a *pre-payment meter customer* notifying a *retailer* of the proposed vacation date, the *retailer* must ensure that the *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 if a *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 if 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 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) If the amount referred to in subclause (2) is less than \$100, the *retailer* may—
- (a) ask the *pre-payment meter customer* for instructions under 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 *pre-payment meter customer's* account (in which case subclause (3) applies as if the *pre-payment meter customer* instructed the *retailer* to credit the *pre-payment meter customer's* account).

9.11 Payment difficulties or financial hardship

(1) A *retailer* must give reasonable consideration to a request by—

- (a) a *residential pre-payment meter customer* who informs the *retailer* that the *pre-payment meter customer* is experiencing *payment difficulties* or *financial hardship*; or
- (b) a *relevant consumer representative*,

for a waiver of any fee payable by the *pre-payment meter 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) if a *residential pre-payment meter customer* informs the *retailer* 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* 2 or more times in any 1-month period for longer than 120 minutes on each occasion,

subject to subclause (3), the *retailer* must use best endeavours to *contact* the *pre-payment meter customer* as soon as is reasonably practicable to provide—

- (c) Not Used
- (d) information about the different types of *meters* available to the *pre-payment meter customer*;
- (e) information about and referral to relevant financial assistance programmes, and/or
- (f) referral to *relevant consumer representatives*; and/or
- (g) information on independent financial and other relevant counselling services.

(3) Where the *retailer* has identified the *residential pre-payment meter customer* pursuant to subclause (2)(b), the *retailer* is not required to *contact* the *residential customer* and provide the information set out in subclauses (2)(c)-(g) if the *retailer* has provided the *residential pre-payment meter customer* with that information in the preceding 12 months.

(4) The information to be provided in subclause (2) may be provided in writing to a **pre-payment meter customer** at the **pre-payment meter customer's supply address**, another address nominated by the **pre-payment meter customer** or an email address nominated by the **pre-payment meter customer**.

9.12 Existing pre-payment meters

A **pre-payment meter** installed prior to the **amendment date** will be deemed to comply with the requirements of this Part 9.

PART 10—INFORMATION AND COMMUNICATION

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, fees and charges, no later than the next bill in a **customer's billing cycle**.

(2) A **retailer** must give or make available to a **customer** on request, at no charge, reasonable information on the **retailer's** tariffs, fees and charges, including any **alternative tariffs** that may be available to that **customer**.

(3) A **retailer** must give or make available to a **customer** the information referred to under subclause (2) within 8 **business days** of the date of receipt. If requested by the **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 2 years and no more than once a year; or
- (b) in relation to a dispute with a **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, or make available to a **customer** on request, at no charge, general information on—

- (a) cost effective and efficient ways to utilise electricity (including referring the **customer** to a relevant information source); and
- (b) 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 2 years, 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 a *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*.
- (2) A *retailer* and a *distributor* must make electronic copies of the *Code* available, at no charge, on the *retailer's* or *distributor's* website.
- (3) Not Used

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, if appropriate, a *distributor* must include in relation to *residential customers*—
 - (a) the *telephone* number for its *TTY* services;
 - (b) the *telephone* number for independent multi-lingual services; and
 - (c) the *telephone* number for interpreter services together with the *National Interpreter Symbol* and the words "Interpreter Services",on the—
 - (d) bill and bill related information (including, for example, the notice referred to in clause 4.2(3) 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.

PART 11—NOT USED

PART 12—COMPLAINTS AND DISPUTE RESOLUTION

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 **Australian Standard AS/NZS 10002:2014**;
- (b) address at least—
 - (i) how **complaints** must be lodged by **customers**;
 - (ii) how **complaints** will be handled by a **retailer** or **distributor**, including—
 - (A) a right of a **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**; and
 - (iv) method of response;
- (c) detail how a **retailer** will handle **complaints** about the **retailer**, **electricity marketing agents** 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 **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 a **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**.

(4) For the purpose of subclause (2)(b)(iii), a **retailer** or **distributor** must, on receipt of a written **complaint** by a **customer**—

- (a) acknowledge the **complaint** within 10 **business days**; and
- (b) respond to the **complaint** by addressing the matters in the **complaint** within 20 **business days**.

12.2 Obligation to comply with a guideline that distinguishes customer queries from complaints

A **retailer** must comply with any guideline developed by the **Authority** relating to distinguishing **customer** queries from **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** of the entity that the **retailer**, **distributor** or **electricity marketing agent** reasonably considers to be the appropriate entity to deal with the **complaint** (if known).

PART 13—REPORTING**13.1 Preparation of an annual report**

A **retailer** and a **distributor** must prepare a report in respect of each **reporting year** setting out the information specified by the **Authority**.

13.2 Provision of annual report to the Authority

A report referred to in clause 13.1 must be provided to the **Authority** by the date, and in the matter and form, specified by the **Authority**.

13.3 Publication of reports

- (1) A report referred to in clause 13.1 must be published by the date specified by the **Authority**.
- (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**.

PART 14—SERVICE STANDARD PAYMENTS*Division 1—Obligations particular to retailers***14.1 Facilitating customer reconnections**

(1) Subject to clause 14.6, if 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) and has not otherwise caused the **customer's supply address** to be reconnected as contemplated by clause 8.1(3); or
- (b) the **retailer** has complied with the time frames prescribed in clause 8.1(2), but a **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 14.6, if a **retailer** is liable to and makes a payment under subclause (1) due to an act or omission of a **distributor**, the **distributor** must compensate the **retailer** for the payment.

14.2 Wrongful disconnections

(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 or 6.10) or Part 7 (other than clauses 7.4, 7.5, 7.6, 7.7(1)(a), 7.7(1)(b), or 7.7(2)(e) 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 14.6, if a **retailer** is liable to and makes a payment under subclause (1) due to an act or omission of a **distributor**, the **distributor** must compensate the **retailer** for the payment.

14.3 Customer service

(1) Subject to clause 14.6, if a **retailer** fails to acknowledge or respond to a **complaint** within the time frames prescribed in clause 12.1(4), the **retailer** must pay to the **customer** \$20.

(2) A **retailer** will only be liable to make 1 payment of \$20, under subclause (1), for each written **complaint**.

*Division 2—Obligations particular to distributors***14.4 Customer service**

(1) Subject to clause 14.6, if a **distributor** fails to acknowledge or respond to a **complaint** within the time frames prescribed in clause 12.1(4), the **distributor** must pay to the **customer** \$20.

(2) A **distributor** will only be liable to make 1 payment of \$20, under subclause (1), for each written **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***14.6 Exceptions**

- (1) A **retailer** or **distributor** is not required to make a payment under clauses 14.1 to 14.5 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 14.5 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 1 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**.

14.7 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.

14.8 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 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**.
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Appendix 4 Comparative review of the Code and the NECF

Obligation to forward connection application

[Clause 3.1 of the Code]

Comparative review of Code and NECF

Summary of legislation

Both the Code and the NECF require retailers to forward customer connection applications to the relevant distributor.

The Code prescribes minimum timeframes for forwarding an application, while the NECF requires retailers to 'promptly' make an application on behalf of a customer.

Advantages / disadvantages of adopting NECF

Advantages

Disadvantages

- Less certainty about the timeframe for forwarding a connection request.

Draft recommendation

No amendments proposed.¹

Reasons

The NECF provides less protections for customers than the Code.

¹ Draft recommendation 12 in the main body of the report proposes an amendment to clause 3.1 for reasons not related to the NECF.

Obligation to forward connection application

[Clause 3.1 of the Code]

BACKGROUND – Full extract of legislative provisions

Code	NECF
<p>3.1 Obligation to forward connection application</p> <p>(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).</p> <p>(2) Unless the customer agrees otherwise, a retailer must forward the customer's request for connection to the relevant distributor—</p> <p>(a) that same day, if the request is received before 3pm on a business day; or</p> <p>(b) the next business day, if the request is received after 3pm or on a Saturday, Sunday or public holiday.</p> <p>(3) In this clause—</p> <p>"customer" includes a customer's nominated representative.</p>	<p>NERR</p> <p>79 Application for customer connection services</p> <p>(1) Application of this rule</p> <p>This rule applies where a customer is seeking the provision of customer connection services in respect of an existing connection at the customer's premises.</p> <p>(2) Who may apply</p> <p>An application for the provision of customer connection services is to be made to a distributor by a retailer on behalf of the customer (but only if the retailer has a relevant contract with the customer in relation to the premises).</p> <p>(3) Responsibilities of retailer</p> <p>The retailer must make the application promptly on behalf of the customer.</p> <p>(4) Responsibilities of distributor²</p> <p>The distributor must, as soon as practicable after the retailer notifies the distributor of the formation of the relevant contract under subrule (2), provide customer connection services in respect of the customer's premises.</p> <p>(5) Services to be provided in accordance with energy laws³</p> <p>The customer connection services are to be provided subject to and in accordance with any relevant requirements of the energy laws.</p> <p>(6) Definition</p> <p>In this rule:</p> <p>relevant contract means:</p> <p>(a) in the case of a small customer—a customer retail contract; or</p> <p>(b) in the case of a large customer—a contract for the sale of energy to the customer.</p>

² Under the WA legislative framework, matters related to the provision of connection services must be addressed in the *Electricity Industry (Obligation to Connect) Regulations 2005*.

³ Id.

Billing cycle

[Clause 4.1 of the Code]

draft recommendation

13

Comparative review of Code and NECF

Summary of legislation

Both the Code and the NECF prescribe the billing frequency for retailers.

Notable differences:

	Code	NECF
Minimum billing cycle	1 month	N/A
Maximum billing cycle	3 months	100 days
Exceptions	Various	Customer gives explicit informed consent for a different billing cycle

Advantages / disadvantages of adopting NECF

Advantages

- Removing the minimum billing cycle reduces regulatory burden and compliance costs for retailers.
- Less complex drafting.
- Improve consistency with the NECF.

Disadvantages

- No prescribed minimum length for a billing cycle.
- Maximum billing cycle is longer (100 days instead of 3 months). A longer billing cycle may result in higher bills, which may cause problems for customers experiencing payment difficulties.

Draft recommendation

- Replace clauses 4.1(a) and (b)(i) of the Code with rules 24(1) and (2) of the NERR but replace:
 - ‘retailer’s usual recurrent period’ with ‘customer’s standard billing cycle’ in rule 24(2).
 - ‘explicit informed consent’ with ‘verifiable consent’ in rule 24(2).
- Retain clause 4.1(b)(ii) of the Code but replace ‘metering data’ with ‘energy data’.
- Retain clause 4.1(b)(iii) of the Code.

Reasons

a) Replace clause 4.1(a) and (b)(i) of the Code with rules 24(1) and (2) of the NERR

See NECF advantages listed above.

Adopting the NECF would result in the Code no longer prescribing a minimum billing cycle. The maximum billing cycle would further be extended to 100 days. Both amendments are unlikely to affect customers:

- *Removing the minimum billing cycle:* The regular recurrent billing cycle for most retailers is 1 to 3 months. It is unlikely retailers would adopt a billing cycle of less than one month as their ‘regular recurrent billing cycle’ due to the costs involved in issuing bills more often.
- *Increasing the maximum billing cycle to 100 days:* Most licensees prefer shorter billing cycles. The only two electricity retailers that supply residential customers, Synergy and Horizon Power, have a two-monthly billing cycle.

but replace:

- **‘retailer’s usual recurrent period’ with ‘customer’s standard billing cycle’ in rule 24(2)**
 - Most retailers do not apply the same recurrent period to all customers. For example, a retailer may apply a one-month billing cycle to its business customers and a two-

month billing cycle to its residential customers. To ensure that retailers only need to obtain a customer's verifiable consent to change the billing cycle that currently applies to the customer, it is proposed to replace 'retailer's' with 'customer's' in rule 24(2).

- The term billing cycle is used throughout the Code.
- **'explicit informed consent' with 'verifiable consent' in rule 24(2)**

The term verifiable consent is used throughout the Code.

b) Retain clause 4.1(b)(ii) of the Code

A retailer may currently bill less often if it did not receive (actual or estimated) metering data from the distributor on time. This exception is not provided for under the NECF because NECF retailers who have not received metering data from a distributor may issue a bill based on their own estimation.

Retailer estimations are not allowed under the Code.

Clause 21 of the NERR, which sets out the process for retailer estimations, is relatively long and complex. Instead of adopting clause 21, the ECCC recommends that the exception in clause 4.1(b)(ii) of the Code is retained.

but replace 'metering data' with 'energy data'

'Metering data' is not a defined term in the Code or the *Electricity Industry Metering Code 2012*. The equivalent term in the Metering Code is energy data.⁴

c) Retain clause 4.1(b)(iii) of the Code

A retailer may currently bill less frequently if a customer has started to use electricity but has not contacted a retailer to enter into a contract.⁵ This exception is not covered by rule 24(1) or (2) of the NERR but should be retained.

⁴ The term energy data is defined in the Code. The definition refers to the definition of energy data in the Metering Code.

⁵ As the retailer is not aware that the customer has started to use electricity, the retailer cannot issue a bill to the customer.

Billing cycle

[Clause 4.1 of the Code]

BACKGROUND – Full extract of legislative provisions

Code	NECF
<p>4.1 Billing cycle</p> <p>A retailer must issue a bill—</p> <p>(a) no more than once a month, unless the retailer has—</p> <ul style="list-style-type: none"> (i) obtained a customer’s verifiable consent to issue bills more frequently; (ii) given the customer— <ul style="list-style-type: none"> (A) a reminder notice in respect of 3 consecutive bills; and (B) notice as contemplated under clause 4.2; (iii) received a request from the customer to change their supply address or issue a final bill, in which case the retailer may issue a bill more than once a month for the purposes of facilitating the request; or (iv) less than a month after the last bill was issued, received metering data from the distributor for the purposes of preparing the customer’s next bill; <p>(b) no less than once every 3 months, unless the retailer—</p> <ul style="list-style-type: none"> (i) has obtained the 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 <i>Electricity Industry (Customer Contracts) Regulations 2005</i> and the bill is the first bill issued to that customer at that supply address. <p><i>[A retailer and customer may agree that this clause does not apply, or is amended, in a non-standard contract]</i></p>	<p>NERR</p> <p>24 Frequency of bills</p> <p>(1) A retailer must issue bills to a small customer at least once every 100 days.</p> <p>(2) A retailer and a small customer may agree to a billing cycle with a regular recurrent period that differs from the retailer’s usual recurrent period where the retailer obtains the explicit informed consent of the small customer.</p> <p>(3) Application of this rule to standard retail contracts</p> <p>This rule applies in relation to standard retail contracts.</p> <p>(4) Application of this rule to market retail contracts</p> <p>This rule applies in relation to market retail contracts.</p>

Shortened billing cycle

[Clause 4.2 of the Code]

draft recommendation

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Comparative review of Code and NECF

Summary of legislation

Both the Code and the NECF allow retailers to place customers on a shortened billing cycle if certain conditions have been met.

Notable differences:

	Code	NECF
With consent:		
– Level of consent required	Verifiable consent	Agreement
Without consent:		
– When customer may be placed on shortened billing cycle	When the customer has received a reminder notice for 3 consecutive bills	When the customer has received a reminder notice or disconnection warning for 2 consecutive bills
– Prior warning	Yes	Yes, before the second reminder or warning notice
– Minimum length of shortened billing cycle	10 days	No minimum
– Notification to customer when they are placed on shortened billing cycle	Yes, notification only	Yes, and: <ul style="list-style-type: none">• what the customer needs to do to be removed from the shortened billing cycle; and• what may happen if the customer doesn't pay their bill on time.
– Reminder notices during shortened billing cycle	Yes	No
Return to previous billing cycle	Upon request, once customer has paid 3 consecutive bills by the due date	Automatically, once customer has paid 3 consecutive bills by the due date
Customer able to contract out	Yes	No

Advantages / disadvantages of adopting NECF

Advantages

- Customers do not have to request to be returned to a standard billing cycle.
- Customers receive more information.

Disadvantages

- Retailers will incur costs to develop systems to 'automatically' return customers to standard billing cycle.
- Customers can be placed on a shortened billing cycle sooner.

- Customers on a shortened billing cycle do not receive reminder notices and can be disconnected without further notice.

Draft recommendation

- Replace clauses 4.2(1) and (2) of the Code with rule 34(2) of the NERR:
 - except for subrules 2(c)(i) to (iv); instead insert clauses 4.2(1)(a) to (d) of the Code and amend clause 4.2(1)(a) by inserting 'or disconnection warning' after 'reminder notice'.
 - but retain the requirement that customers may only be placed on a shortened billing cycle without their verifiable consent after 3 reminder notices (instead of 2).
 - but clarify that the information in rule 34(2)(c) must have been given before the retailer gives the customer a reminder notice or disconnection warning for the third consecutive bill.
- Replace clause 4.2(3) of the Code with rule 34(3) of the NERR but remove 'without a further reminder notice' from subrule (c).
- Retain clauses 4.2(4), (5) and (6) of the Code.

Reasons

a) Replace clauses 4.2(1) and (2) of the Code with rule 34(2) of the NERR

To improve consistency with the NECF.

- **except for subrules (2)(c)(i) to (iv); instead insert clauses 4.2(1)(a) to (d)**
Replacing clause 4.2(1)(d) with rules 34(2)(c)(ii) and (iii) would mean customers on shortened billing cycles would no longer receive reminder notices and disconnection warnings. There are no compelling reasons for removing this protection from the Code.
The information that must be provided under clauses 4.2(1)(a), (b) and (c) is very similar to the information that must be provided under subrules (2)(c)(i), (iv) and (v).
and amend clause 4.2(1)(a) by inserting 'or disconnection warning' after 'reminder notice'
Rule 34(2)(b) and (c) also refer to disconnection warnings.
- **but retain the requirement that customers may only be placed on a shortened billing cycle without their verifiable consent after 3 reminder notices (instead of 2)**
Retain existing Code protection.
- **but clarify that the information in rule 34(2)(c) must have been given before the retailer gives the customer a reminder notice or disconnection warning for the third consecutive bill**
The wording of subrule 34(2)(c) could be read as referring to the third reminder notice or disconnection warning for a bill.

b) Replace clause 4.2(3) of the Code with rule 34(3) of the NERR

Customers would receive more information about their rights and responsibilities after having been being placed on a shortened billing cycle.

but remove 'without a further reminder notice' from rule 34(3)(c)

There are no compelling reasons for removing the requirement to provide customers on shortened billing cycles with reminder notices.

c) Retain clause 4.2(4) of the Code

Retain existing Code protection that a shortened billing cycle must be at least 10 business days.

Retain clauses 4.2(5) and (6) of the Code

Under the NECF, retailers must 'automatically' return customers to their standard billing cycle if they have paid three consecutive bills by the due date. Adopting this requirement in the Code could increase costs for retailers.

Retaining clauses 4.2(5) and (6) ensures that retailers only have to return customers to their previous billing cycle upon their request.

Overall, the proposal aims to balance the interests of customers and retailers.

Shortened billing cycle

[Clause 4.2 of the Code]

BACKGROUND – Full extract of legislative provisions

Code	NECF
<p>4.2 Shortened billing cycle</p> <p>(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—</p> <p>(a) receipt of a third reminder notice may result in the customer being placed on a shortened billing cycle;</p> <p>(b) if the customer is a residential customer, assistance is available for residential customers experiencing payment difficulties or financial hardship;</p> <p>(c) the customer may obtain further information from the retailer on a specified telephone number; and</p> <p>(d) once on a shortened billing cycle, the customer must pay 3 consecutive bills by the due date to return to the customer's previous billing cycle.</p> <p>(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—</p> <p>(a) the residential customer informs the retailer that the residential customer is experiencing payment difficulties or financial hardship; and</p> <p>(b) the assessment carried out under clause 6.1 indicates to the retailer that the customer is experiencing payment difficulties or financial hardship.</p> <p>(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.</p> <p>(4) A shortened billing cycle must be at least 10 business days.</p> <p>(5) A retailer must return a customer, who is subject to a shortened billing cycle and has paid 3 consecutive bills by the due date, on request, to the billing cycle that applied to the customer before the shortened billing cycle commenced.</p> <p>(6) A retailer must inform a customer, who is subject to a shortened billing cycle, at least once every 3 months that, if the customer pays 3 consecutive bills by the due date of each bill, the customer</p>	<p>NERR</p> <p>34 Shortened collection cycles</p> <p>(1) A retailer may place a small customer on a shortened collection cycle with the agreement of the customer.</p> <p>(2) Otherwise, a retailer may place a small customer on a shortened collection cycle only if:</p> <p>(a) in the case of a residential customer—the customer is not experiencing payment difficulties; and</p> <p>(b) the retailer has given the customer a reminder or warning notice for 2 consecutive bills; and</p> <p>(c) before the second reminder or warning notice, the retailer has given the customer a notice informing the customer that:</p> <p>(i) receipt of the second reminder or warning notice may result in the customer being placed on a shortened collection cycle; and</p> <p>(ii) being on a shortened collection cycle means the customer will not receive a reminder notice until the customer has paid 3 consecutive bills in the customer's billing cycle by the pay-by date; and</p> <p>(iii) failure to make a payment may result in arrangements being made for disconnection of the supply of energy without a further reminder notice; and</p> <p>(iv) alternative payment arrangements may be available; and</p> <p>(v) the customer may obtain further information from the retailer (on a specified telephone number).</p> <p>(3) The retailer must, within 10 business days of placing the small customer on a shortened collection cycle, give the customer notice that:</p> <p>(a) the customer has been placed on a shortened collection cycle; and</p> <p>(b) the customer must pay 3 consecutive bills in the customer's billing cycle by the pay-by date in order to be removed from the shortened collection cycle;</p> <p>and</p> <p>(c) failure to make a payment may result in arrangements being made for disconnection</p>

will be returned, on request, to the billing cycle that applied to the customer before the shortened billing cycle commenced.

[A retailer and customer may agree that this clause does not apply, or is amended, in a non-standard contract]

of the supply of energy without a further reminder notice.

- (4) The retailer must remove the small customer from the shortened collection cycle as soon as practicable after the customer pays 3 consecutive bills in the customer's billing cycle by the pay-by date, unless the customer requests that this not be done.

- (5) In this rule:

reminder or warning notice means a reminder notice or a disconnection warning notice.

- (6) **Application of this rule to standard retail contracts**

This rule applies in relation to standard retail contracts.

- (7) **Application of this rule to market retail contracts**

This rule applies in relation to market retail contracts (other than prepayment meter market retail contracts).

Bill smoothing

[Clause 4.3 of the Code]

Comparative review of Code and NECF

Summary of legislation

Both the Code and the NECF prescribe minimum standards for bill smoothing arrangements.

Notable differences:

- Although both Code and NECF customers must give verifiable/explicit informed consent for the arrangement, Code customers may only be placed on a bill smoothing arrangement upon their request.
- Code retailers must take into account more matters when setting the amount payable.
- Code customers, whose bill smoothing arrangement is for a defined period or has a specified end date, must be advised of their options once the arrangement ends.
- NECF customers on a market retail contract may contract out of rule 23.

Advantages / disadvantages of adopting NECF

Advantages

- The stipulation that a retailer may only place a customer on bill smoothing arrangement on their request seems unnecessary as the customer already has to provide their verifiable consent to the arrangement.

Disadvantages

- The differences between the Code and NECF reflect the current practices of WA retailers. Removing these differences may have unintended consequences.
- Customers, whose bill smoothing arrangement is for a defined period or has a specified end date, would no longer be advised of their options once the arrangement ends.

Draft recommendation

No amendments proposed.

Reasons

As clause 4.3 is proposed to be deleted (see draft recommendation 15 in the main body of the report), no amendments are proposed based on the NECF.

Bill smoothing

[Clause 4.3 of the Code]

BACKGROUND – Full extract of legislative provisions

Code	NECF
<p>4.3 Bill smoothing</p> <p>(1) Notwithstanding clause 4.1, in respect of any 12 month period, on receipt of a request by a customer, a retailer may provide the customer with a bill which reflects a bill smoothing arrangement.</p> <p>(2) If a retailer provides a customer with a bill under a bill smoothing arrangement pursuant to subclause (1), the retailer must ensure that—</p> <p>(a) the amount payable under each bill is initially the same and is set out on the basis of—</p> <p>(i) the retailer’s initial estimate of the amount of electricity the customer will consume over the 12 month period;</p> <p>(ii) the relevant supply charge for the consumption and any other charges related to the supply of electricity agreed with the customer;</p> <p>(iii) any adjustment from a previous bill smoothing arrangement (after being adjusted in accordance with clause 4.19); and</p> <p>(iv) any other relevant information provided by the customer.</p> <p>(b) the initial estimate is based on the customer’s historical billing data or, if 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;</p> <p>(c) in or before the seventh month—</p> <p>(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</p> <p>(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</p> <p>(d) 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</p>	<p>NERR</p> <p>23 Bill smoothing</p> <p>(1) Despite rules 20 and 21, a retailer may, in respect of any 12 month period, provide a small customer with bills based on an estimation under a bill smoothing arrangement if and only if:</p> <p>(a) the amount payable under each bill is initially the same and is set on the basis of the retailer’s initial estimate of the amount of energy the customer will consume over the 12 month period; and</p> <p>(b) that initial estimate is based on the customer’s historical billing data or, where the retailer does not have that data, average usage of energy by a comparable customer calculated over the 12 month period; and</p> <p>(c) in the seventh month:</p> <p>(i) the retailer re-estimates the amount of energy the customer will consume over the 12 month period, taking into account any actual meter readings or actual metering data and relevant seasonal factors; and</p> <p>(ii) if there is a difference between the initial estimate and the re-estimate of greater than 10 per cent, the amount payable under each of the remaining bills in the 12 month period is to be reset to reflect that difference; and</p> <p>(d) at the end of the 12 month period, the meter is read or metering data is obtained and any undercharging or overcharging is adjusted under rule 30 or 31.</p> <p>(2) The explicit informed consent of the small customer is required for the retailer’s billing on the basis referred to in subrule (1).</p> <p>(3) Application of this rule to standard retail contracts</p> <p>This rule applies in relation to standard retail contracts</p> <p>(4) Application of this rule to market retail contracts</p> <p>This rule applies in relation to market retail contracts.</p>

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- and any adjustment is included on the next bill in accordance with clause 4.19; and
- (e) the retailer has obtained the customer's verifiable consent to the retailer billing on that basis; and
 - (f) if the bill smoothing arrangement between the retailer and the customer is for a defined period or has a specified end date, the retailer must no less than one month before the end date of the bill smoothing arrangement notify the customer in writing—
 - (i) that the bill smoothing arrangement is due to end; and
 - (ii) the options available to the customer after the bill smoothing arrangement has ended.

48 Retailer notice of end of fixed term retail contract

- (1) This rule applies to a fixed term retail contract.
 - (2) A retailer must, in accordance with this rule, notify a small customer with a fixed term retail contract that the contract is due to end.
Note: This subrule is a civil penalty provision for the purposes of the Law. (See the National Regulations, clause 6 and Schedule 1.)
 - (3) The notice must be given no earlier than 40 business days and no later than 20 business days before the end date of the contract.
 - (4) The notice must state:
 - (a) the date on which the contract will end; and
 - (b) details of the prices, terms and conditions applicable to the sale of energy to the premises concerned under a deemed customer retail arrangement; and
 - (c) the customer's options for establishing a customer retail contract (including the availability of a standing offer); and
 - (d) the consequences for the customer if the customer does not enter into a customer retail contract (whether with that or another retailer), including the entitlement of the retailer to arrange for the de-energisation of the premises and details of the process for de-energisation.
 - (5) The retailer is not required to give the notice where the customer has already entered into a new contract with the retailer, or has given instructions to the retailer as to what actions the retailer must take at the end of the contract.
 - (6) A retailer must, for a fixed term retail contract, include a term or condition to the effect that the retailer will:
 - (a) notify the customer that the contract is due to end; and
 - (b) give such notice no earlier than 40 business days and no later than 20 business days before the end of the contract.
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How bills are issued

[Clause 4.4 of the Code]

Comparative review of Code and NECF

Summary of legislation

Only the Code prescribes that a bill must be issued at the address nominated by the customer.

Advantages / disadvantages of adopting NECF

Advantages

- Less regulatory burden for retailers.

Disadvantages

- Retailers would no longer be required to issue a bill at the address nominated by the customer.

Draft recommendation

No amendments proposed.

Reasons

The NECF provides less protections for customers than the Code. Also, the regulatory burden that clause 4.4 imposes on retailers is minimal.

How bills are issued

[Clause 4.4 of the Code]

BACKGROUND – Full extract of legislative provisions	
Code	NECF
4.4 How bills are issued A retailer must issue a bill to a customer at the address nominated by the customer, which may be an email address.	No equivalent provision.

Particulars on each bill

[Clause 4.5 of the Code]

Comparative review of Code and NECF

Summary of legislation

Both the Code and the NECF prescribe the minimum information to be included on a customer's bill.

Notable differences:

	Code	NECF
TTY number	Yes	No
Ombudsman phone number	Yes	No
Average daily cost of consumption	Yes	No
Number of days covered by the bill	Yes	No
Statement that assistance is available if the customer is having payment problems	Yes	No
Statement that a late payment fee may be imposed	Yes	No
Average daily consumption for:		
– Current bill	Yes	Yes
– Corresponding billing period previous year	No	Yes
Calculation of the tariff for Type 7 connection points (unmetered supply)	Yes	No
Estimated date of the next scheduled meter read	No	Yes
Basis on which tariffs and charges are calculated	No	Yes
Contact details of interpreter services	Yes	Yes, in community languages
Security deposit	No	Yes
All telephone numbers at cost of local call	No	Yes
Customers and retailers can contract out	Yes	No

Other noticeable differences are:

- **Historical debt:** The NECF does not deal with historical debt. Under the Code, retailers must advise customers of the amount, and the basis of, any historical debt for which they wish to bill the customer.
- **Benchmarking information:** Part 11 of the NERR requires the AER to publish electricity consumption benchmarks based on consumption, zones and household size. Retailers must include on a customer's bill, a comparison of the customer's consumption against the benchmarks. The bill also needs to indicate the purpose of the information and a reference to an energy efficiency website. This information must be in graphical or tabular form and in a way that is easy to understand.

The Code does not require retailers to benchmark the customer's consumption against other customers. It only requires retailers include a graph or bar chart on the bill that compares the customer's amount due or consumption for the period covered by the bill against the previous bill and the bill for the same period last year.

- **Billing period and date of meter read:** The NECF requires only the billing period and the date of the meter read to be on the bill. The Code requires the dates of the metering supply period or the date of the current read or estimate, and the dates of the account period if these differ from the metering supply period.

The ERA included the references to metering supply periods in July 2010 to allow for meters other than accumulation meters.

Advantages / disadvantages of adopting NECF

Advantages

- Customers are provided with more detailed consumption information, but this is facilitated by the benchmarking information that the Australian Energy Regulator is required to publish.

Disadvantages

- Overall, the NECF requires less information on a customer's bill, particularly in areas of customer protection (e.g. a statement that assistance is available for customers struggling to pay their bill and the telephone number for the Ombudsman).

Draft recommendation

No amendments proposed.⁶

Reasons

Overall, the NECF provides less protections for customers as it requires less information on a bill, particularly in areas of customer protection.

⁶ Draft recommendations 16, 17, 18 and 19 in the main body of the report propose various amendments to clause 4.5 for reasons not related to the NECF.

Particulars on each bill

[Clause 4.5 of the Code]

BACKGROUND – Full extract of legislative provisions

Code	NECF
4.5 Particulars on each bill	<i>NERR</i>
<p>(1) Unless a customer agrees otherwise, a retailer must include at least the following information on the customer's bill—</p> <ul style="list-style-type: none"> (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 calculation of the tariff in accordance with the procedures set out 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)— <ul style="list-style-type: none"> (i) the current meter reading or estimate; or (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— <ul style="list-style-type: none"> (i) the customer's 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— <ul style="list-style-type: none"> (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, if different from the range of dates of the metering supply period or the range of dates of the metering supply 	<p>25 Contents of bills (SRC and MRC)</p> <p>(1) A retailer must prepare a bill so that a small customer can easily verify that the bill conforms to their customer retail contract and must include the following particulars in a bill for a small customer:</p> <ul style="list-style-type: none"> (a) the customer's name and account number; (b) the address of the customer's premises for the sale of energy and the customer's mailing address (if different); (c) the meter identifier; (d) the billing period; (e) the pay-by date for the bill and the bill issue date; (f) the total amount payable by the customer, including amounts of any arrears or credits; (g) tariffs and charges applicable to the customer; (h) the basis on which tariffs and charges are calculated; (i) whether the bill was issued as a result of a meter reading or an estimation and, if issued as a result of a meter reading, the date of the meter reading; (j) the values of meter readings (or, if applicable, estimations) at the start and end of the billing period; (k) particulars of the average daily consumption during the billing period; (l) if a bill was issued by the same retailer for the corresponding billing period during the previous year, particulars of the average daily consumption during that previous billing period; (m) the estimated date of the next scheduled meter reading (if applicable); (n) details of consumption or estimated consumption of energy; (o) for residential customers—energy consumption benchmarks in accordance with Part 11; (p) any amount deducted, credited or received under a government funded energy charge

period have not been included on the bill already;	rebate, concession or relief scheme or under a payment plan;
(h) the applicable tariffs;	(q) if the customer has provided a security deposit, the amount of that deposit;
(i) the amount of any other fees or charges and details of the service provided;	(r) details of the available payment methods;
(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;	(s) reference to the availability of government funded energy charge rebate, concession or relief schemes;
(k) if applicable, the value and type of any concessions provided to the residential customer that are administered by the retailer;	(t) a telephone number for account enquiries, the charge for which is no more than the cost of a local call;
(l) if applicable, a statement on the bill that an additional fee may be imposed to cover the costs of late payment from the customer;	(u) a telephone number for complaints (which may be the same as that for account enquiries), the charge for which is no more than the cost of a local call;
(m) the average daily cost of consumption, including charges ancillary to the consumption of electricity, unless the customer is a collective customer;	(v) a separate 24 hour telephone number for fault enquiries and emergencies, the charge for which is no more than the cost of a local call, being the telephone number for the distributor and giving the name of the distributor;
(n) the average daily consumption unless the customer is a collective customer;	(w) contact details of interpreter services in community languages;
(o) a meter identification number (clearly placed on the part of the bill that is retained by the customer);	(x) any proportionate billing information in accordance with rule 22.
(p) the amount due;	Note: rule 22 of the NERR is: <i>(1) If a small customer's bill covers a period other than the customer's usual billing cycle or a period during which the customer's tariff changes, the retailer must charge in proportion to the relevant periods and clearly show relevant details on the bill.</i>
(q) the due date;	(2) The retailer must include amounts billed for goods and services (other than the sale and supply of energy) in a separate bill or as a separate item in an energy bill.
(r) a summary of the payment methods;	Note: This subrule is a civil penalty provision for the purposes of the Law. (See the National Regulations, clause 6 and Schedule 1)
(s) a statement advising the customer that assistance is available if the customer is experiencing problems paying the bill;	(3) Application of this rule to standard retail contracts This rule applies in relation to standard retail contracts.
(t) a telephone number for billing and payment enquiries;	(4) Application of this rule to market retail contracts This rule applies in relation to market retail contracts.
(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;	
(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;	
(bb) with respect to residential customers, the telephone number for interpreter services	

-
- together with the National Interpreter
Symbol and the words "Interpreter Services";
 - (cc) the telephone number for TTY services; and
 - (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), a retailer is
not obliged to include a graph or bar chart on
the bill if the bill is—
- (a) not indicative of a customer's actual
consumption;
 - (b) not based upon a meter reading; or
 - (c) for a collective customer.
- (3) If a retailer identifies a historical debt and wishes
to bill a 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.
-

Comparative review of Code and NECF

Summary of legislation

Both the Code and the NECF prescribe the basis for bills.

Comparison between Code and NECF:

	Code	NECF
Distributor or metering agent's meter reading	Yes, clause 4.6(a)	Yes, rule 20(1)(a)(i) of the NERR ⁷
Distributor estimation	Yes, but included in a separate clause: 4.8(1)	Yes, rule 20(1)(a)(i) of the NERR ⁸
Retailer estimation	No	Yes, rule 20(1)(a)(ii) of the NERR
Self-read	Yes, clause 4.6(b)	<i>(self-reads are considered retailer estimations under the NECF)</i>
Type 7 connection points (no meter)	Yes, clause 4.6(c)	Yes, rule 20(3) of the NERR
Agreed by retailer and customer	No	Yes, rule 20(1)(iii) of the NERR

Advantages / disadvantages of adopting NECF

Advantages

- Allowing retailers and customers to agree to the basis for the bill will facilitate the offering of new products, such as Alinta's former Home Capped Gas Plan.
- If a retailer does not receive metering data from a distributor, the retailer can base a bill on a retailer estimation. This ensures retailers can always issue a bill within 100 days.

Disadvantages

- The Code currently does not provide for retailer estimations. To allow for retailer estimations, the relatively long and complex framework set out in rule 21 of the NERR would have to be adopted in the Code.

Draft recommendation

- Replace clause 4.6(a) of the Code with rule 20(1)(a)(i) of the NERR but:
 - replace 'metering data' with 'energy data'.
 - replace 'metering coordinator' with 'distributor or metering data agent'.
 - remove 'and determined in accordance with the metering rules'.
- Delete clause 4.6(b) of the Code.
- Replace clause 4.6(c) of the Code with rule 20(3) of the NERR but replace 'applicable energy laws' with 'the metrology procedure, the Metering Code or any other applicable law'.
- Adopt rule 20(1)(a)(iii) of the NERR.

⁷ Rule 20(1)(a)(i) of the NERR refers to metering data provided by the metering coordinator. Metering data is defined in the National Energy Rules as 'accumulated metering data, interval metering data, calculated metering data, substituted metering data, estimated metering data and check metering data'.

⁸ Id.

a) Replace clause 4.6(a) of the Code with rule 20(1)(a)(i) of the NERR

To clarify that bills may be based on (actual and estimated) energy data provided by the distributor, not only on a distributor's meter reading.

but:

- **replace 'metering data' with 'energy data'**

'Metering data' is not a defined term in the Code or Metering Code. The equivalent term in the Metering Code is 'energy data'.⁹

- **replace 'metering coordinator' with 'distributor or metering data agent'**

These terms are used in the Metering Code.

- **remove 'and determined in accordance with the metering rules'**

As energy data will be defined by reference to the Metering Code, there is no need to specify that the energy data must be determined in accordance with the metering rules.

b) Delete clause 4.6(b)

In WA, customers who self-read their meters provide their reading to their distributor, Western Power,¹⁰ who passes the data on to the retailer. The readings are considered 'energy data' under the Metering Code and will fall under amended clause 4.6(a). There is therefore no need to retain clause 4.6(b).

c) Replace clause 4.6(c) of the Code with rule 20(3) of the NERR

To improve consistency with the NECF.

but replace 'applicable energy law' with 'the metrology procedure, the Metering Code or any other applicable law'

The words 'the metrology procedure, the Metering Code or any other applicable law' are consistent with the words used in current clause 4.6(1)(c) of the Code.

d) Adopt rule 20(1)(a)(iii) of the NERR

Rule 20(1)(a)(iii) provides that retailers may base a bill on 'any other method agreed by the retailer and the customer'. Allowing retailers and customers to agree to the basis for the bill will facilitate the offering of new products.

It is not proposed to adopt rule 20(1)(a)(ii) of the NERR (retailer estimations). To allow for retailer estimations, the relatively long and complex framework set out in rules 21(2) to (5) of the NERR would have to be adopted in the Code.

As retailers are not allowed to issue a bill based on their own estimation, retailers who do not receive energy data from a distributor on time to prepare a bill will have to hold off issuing a bill until the data is received – consistent with the current framework.¹¹

⁹ The term 'energy data' is defined in the Code. The definition refers to the definition of 'energy data' in the Metering Code.

¹⁰ Horizon Power customers have advanced electronic meters that are read remotely; they do not require manual reading.

¹¹ *Code of Conduct for the Supply of Electricity to Small Use Customers 2018* (WA) clause 4.1(b)(ii).

Basis of bill

[Clause 4.6 of the Code]

BACKGROUND – Full extract of legislative provisions

Code	NECF
<p>4.6 Basis of bill</p> <p>Subject to clauses 4.3 and 4.8, a retailer must base a customer's bill on—</p> <ol style="list-style-type: none"> the distributor's or metering agent's reading of the meter at the customer's supply address; the customer's reading of the meter at the customer's supply address, provided the distributor has expressly or impliedly consented to the customer reading the meter for the purpose of determining the amount due; or if the connection point is a Type 7 connection point, the procedure as set out in the metrology procedure or Metering Code, or otherwise as set out in any applicable law. 	<p><i>NERR</i></p> <p>20 Basis for bills (SRC and MRC)</p> <ol style="list-style-type: none"> A retailer must base a small customer's bill for the customer's consumption of: <ol style="list-style-type: none"> electricity: <ol style="list-style-type: none"> on metering data provided for the relevant meter at the customer's premises provided by the metering coordinator and determined in accordance with the metering rules; or on an estimation of the customer's consumption of energy, as provided by rule 21; or on any other method agreed by the retailer and the small customer. gas: <p>[...]</p> [...] Despite subrules (1) and (2), if there is no meter in respect of the customer's premises, the retailer must base the customer's bill on energy data that is calculated in accordance with applicable energy laws. Application of this rule to standard retail contracts. <p>This rule applies in relation to standard retail contracts.</p> Application of this rule to market retail contracts <p>This rule applies in relation to market retail contracts.</p>

Frequency of meter readings

[Clause 4.7 of the Code]

draft recommendation

21

Comparative review of Code and NECF

Summary of legislation

The Code requires retailers to use best endeavours to ensure that metering data is obtained as frequently as required to prepare bills.

The NECF requires retailers to use best endeavours to ensure that actual meter readings are carried out at least once every 12 months.

Advantages / disadvantages of adopting NECF

Advantages

- Retailers must use best endeavours to ensure that actual meter readings are carried out at least once every 12 months.

Disadvantages

- In 2013, the ERA removed from the Code the absolute obligation on retailers to obtain an actual meter reading at least once every 12 months. The obligation was removed from the Code when the *Electricity Industry (Metering Code) 2012* took effect as the Metering Code already includes an absolute obligation on distributors to obtain an actual meter reading at least once every 12 months.¹²

There does not appear to be a compelling reason for reinserting a similar obligation.

Draft recommendation¹³

Retain clause 4.7 but incorporate in clause 4.6 of the Code.

Reasons

Retain clause 4.7

See NECF disadvantage listed above.

but incorporate in clause 4.6 of the Code

To improve consistency with the NECF.

¹² *Electricity Industry Metering Code 2012* (WA) clause 5.4

¹³ Draft recommendations 22 and 23 in the main body of the report propose additional amendments to clause 4.7 for reasons not related to the NECF.

Frequency of meter readings

[Clause 4.7 of the Code]

BACKGROUND – Full extract of legislative provisions

Code	NECF
4.7 Frequency of meter readings 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.	<i>NERR</i> 20 Basis for bills (SRC and MRC) (2) The retailer must use its best endeavours to ensure that actual readings of the meter are carried out as frequently as is required to prepare its bills consistently with the metering rules and in any event at least once every 12 months. [...] (4) Application of this rule to standard retail contracts. This rule applies in relation to standard retail contracts. (5) Application of this rule to market retail contracts This rule applies in relation to market retail contracts.

Estimations

[Clause 4.8 of the Code]

Comparative review of Code and NECF

Summary of legislation

Only the Code prescribes what information must be included on bills that are based on distributor estimations.¹⁴

Advantages / disadvantages of adopting NECF

Advantages

- Less regulatory burden for retailers

Disadvantages

- Customers receive less information on their estimated bill about their rights.

Draft recommendation

No amendments proposed.¹⁵

Reasons

The NECF provides less protections for customers than the Code.

¹⁴ Rule 21 of the NERR, which prescribes what information must be included on an estimated bill, only applies to bills based on retailer estimations.

¹⁵ Draft recommendation 24 in the main body of the report proposes an amendment to clause 4.8 for reasons not related to the NECF.

Estimations

[Clause 4.8 of the Code]

BACKGROUND – Full extract of legislative provisions	
Code	NECF
4.8 Estimations	No equivalent provision.
(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 clearly specify 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 energy data; 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) For the purpose of this clause, where the distributor's or metering agent's reading of the meter at the customer's supply address is partly based on estimated data, then subject to any applicable law—	
(a) where more than ten per cent of the interval meter readings are estimated interval meter readings; and	
(b) the actual energy data cannot otherwise be derived, for that billing period, the bill is deemed to be an estimated bill.	

Adjustments to subsequent bills

[Clause 4.9 of the Code]

draft recommendation

25

Comparative review of Code and NECF

Summary of legislation

The Code specifies the actions retailers must take if they have issued a bill based on a distributor estimation and subsequently issue a bill based on an actual meter reading.

The NECF does not expressly deal with this situation.¹⁶ It is likely that the replacement of a bill based on a distributor estimation is covered by the general over- and undercharging provisions.

Advantages / disadvantages of adopting NECF

Advantages

- Less complex drafting.

Disadvantages

Draft recommendation

Delete clause 4.9 of the Code.

Reasons

To improve consistency with the NECF.¹⁷

¹⁶ The NECF only specifies the actions retailers must take if they have issued a bill based on a retailer estimation and subsequently issue a bill based on an actual meter reading or on energy data provided by the distributor.

¹⁷ The main body of the paper sets out additional reasons for deleting clause 4.9 that are not related to the NECF.

Adjustments to subsequent bills

[Clause 4.9 of the Code]

BACKGROUND – Full extract of legislative provisions	
Code	NECF
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.	No equivalent provision.

Customer may request meter reading

[Clause 4.10 of the Code]

draft recommendation
26

Comparative review of Code and NECF

Summary of legislation

Both the Code and the NECF provide that a customer may request a bill based on an actual meter reading if the customer has been billed on an estimation.

Notable differences:

- The Code only requires retailers to use best endeavours to replace a bill. The NECF obligation is absolute.
- The Code includes an additional exception; retailers only have to replace a bill if the customer provides due access to the meter.

Advantages / disadvantages of adopting NECF

Advantages

- Retailers must replace the bill if the conditions are met.

Disadvantages

- Retailers cannot replace a bill if a customer continues to fail to provide access to the meter.
- The drafting of clause 4.10 of the Code is clearer than the NECF drafting.

Draft recommendation¹⁸

Replace the requirement, in clause 4.10 of the Code, for a retailer to use best endeavours with an absolute obligation to replace an estimated bill with a bill based on an actual meter reading.

Reasons

A retailer should be able to replace an estimated bill if the conditions specified in clause 4.10 have been met.

¹⁸ Draft recommendation 27 in the main body of the report proposes an additional amendment to clause 4.10 for reasons not related to the NECF.

Customer may request meter reading

[Clause 4.10 of the Code]

BACKGROUND – Full extract of legislative provisions

Code	NECF
4.10 Customer may request meter reading If a retailer has based a bill upon an estimation because a 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.	NERR 21 Estimation as basis for bills (SRC and MRC) (5) Where an attempt to read the small customer's meter is unsuccessful due to an act or omission of the customer, and the customer subsequently requests a retailer to replace an estimated bill with a bill based on an actual meter reading, the retailer must comply with that request but may pass through to that small customer any costs it incurs in doing so. (6) Application of this rule to standard retail contracts. This rule applies in relation to standard retail contracts. (7) Application of this rule to market retail contracts This rule applies in relation to market retail contracts (other than prepayment meter market retail contracts), but only to the extent (if any) a contract provides for estimation as the basis for the small customer's bill.

Customer requests testing of meters or metering data

[Clause 4.11 of the Code]

draft recommendation
28

Comparative review of Code and NECF

Summary of legislation

Both the Code and the NECF provide that a customer may request a test of the meter.

Comparison between Code and NECF:

	Code	NECF
Test of meter	Yes	Yes
Check of meter reading or metering data	No	Yes
Customer to pay for costs	Yes, retailer may require payment in advance <i>(cost will be refunded if the meter is found to be defective)</i>	Yes, but NECF drafting is not clear on when payment is due ¹⁹

In the NECF, the matter is addressed in the 'bill review' rule. In the Code, the matter is addressed in a stand-alone clause.

Advantages / disadvantages of adopting NECF

Advantages

- Customers may ask for a check of their meter reading or metering data.

Disadvantages

- It is not clear whether retailers may require a customer to pay for a meter test in advance. It may be difficult for retailers to recover this amount afterwards.

Draft recommendation

- Replace clause 4.11(1) of the Code with rule 29(5)(a) of the NERR but:
 - replace 'meter reading or metering data' with 'energy data'.
 - retain clause 4.11(1)(b) and add the words 'checking the energy data'.
 - replace 'responsible person or metering coordinator (as applicable)' with 'distributor or metering data agent' in subrule (5)(a)(ii).
- Amend clause 4.11(2) of the Code to take account of the fact that customers may also request a check of the energy data.
- Incorporate amended clause 4.11 into clause 4.15 of the Code (Review of bill).

¹⁹ The NERR does not clearly specify whether the costs of a meter test are due before or after the test (if the meter is found to be faulty or incorrect). Rule 29(5) appears to imply that the costs are due after the test ('the retailer may require the customer to pay for the cost of the check or test if the check or test shows that the meter or metering data was not faulty or incorrect'). However, clause 12.3(b) of the model terms and conditions for standard retail contracts explicitly allows a retailer to request payment in advance ('You will be liable for the cost of the check or test and we may request payment in advance. However, if the meter or metering data proves to be faulty or incorrect, we must reimburse you for the amount paid').

a) Replace clause 4.11(1) of the Code with rule 29(5)(a) of the NERR

Customers should be allowed to ask for their energy data to be checked.

but:

- **replace ‘meter reading or metering data’ with ‘energy data’**

The term metering data is not defined in the Code or *Electricity Industry Metering Code 2012*. The equivalent term in the Code and Metering Code is energy data.

As the definition of energy data also includes data based on actual meter readings, it is not necessary to refer to meter readings in addition to energy data.

- **retain clause 4.11(1)(b)**

To provide certainty to retailers that the cost of a meter test or check must be met by the customer before the check or test occurs.

and add the words ‘checking the energy data’

Consequential amendment.

- **replace ‘responsible person or metering coordinator (as applicable)’ with ‘distributor or metering data agent’ in subrule (5)(a)(ii)**

The Metering Code uses the terms distributor and metering data agent.

b) Amend clause 4.11(2) to take account of the fact that customers may also request a check of the energy data

Consequential amendment.

c) Incorporate clause 4.11 into clause 4.15

To improve consistency with the NECF.

Customer requests testing of meters or metering data

[Clause 4.11 of the Code]

BACKGROUND – Full extract of legislative provisions	
Code	NECF
<p>4.11 Customer requests testing of meters or metering data</p> <p>(1) If a customer—</p> <ul style="list-style-type: none"> (a) requests the meter to be tested; and (b) pays the retailer’s reasonable charge for testing the meter (if any), <p>the retailer must request the distributor or metering agent to test the meter.</p> <p>(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.</p>	<p><i>NERR</i></p> <p>29 Billing disputes</p> <p>(5) If the small customer requests that, in reviewing the bill, the meter reading or metering data be checked or the meter tested:</p> <ul style="list-style-type: none"> (a) the retailer must, as the case may require: <ul style="list-style-type: none"> (i) arrange for a check of the meter reading or metering data; or (ii) request the responsible person or metering coordinator (as applicable) to test the meter; and (b) the retailer may require the customer to pay for the cost of the check or test if the check or test shows that the meter or metering data was not faulty or incorrect. <p>(8) Application of this rule to standard retail contracts.</p> <p>This rule applies in relation to standard retail contracts.</p> <p>(9) Application of this rule to market retail contracts</p> <p>This rule applies in relation to market retail contracts (other than prepayment meter market retail contracts).</p>

Comparative review of Code and NECF

Summary of legislation

Both the Code and the NECF provide that a customer may request to transfer to an alternative tariff offered by their retailer.

Both clauses are drafted very similar.

Advantages / disadvantages of adopting NECF

Advantages

- Improve consistency with the NECF.

Disadvantages

Draft recommendation

Replace clause 4.12 of the Code with rules 37(1) and (2) of the NERR but clarify that 'transfer' in subrule (2) refers to a transfer under subrule (1).

Reasons

Replace clause 4.12 of the Code with rules 37(1) and (2) of the NERR

See NECF advantage listed above.

but clarify that 'transfer' in subrule (2) refers to a transfer under subrule (1).

The words 'For the purposes of subclause (1)', that are currently included in subclause (2), clarify the relationship between subclause (1) and (2). A similar clarification should be included in the amended clause.

Customer applications

[Clause 4.12 of the Code]

BACKGROUND – Full extract of legislative provisions	
Code	NECF
<p>4.12 Customer applications</p> <p>(1) If a retailer offers alternative tariffs and a customer—</p> <ul style="list-style-type: none"> (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, <p>the retailer must change the customer to the alternative tariff within 10 business days of the customer satisfying those conditions.</p> <p>(2) For the purposes of subclause (1), the effective date of change will be—</p> <ul style="list-style-type: none"> (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. 	<p><i>NERR</i></p> <p>37 Customer request for change of tariff (SRC)</p> <p>(1) Where a retailer offers alternative tariffs or tariff options and a small customer:</p> <ul style="list-style-type: none"> (a) requests a retailer to transfer from that customer's current tariff to another tariff; and (b) demonstrates to the retailer that it satisfies all of the conditions relating to that other tariff and any conditions imposed by the customer's distributor, <p>the retailer must transfer the small customer to that other tariff within 10 business days of satisfying those conditions.</p> <p>(2) Where a small customer transfers from one tariff type to another, the effective date of the transfer is:</p> <ul style="list-style-type: none"> (a) subject to paragraph (b), the date on which the meter reading was obtained; or (b) where the transfer requires a change to the meter at the small customer's premises, the date the meter change is completed. <p>(3) Application of this rule to standard retail contracts</p> <p>This rule applies in relation to standard retail contracts.</p> <p>(4) Application of this rule to market retailer contracts</p> <p>This rule applies in relation to market retail contracts.</p>

Written notification of a change to an alternative tariff

[Clause 4.13 of the Code]

Comparative review of Code and NECF

Summary of legislation

Both the Code and the NECF deal with the situation where a customer's use of electricity has changed.

The objectives of both provisions differ. While the Code aims to ensure retailers notify customers before they are transferred to another tariff, the NECF aims to regulate when customers may be transferred to the other tariff.

Other notable differences:

	Code	NECF
Obligation on customer to notify retailer	No <i>(the Code cannot place obligations on customers)</i>	Yes
Retailer may transfer customer to another tariff	Not explicitly addressed	Yes
Retailer must notify customer before transferring to another tariff	Yes, in writing before the transfer	Yes, at time of transfer
Additional requirements apply if the change in use results in reclassification of customer²⁰	No	Yes

Advantages / disadvantages of adopting NECF

Advantages

- Retailers can decide how they notify a customer before transferring the customer to another tariff.
- Clarifies from when a customer may be transferred to another tariff.

Disadvantages

- Customers do not have to be notified in writing before they are transferred to another tariff.
- Customers do not receive prior notice of the transfer. Notification may occur at the same time as the transfer to the new tariff.
- The Code does not deal with reclassification of customers. Rules 38(3) and (5) are therefore not relevant.
- The Code cannot place obligations on customers.

Draft recommendation

No amendments proposed.²¹

Reasons

The NECF provides less protections for customers than the Code as, under the NECF, customers do not receive prior notice of a transfer.

²⁰ Reclassification refers to a change in the classification of a customer as a residential or business customer.

²¹ Draft recommendations 30 and 31 in the main body of the report propose amendments to clause 4.13 for reasons not related to the NECF.

Written notification of a change to an alternative tariff

[Clause 4.13 of the Code]

BACKGROUND – Full extract of legislative provisions

Code	NECF
<p>4.13 Written notification of a change to an alternative tariff</p> <p>If—</p> <p>(a) a customer’s electricity use at the customer’s supply address changes or has changed; and</p> <p>(b) the customer is no longer eligible to continue to receive an existing, more beneficial tariff,</p> <p>a 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.</p>	<p>NERR</p> <p>38 Change in use (SRC)</p> <p>(1) A small customer must notify its retailer of a change in use of the customer’s premises.</p> <p>(2) Where a small customer notifies a retailer of a change in use of the customer’s premises, the retailer may require the customer to transfer to a tariff applicable to the customer’s use of that premises with effect from the date on which the retailer notifies the customer of the new tariff.</p> <p>(3) If a reclassification is necessary as a result of the change in use notified by the customer under subrule (2), the date on which the retailer notifies the customer of the new tariff must not be earlier than the date notice is provided under rule 8 or 10 (as the case requires).</p> <p>(4) If a small customer fails to give notice of a change in use of the customer’s premises, the retailer may, upon giving notice to the customer, transfer the customer to the applicable tariff with effect from the date on which the change of use occurred.</p> <p>(5) Despite rules 8 (5) and 10 (5), if a reclassification is necessary as a result of a change of use under subrule (4), the reclassification takes effect on the date on which the new tariff applies under subrule (4).</p> <p>(6) Application of this rule to standard retail contracts.</p> <p>This rule applies in relation to standard retail contracts.</p> <p>(7) Application of this rule to market retail contracts</p> <p>This rule does not apply in relation to market retail contracts.</p>

Request for final bill

[Clause 4.14 of the Code]

draft recommendation

32

Comparative review of Code and NECF

Summary of legislation

Both the Code and the NECF require a retailer to issue a final bill on the customer's request. Both clauses are very similar, but the NECF also requires a retailer to use best endeavours to arrange for a meter reading.

The Code specifies what the retailer must do if the customer's account is in credit or debit at the time of account closure. The NECF does not deal with this matter.

Advantages / disadvantages of adopting NECF

Advantages

- Retailers must use best endeavours to arrange for a meter reading when customers request a final bill.
- Retailers must use best endeavours, instead of reasonable endeavours, to issue a final bill.

Disadvantages

- Retailers would no longer be required to ask customers for instructions before transferring the credit.
- Retailers would no longer be allowed to use the credit to offset a debt owed by the customer.

Draft recommendation²²

Replace clause 4.14(1) of the Code with rule 35(1) of the NERR.

Reasons

See NECF advantages listed above.

It is proposed to retain clauses 4.14(2) and (3) so retailers have to continue to ask customers for instructions before transferring a credit, and will continue to be able to use a credit to offset a debt owed by the customer.

²² Draft recommendation 33 in the main body of the report proposes an amendment to clause 4.14 for reasons not related to the NECF.

Request for final bill

[Clause 4.14 of the Code]

BACKGROUND – Full extract of legislative provisions

Code	NECF
4.14 Request for final bill	<i>NERR</i>
(1) If a customer requests a 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.	35 Request for final bill (SRC)
(2) If a customer's account is in credit at the time of account closure, subject to subclause (3), a retailer must, at the time of the final bill, ask the customer for instructions whether the customer requires the retailer to transfer the amount of credit to—	(1) If a customer requests the retailer to arrange for the preparation and issue of a final bill for the customer's premises, the retailer must use its best endeavours to arrange for:
(a) another account the customer has, or will have, with the retailer; or	(a) a meter reading; and
(b) a bank account nominated by the customer, and the retailer must credit the account, or pay the amount of credit in accordance with the customer's instructions, within 12 business days of receiving the instructions or other such time as agreed with the customer.	(b) the preparation and issue of a final bill for the premises in accordance with the customer's request.
(3) If a customer's account is in credit at the time of account closure, and the customer owes a debt to a retailer, the retailer may, with written notice to the customer, use that credit to set off the debt owed to the retailer. If, after the set off, there remains an amount of credit, the retailer must ask the customer for instructions to transfer the remaining amount of credit in accordance with subclause (2).	Note: Rule 118 makes provision for the issue of a final bill where the customer requests de-energisation of the premises.
	(2) Application of this rule to standard retail contracts.
	This rule applies in relation to standard retail contracts.
	(3) Application of this rule to market retail contracts.
	This rule does not apply in relation to market retail contracts.

Review of bill

[Clause 4.15 of the Code]

Comparative review of Code and NECF

Summary of legislation

Both the Code and the NECF require a retailer to review a bill upon a customer's request. In both cases, retailers may require customers to pay the part of the bill that is not under review (or an amount equal to the customer's average bill) and any future bills.

The NECF also provides that retailers must conduct their review in accordance with their standard complaints and dispute resolution procedures, including any time limits applicable under those procedures.

Advantages / disadvantages of adopting NECF

Advantages

- Retailers must conduct a review of a bill in accordance with their standard complaints and dispute resolution procedures.
- Improve consistency with the NECF.

Disadvantages

- Every request for a bill review would be treated as a complaint. However, bill reviews often occur when a customer simply queries the amount of the bill or seeks more information.

Draft recommendation

No amendments proposed.

Reasons

A bill review should not be treated as a complaint unless the bill review is in response to a customer expressing dissatisfaction with the bill.

Review of bill

[Clause 4.15 of the Code]

BACKGROUND – Full extract of legislative provisions

Code	NECF
<p>4.15 Review of bill</p> <p>Subject to a customer—</p> <p>(a) paying—</p> <p>(i) that portion of the bill under review that the customer and a retailer agree is not in dispute; or</p> <p>(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</p> <p>(b) paying any future bills that are properly due, a retailer must review the customer's bill on request by the customer.</p>	<p><i>NERR</i></p> <p>29 Billing disputes (SRC and MRC)</p> <p>(1) A retailer must review a bill if requested to do so by the small customer.</p> <p>Note: This subrule is a civil penalty provision for the purposes of the Law. (See the National Regulations, clause 6 and Schedule 1.)</p> <p>(2) The retailer must conduct the review in accordance with the retailer's standard complaints and dispute resolution procedures, including any time limits applicable under those procedures.</p> <p>(3) [...]</p> <p>(4) The retailer may require the small customer to pay:</p> <p>(a) the lesser of:</p> <p>(i) that portion of the bill under review that the customer and the retailer agree is not the subject of review; or</p> <p>(ii) an amount equal to the average amount of the customer's bills in the previous 12 months (excluding the bill in dispute); and</p> <p>(b) any other bills that are properly due.</p> <p>(5) [...]</p> <p>(5A) [...]</p> <p>(6) [...]</p> <p>(7) [...]</p> <p>(8) Application of this rule to standard retail contracts</p> <p>This rule applies in relation to standard retail contracts.</p> <p>(9) Application of this rule to market retail contracts</p> <p>This rule applies in relation to market retail contracts (other than prepayment meter market retail contracts).</p>

Procedures following a review of a bill

[Clause 4.16 of the Code]

draft recommendation

34

Comparative review of Code and NECF

Summary of legislation

Both the Code and the NECF prescribe the actions a retailer must take following a review of a bill.

Notable differences:

	Code	NECF
Bill is found to be correct		
– Retailer may require customer to pay outstanding amount	Yes	Yes
– Retailer must advise customer of availability of meter test	Yes	No
– Retailer must advise customer of existence of:		
– internal dispute process	Yes	No
– ombudsman	Yes ²³	Yes
Bill is found to be incorrect		
– Retailer must adjust the bill	Yes	Yes
– Retailer may require customer to pay outstanding amount	Not addressed.	Yes
Inform customer of outcome of review	Yes, as soon as practicable	Yes, as soon as reasonably possible but, in any event, within any time limits applicable under the retailer's standard complaints and dispute resolution procedures.
Notification of status of review	Yes, if retailer has not informed customer of outcome within 20 business days	No

Advantages / disadvantages of adopting NECF

Advantages

- Explicitly allows retailers to require customers to pay any amount that remains outstanding after the bill has been adjusted. (e.g. the retailer may have placed the full bill on hold, while only part of the bill was disputed).
- Improve consistency with the NECF.

Disadvantages

- Customers are not advised of the availability of a meter test.
- Customers are not advised of the existence of the retailer's internal dispute process.
- Customers are not advised of the status of the review when the review takes more than 20 business days.

²³ 'any applicable external complaints handling processes'

Draft recommendation²⁴

- a) Adopt rule 29(6)(b)(ii) of the NERR.
- b) Amalgamate clauses 4.15 and 4.16 of the Code.

Reasons

a) Adopt rule 29(6)(b)(ii) of the NERR

To clarify that retailers may require customers to pay any amount that remains outstanding after the bill has been adjusted.

b) Amalgamate clauses 4.15 and 4.16 of the Code

To improve consistency with the NECF.

²⁴ Draft recommendation 35 in the main body of the report proposes an additional amendment to clause 4.16 for reasons not related to the NECF.

Procedures following a review of a bill

[Clause 4.16 of the Code]

BACKGROUND – Full extract of legislative provisions	
Code	NECF
4.16 Procedures following a review of a bill	<i>NERR</i>
(1) If, after conducting a review of a bill, a retailer is satisfied that the bill is—	29 Billing disputes (SRC and MRC)
(a) correct, the retailer—	(1) [...]
(i) may require a customer to pay the unpaid amount;	(2) [...]
(ii) must advise the customer that the customer may request the retailer to arrange a meter test in accordance with applicable law; and	(3) The retailer must inform the small customer of the outcome of the review as soon as reasonable possible but, in any event, within any time limits applicable under the retailer's standard complaints and dispute resolution procedures.
(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	(4) [...]
(b) incorrect, the retailer must adjust the bill in accordance with clauses 4.17 and 4.18.	(5) [...]
(2) A retailer must inform a customer of the outcome of the review as soon as practicable.	(5A) [...]
(3) If a 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.	(6) Where, after conducting a review of the bill, the retailer is satisfied that it is:
	(a) correct, the retailer may require the small customer to pay the amount of the bill that is still outstanding; or
	(b) incorrect, the retailer:
	(i) must adjust the bill in accordance with rule 30 or 31, as the case requires; and
	(ii) may require the customer to pay the amount (if any) of the bill that is still outstanding; and
	(7) The retailer must inform the small customer that the customer may lodge a dispute with the energy ombudsman after completion of the retailer's review of a bill, where the customer is not satisfied with the retailer's decision in the review and the retailer's action or proposed action under subrule (6).
	Note:
	This subrule is a civil penalty provision for the purposes of the Law. (See the National Regulations, clause 6 and Schedule 1.)
	(8) Application of this rule to standard retail contracts
	This rule applies in relation to standard retail contracts.
	(9) Application of this rule to market retail contracts
	This rule applies in relation to market retail contracts (other than prepayment meter market retail contracts).

Undercharging

[Clause 4.17 of the Code]

draft recommendation

36

Comparative review of Code and NECF

Summary of legislation

Both the Code and the NECF deal with undercharging.

Notable differences:

	Code	NECF
Only applies if undercharge was result of error, defect or default for which the retailer or distributor is responsible	Yes ²⁵	No, but limitation on amount that may be recovered only applies if the undercharge occurred due to the customer's fault or an unlawful act or omission.
Undercharge limit	Yes, last 12 months	Yes, last 9 months
No late payment fee	Yes	No
Specific requirements for undercharging due to change in electricity use	Yes	No
Interest or late payment fees may be charged if customer does not pay, or enter into an instalment plan, by new due date	Yes	Not addressed

Advantages / disadvantages of adopting NECF

Advantages

- The clause applies to all instances of undercharging.
- For customers: recovery of an undercharged amount is limited to the last 9 months.
- The amount of the undercharge is calculated the same regardless of the reason for the undercharge
- Less complex drafting

Disadvantages

- No protections around late payment fees.
- It is unclear whether a retailer may charge interest if a customer fails to pay the outstanding amount by the due date.

²⁵ A customer denying access to the meter is not an undercharge as a result of an error, defect or default for which the retailer or distributor is responsible: clause 4.17(4).

Draft recommendation

- a) Delete clause 4.17(1) of the Code.
- b) Replace clauses 4.17(2) and (4) of the Code with rules 30(1) to (3) of the NERR but:
 - replace '9 months' with '12 months' in rule 30(2)(a) of the NERR.
 - except for rule 30(2)(b) of the NERR; instead insert clause 4.17(2)(d) of the Code but provide that the clause does not apply if the amount was undercharged as a result of the customer's fault or unlawful act or omission.
 - except for rule 30(2)(c) of the NERR; instead insert clause 4.17(2)(c) of the Code.
 - amend rule 30(2)(d) of the NERR to provide that instalment plans only have to be offered to residential customers and must meet the requirements of clause 6.4(2) of the Code.

Reasons

a) Delete clause 4.17(1) of the Code

Unnecessary. A similar clause is not included in the NECF.

b) Replace clauses 4.17(2) and (4) of the Code with rules 30(1) to (3) of the NERR

- Currently, clause 4.17 only applies to undercharging that was the result of an 'error, defect or default for which the retailer or distributor is responsible'. Adopting the NERR would result in clause 4.17 applying to all undercharging.

It seems fair and reasonable that the protections of clause 4.17 should not only apply if the undercharging was the result of an error, defect or default for which the retailer or distributor was responsible, but also if it was the result of an action by a third party or a genuine mistake by the customer. The proposed amendments will ensure these situations are also covered.

The NERR does include one exception. The 9-month restriction on the amount that may be recovered does not apply if the undercharging was the result of the customer's fault or unlawful act or omission. A similar exception should be included in the Code and extended to the restriction on interest charges and late payment fees.

- The Code would no longer specifically deal with undercharging as a result of a change in the customer's use of electricity (clause 4.17(2)(b)).

It is unclear why the amount of the undercharge due to a change in the customer's use of electricity is not calculated from the date the customer is notified of the undercharge. At the time the customer is notified that an alternative tariff applies, the retailer would be aware that the customer may have been undercharged.

Removing clause 4.17(2)(b) would ensure any undercharge cannot be recovered for a period more than 12 months before the customer was made aware of the undercharge. The amendment should not materially affect retailers as they should be able to inform customers of any undercharge at the time of or shortly after they are transferred to the alternative tariff.

but:

- **replace '9 months' with '12 months' in rule 30(2)(a) of the NERR**

The Code currently allows retailers to recover any amount undercharged over the past 12 months. There are no compelling reasons for reducing this period to 9 months.

- **except for rule 30(2)(b) of the NERR; instead:**

- o **insert clause 4.17(2)(d) of the Code**

Retain existing Code protection that late payment fees may not be imposed for undercharged amounts.

-
- **but provide that the clause does not apply if the amount was undercharged as a result of the customer's fault or unlawful act or omission**

Consistent with existing requirements: clause 4.17(2)(d) currently only applies to undercharges that are the result of an error, defect or default for which the retailer or distributor is responsible.

- **except for rule 30(2)(c) of the NERR; instead insert clause 4.17(2)(c) of the Code**

Consistent with ECCC advice, the ERA amended the Code in 2014 to give retailers more flexibility in how they inform their customers of an undercharge.²⁶ Reasons for previous amendment still apply.

- **amend rule 30(2)(d) of the NERR to provide that instalment plans only have to be offered to residential customers and must meet the requirements of clause 6.4(2) of the Code**

Consistent with ECCC advice,²⁷ the ERA amended the Code in 2012 to provide that instalment plans are only available to residential customers (as per clause 6.4). Reasons for previous amendment still apply.

²⁶ Electricity Code Consultative Committee, 2014, [*ECCC Final Review Report – 2013 Review of the Code of Conduct for the Supply of Electricity to Small Use Customers*](#), p. 20

²⁷ Electricity Code Consultative Committee, 2012, [*ECCC Final Review Report – 2011 Review of the Code of Conduct for the Supply of Electricity to Small Use Customers*](#), p. 8 of Attachment 1

Undercharging

[Clause 4.17 of the Code]

BACKGROUND – Full extract of legislative provisions	
Code	NECF
<p>4.17 Undercharging</p> <p>(1) This clause 4.17 applies whether the undercharging became apparent through a review under clause 4.15 or otherwise.</p> <p>(2) If a retailer proposes to recover an amount undercharged as a result of an error, defect or default for which the retailer or distributor is responsible (including where a meter has been found to be defective), the retailer must—</p> <ul style="list-style-type: none"> (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 a customer is incorrect, if a retailer has changed the customer to an alternative tariff in the circumstances set out in clause 4.13 and, as a result of the customer being ineligible to receive the tariff charged prior to the change, the retailer has undercharged the 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) notify the customer of the amount to be recovered no later than the next bill, together with an explanation of that amount; (d) subject to subclause (3), 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. <p>(3) If, after notifying a customer of the amount to be recovered in accordance with subclause (2)(c), the customer has failed to pay the amount to be recovered by the due date and has not entered into an instalment plan under subclause (2)(e), a retailer may charge the customer interest on that amount from the due date or require the customer to pay a late payment fee.</p>	<p>NERR</p> <p>30 Undercharging (SRC and MRC)</p> <p>(1) Subject to subrule (2), where a retailer has undercharged a small customer, it may recover from the customer the amount undercharged.</p> <p>(2) Where a retailer proposes to recover an amount undercharged the retailer must:</p> <ul style="list-style-type: none"> (a) unless the amount was undercharged as a result of the small customer's fault or unlawful act or omission, limit the amount to be recovered to the amount undercharged in the 9 months before the date the customer is notified of the undercharging; and (b) not charge the customer interest on that amount; and (c) state 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; and (d) offer the customer time to pay that amount by agreed instalments, over a period nominated by the customer being no longer than: <ul style="list-style-type: none"> (i) the period during which the undercharging occurred, if the undercharging occurred over a period of less than 12 months; or (ii) 12 months, in any other case. <p><i>Note:</i></p> <p><i>This subrule is a civil penalty provision for the purposes of the Law. (See the National Regulations, clause 6 and Schedule 1.)</i></p> <p>(3) To avoid doubt, a reference in this rule to undercharging by a retailer includes a reference to a failure by the retailer to issue a bill.</p> <p>(4) Application of this rule to standard retail contracts</p> <p>This rule applies in relation to standard retail contracts.</p> <p>(5) Application of this rule to market retail contracts</p> <p>This rule applies in relation to market retail contracts (other than prepayment meter market retail contracts).</p>

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- (4) For the purpose of subclause (2), an undercharge that has occurred as a result of a customer denying access to the meter is not an undercharge as a result of an error, defect or default for which a retailer or distributor is responsible.
-

Overcharging

[Clause 4.18 of the Code]

draft recommendation

37

Comparative review of Code and NECF

Summary of legislation

Both the Code and the NECF deal with overcharging.

Notable differences:

	Code	NECF
Only applies if overcharging was result of error, defect or default for which retailer or distributor is responsible	Yes	No, applies to all overcharging. However, if overcharging was result of customer's unlawful act or omission, retailer only has to refund overcharge for last 12 months.
Threshold amount below which retailer may credit next bill without seeking customer's instructions	\$100	\$50
Retailer must seek instructions on how the credit should be refunded if overcharge is more than threshold amount	Yes	Implied
Retailer must credit next bill if overcharge is below threshold amount	No, retailer may also repay the amount	Yes
Retailer may use credit to offset debt	Yes	No
Timeframe for repaying credit	Yes, 12 business days	No
Timeframe for customer to respond to request for instructions	Yes, 5 business days	No

Advantages / disadvantages of adopting NECF

Advantages

- The clause applies to all instances of overcharging.
- Lower threshold amount.

Disadvantages

- Retailers may not repay credit if below threshold amount (must be credited to next bill).
- For retailers: Retailers may not use credit to offset debt.
- No specified timeframes for some actions.

Draft recommendation²⁸

- a) Delete clause 4.18(1) of the Code.
- b) Replace clause 4.18(2) of the Code with rule 31(1) of the NERR but retain the requirement that retailers must ask customers for instructions as to whether the amount should be credited to the customer's account or repaid to the customer.
- c) Replace clauses 4.18(3) and (4) of the Code with rule 31(2) of the NERR but retain the timeframes for:
 - retailers refunding the amount in accordance with the customer's instructions.
 - customers responding to retailer's request for instructions.
- d) Replace clause 4.18(5) of the Code with rule 31(4) of the NERR.
- e) Replace clause 4.18(6) of the Code with rule 31(3) of the NERR but retain the option for retailers to ask customers for instructions if the credit is less than the threshold amount.
- f) Adopt rule 31(5) of the NERR.
- g) Adopt rule 31(6) of the NERR but:
 - retain the threshold amount at \$100.
 - do not adopt the words 'or such other amount as the AER determines under subrule (7)'.
- h) Clarify that clause 4.18 applies from the time a retailer becomes aware of an overcharge or, if the overcharge is the result of an estimation carried out in accordance with *the Electricity Industry Metering Code 2012*, from the time the retailer receives an actual value from the distributor. The actual value must be based on a meter reading undertaken in accordance with clause 5.4(1A)(b) of the Metering Code.

Reasons

a) Delete clause 4.18(1)

Unnecessary. A similar clause is not included in the NECF.

b) Replace clause 4.18(2) of the Code with rule 31(1) of the NERR

Currently, clause 4.18 of the Code only applies to overcharging that was the result of an 'error, defect or default for which the retailer or distributor is responsible'. Replacing clause 4.18(2) with rule 31(1) of the NERR would result in clause 4.18 applying to all overcharging.

It seems fair and reasonable that the protections of clause 4.18 should not only apply if the overcharging was the result of an error, defect or default for which the retailer or distributor was responsible, but also if it was the result of an action by a third party or a genuine mistake by the customer. The proposed amendments would ensure these situations are also covered.

If the overcharging was the result of the customer's unlawful act or omission, the retailer would only have to refund the customer for the last 12 months before the error was discovered.²⁹

but retain the requirement that retailers must ask customers for instructions as to whether the amount should be credited to the customer's account or repaid to the customer

Although this is implied in the NERR, it is not explicitly required. There are no compelling reasons for removing this protection from the Code.

c) Replace clauses 4.18(3) and (4) of the Code with rule 31(2) of the NERR

Increase in customer protections. Rule 31(2)(b) prescribes how a customer must be refunded if the customer has ceased to take supply.

²⁸ Draft recommendation 38 in the main body of the report proposes an additional amendment to clause 4.18 for reasons not related to the NECF.

²⁹ Rule 31(5) of the NERR.

but retain the timeframes for customer response and retailer refunds

There are no compelling reasons for removing these protections from the Code.

d) Replace clause 4.18(5) of the Code with rule 31(4) of the NERR.

Less complex drafting.

e) Replace clause 4.18(6) of the Code with rule 31(3) of the NERR

Increase in customer protections. Rule 31(3)(b) prescribes how a customer must be refunded if the customer has ceased to take supply.

but retain the option for retailers to ask customers for instructions if the credit is less than the threshold amount

Retain flexibility for retailers.

f) Adopt rule 31(5) of the NERR

To ensure retailers do not have to refund a customer for more than 12 months if the overcharging was the result of the customer's unlawful act or omission.

g) Adopt rule 31(6) of the NERR

Consequential amendment. Rules 31(1), (2), (3) and (5) of the NERR do not prescribe the threshold amount.

but:

- **retain the threshold amount at \$100**

There are no compelling reasons for amending the amount.

- **do not adopt the words 'or such other amount as the AER determines under subrule (7)'**

There are no compelling reasons for allowing the ERA to set an amount that is different from the amount prescribed in the Code.

h) Clarify that clause 4.18 applies from the time a retailer becomes aware of an overcharge or, if the overcharge is the result of an estimation carried out in accordance with the *Electricity Industry Metering Code 2012*, from the time the retailer receives an actual value from the distributor. The actual value must be based on a meter reading undertaken in accordance with clause 5.4(1A)(b) of the Metering Code

If a retailer receives an estimation from a distributor, the retailer will know that the customer is likely getting under- or overcharged. However, the retailer will not know at the time whether the estimation is an under- or overcharge and how much the under- or overcharged amount is. In this case, it is unclear when the retailer 'becomes aware of the overcharge' (that is, at the time the retailer receives the estimation, or at the time the retailer receives an actual value and can determine the overcharge amount).

To improve clarity, the obligations of (new) clause 4.18 should apply once a retailer becomes aware of an overcharge or, if the overcharge is the result of an estimation carried out in accordance with the Metering Code, once the retailer receives an actual value based on a meter reading carried out by the distributor.

Overcharging

[Clause 4.18 of the Code]

BACKGROUND – Full extract of legislative provisions	
Code	NECF
<p>4.18 Overcharging</p> <p>(1) This clause 4.18 applies whether the overcharging became apparent through a review under clause 4.15 or otherwise.</p> <p>(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 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 subclauses (6) and (7), ask the customer for instructions as to whether the amount should be—</p> <p>(a) credited to the customer's account; or</p> <p>(b) repaid to the customer.</p> <p>(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.</p> <p>(4) If a retailer does not receive instructions under subclause (2) within 5 business days of making the request, the retailer must use reasonable endeavours to credit the amount overcharged to the customer's account.</p> <p>(5) No interest shall accrue to a credit or refund referred to in subclause (2).</p> <p>(6) If the amount referred to in subclause (2) is less than \$100, a retailer may notify a customer of the overcharge by no later than the next bill after the retailer became aware of the error, and—</p> <p>(a) ask the customer for instructions under subclause (2) (in which case subclauses (3) and (4) apply as if the retailer sought instructions under subclause (2)); or</p> <p>(b) credit the amount to the customer's next bill.</p> <p>(7) If a customer has been overcharged by a retailer, and the customer owes a debt to the retailer, then provided that the customer is not a residential customer experiencing payment difficulties or financial hardship, the retailer may, with written notice to the customer, use the amount of the overcharge to set off the debt</p>	<p>NERR</p> <p>31 Overcharging (SRC and MRC)</p> <p>(1) Where a small customer has been overcharged by an amount equal to or above the overcharge threshold, the retailer must inform the customer accordingly within 10 business days after the retailer becomes aware of the overcharging.</p> <p><i>Note:</i> <i>This subrule is a civil penalty provision for the purposes of the Law. (See the National Regulations, clause 6 and Schedule 1.)</i></p> <p>(2) If the amount overcharged is equal to or above the overcharge threshold, the retailer must:</p> <p>(a) repay that amount as reasonably directed by the small customer; or</p> <p>(b) if there is no such reasonable direction, credit that amount to the next bill; or</p> <p>(c) if there is no such reasonable direction and the small customer has ceased to obtain customer retail services from the retailer, use its best endeavours to refund that amount within 10 business days.</p> <p><i>Note:</i> <i>Money not claimed is to be dealt with by the retailer in accordance with the relevant unclaimed money legislation.</i></p> <p><i>Note:</i> <i>This subrule is a civil penalty provision for the purposes of the Law (See the National Regulations, clause 6 and Schedule 1.)</i></p> <p>(3) If the amount overcharged is less than the overcharge threshold, the retailer must:</p> <p>(a) credit that amount to the next bill; or</p> <p>(b) if the small customer has ceased to obtain customer retail services from the retailer, use its best endeavours to refund that amount within 10 business days.</p> <p><i>Note:</i> <i>This subrule is a civil penalty provision for the purposes of the Law. (See the National Regulations, clause 6 and Schedule 1.)</i></p> <p>(4) No interest is payable on an amount overcharged.</p> <p>(5) If the small customer was overcharged as a result of the customer's unlawful act or omission, the retailer is only required to repay, credit or refund the customer the amount the customer was</p>

owed to the retailer. If, after the set off, there remains an amount of credit, the retailer must deal with that amount of credit in accordance with subclause (2) or, if the amount is less than \$100, subclause (6).

(a) Not Used

(b) Not Used

overcharged in the 12 months before the error was discovered.

(6) The overcharge threshold is \$50 or such other amount as the AER determines under subrule (7).

(7) The AER may from time to time determine a new overcharge threshold in accordance with the retail consultation procedure.

(8) The AER must publish the current overcharge threshold on its website.

(9) **Application of this rule to standard retail contracts**

This rule applies in relation to standard retail contracts.

(10) **Application of this rule to market retail contracts**

This rule applies in relation to market retail contracts (other than prepayment meter market retail contracts).

Adjustments

[Clause 4.19 of the Code]

Comparative review of Code and NECF

Summary of legislation

The Code regulates what a retailer must do when adjusting a bill following an estimation that was provided by a distributor or made under a bill smoothing arrangement.

The NECF only deals with adjustments following retailer estimations. It does not include a general provision dealing with adjustments. It is likely that adjustments, other than those following a retailer estimation, are treated as a general overcharge or undercharge.

Advantages / disadvantages of adopting NECF

Advantages

- Less complex drafting.

Disadvantages

Draft recommendation

No amendments proposed.

Reasons

Draft recommendation 39 in the main body of the report is to delete clause 4.19. The reasons for the proposed deletion are not directly related to the NECF.

Adjustments

[Clause 4.19 of the Code]

BACKGROUND – Full extract of legislative provisions	
Code	NECF
4.19 Adjustments	No equivalent provision.
(1) If a retailer proposes to recover an amount of an adjustment which does not arise due to any act or omission of a customer, the retailer must— <ul style="list-style-type: none">(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) notify the customer of the amount of the adjustment no later than 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 under 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 subclauses (5) and (7), ask the customer for instructions as to whether the amount should be— <ul style="list-style-type: none">(a) credited to the customer's account;(b) repaid to the customer; or(c) included as a part of the new bill smoothing arrangement if 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 5 business days of making the request, the retailer must use reasonable	

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- endeavours to credit the amount of the adjustment to the customer's account.
- (5) If the amount referred to in subclause (2) is less than \$100, the retailer may 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 under 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 next bill.
- (6) No interest shall accrue to an adjustment amount under subclause (1) or (2).
- (7) If the amount of the adjustment is an amount owing to the customer, and the customer owes a debt to the retailer, then provided that the customer is not a residential customer experiencing payment difficulties or financial hardship, the retailer may, with written notice to the customer, use the amount of the adjustment to set off the debt owed to the retailer. If, after the set off, there remains an amount of credit, the retailer must deal with that amount of credit in accordance with subclause (2) or, if the amount is less than \$100, subclause (5).
- (a) Not Used
 - (b) Not Used
-

Due dates for payment

[Clause 5.1 of the Code]

draft recommendation

40

Comparative review of Code and NECF

Summary of legislation

Both the Code and the NECF prescribe the minimum due date to pay a bill.

Notable differences:

	Code	NECF
Minimum due date	12 business days from date of bill	13 business days from bill issue date
Date of bill is date of dispatch	Yes	Not specified
May agree to different due date	Yes, all customers	No, but the rule does not apply to customers on a market retail contract

Advantages / disadvantages of adopting NECF

Advantages

- Customers will receive an extra business day to pay a bill.

Disadvantages

- Retailers and customers will lose the right to agree to a different minimum due date under the Code.

Draft recommendation

- Replace clause 5.1(1) of the Code with rule 26(1) of the NERR but retain the right of customers to agree to a different minimum due date.³⁰
- Delete clause 5.1(2) of the Code.

Consequential amendments

- Amend clause 1.5 of the Code to insert a definition of 'bill issue date' consistent with the definition of bill issue date in rule 3 of the NERR.
- Insert a new paragraph, in clause 4.5(1) of the Code, consistent with rule 25(1)(e) of the NERR.

Reasons

a) Replace clause 5.1(1) of the Code with rule 26(1) of the NERR

Increase customer protections by giving customers more time to pay their bill.

but retain the right of customers to agree to a different minimum due date

Retain flexibility for customers and retailers.

b) Delete clause 5.1(2)

This clause is no longer needed as the term 'bill issue date' would be defined.

Consequential amendments

c) Amend clause 1.5 of the Code to insert a definition of 'bill issue date' consistent with the definition of bill issue date in rule 3 of the NERR

To improve consistency with NECF.

³⁰ Question 1 in the main body of the report seeks stakeholder feedback on whether retailers and customers should continue to be able to agree to a different due date.

d) Insert a new paragraph, in clause 4.5(1) of the Code, consistent with rule 25(1)(e) of the NERR

The new definition of 'bill issue date' assumes that the bill includes the bill issue date.

Due dates for payment

[Clause 5.1 of the Code]

BACKGROUND – Full extract of legislative provisions

Code	NECF
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 unless otherwise agreed with a customer. (2) Unless a retailer specifies a later date, the date of dispatch is the date of the bill. <i>[A retailer and customer may agree that this clause does not apply, or is amended, in a non-standard contract]</i>	NERR 26 Pay-by date (SRC) (1) The pay-by date for a bill must not be earlier than 13 business days from the bill issue date. (2) Application of this rule to standard retail contracts This rule applies in relation to standard retail contracts. (3) Application of this rule to market retail contracts This rule does not apply in relation to market retail contracts.

Minimum payment methods

[Clause 5.2 of the Code]

draft recommendation

41

Comparative review of Code and NECF

Summary of legislation

Both the Code and the NECF are broadly similar for the payment methods that must be provided to customers, although the Code is generally more prescriptive.

Code customers can agree that the minimum payment methods of clause 5.2 do not apply. NECF customers can only agree to set aside the minimum payment methods if they are supplied under a market retail contract.

Comparison of minimum payment methods under the Code and NECF:

	Code	NECF
In person	At one or more payment outlets within the customer's Local Government District	In person
Mail	By mail	By mail
Telephone	By telephone by means of credit card or debit card	By telephone
Electronically	Electronically, including by means of BPay or credit card	By electronic funds transfer
Direct debit ³¹	Optional for retailers to provide payment by direct debit. Customer must give verifiable consent.	By direct debit. Customer must agree to direct debit.
Centrepay	For residential customers only.	A customer may request to pay using Centrepay, but it is optional for the retailer to offer this payment method (unless the customer is in hardship). ³²

Advantages / disadvantages of adopting NECF

Advantages

- Retailers must offer direct debit as a payment method (it is optional under the Code).
- The payment methods are less prescriptive than the Code's, giving retailers more discretion on how to offer each payment method.
- Customers cannot agree that one or more of the minimum payment methods do not apply (unless they are on a market retail contract).

Disadvantages

- It is optional for retailers to offer Centrepay as a payment method, unless the customer is in hardship (it is not optional under the Code).

³¹ The Code addresses direct debit payments in a separate clause (5.3), but it has been included in the table, because the NERR includes it in rule 32. See the comparative review for clause 5.3 for more information.

³² Rule 74 requires retailers to permit payment by Centrepay if a hardship customer requests it.

Draft recommendation

Replace clause 5.2 of the Code with rule 32(1) of the NERR but:

- do not adopt rule 32(1)(e) of the NERR.
- retain the requirement that the customer must be able to pay in person at one or more payment outlets within the customer's Local Government District (clause 5.2(a) of the Code).
- retain Centrepay as a minimum payment method for all residential customers (clause 5.2(c) of the Code).
- retain the ability for retailers and customers to agree otherwise.³³

Reasons

Replace clause 5.2 of the Code with rule 32(1) of the NERR

The payment methods listed in the NERR are less prescriptive, giving retailers more flexibility when offering each payment method.

but:

- **do not adopt rule 32(1)(e) of the NERR**

Most electricity retailers already offer direct debit as a payment method. There is no need to regulate this matter.

Also, some customers have previously used direct debit fraudulently. For example, by using another person's bank account details. Making direct debit mandatory would make it difficult for retailers to refuse direct debit to these customers.

- **retain the requirement that the customer must be able to pay in person at one or more payment outlets within the customer's Local Government District**

Removing this requirement could result in retailers only allowing customers to pay, for example, at the retailer's offices (which may be difficult to access for customers). Retaining this requirement ensures customers will continue to be able to pay their bill in person locally. This is especially important for customers with low digital skills.

- **retain Centrepay as a minimum payment method for all residential customers**

Centrepay helps customers who receive Centrelink payments to budget for essential household bills, such as utilities, and may reduce the risk of falling behind in payments. Centrepay should remain accessible to all residential customers, not only those who are experiencing financial hardship.

- **retain the ability for retailers and customers to agree otherwise**

Consistent with ECCC advice, the ERA amended the Code in 2016 to allow retailers and customers to agree otherwise. The ECCC considered that additional flexibility should be given to customers on standard form contracts to allow customers and retailers to agree to service standards different from those specified in the Code.³⁴

³³ Question 1 in the main body of the report seeks stakeholder feedback on whether retailers and customers should continue to be able to agree to a different due date.

³⁴ Electricity Code Consultative Committee, 2015, [Final Review Report - 2015 Review of the Code of Conduct for the Supply of Electricity to Small Use Customers](#), p. 21

Minimum payment methods

[Clause 5.2 of the Code]

BACKGROUND – Full extract of legislative provisions	
Code	NECF
<p>5.2 Minimum payment methods</p> <p>Unless otherwise agreed with a customer, a retailer must offer the customer at least the following payment methods—</p> <ul style="list-style-type: none"> (a) in person at 1 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 BPay or credit card; and (e) by telephone by means of credit card or debit card. <p><i>[A retailer and customer may agree that this clause does not apply, or is amended, in a non-standard contract]</i></p>	<p>NERR</p> <p>32 Payment methods (SRC and MRC)</p> <ul style="list-style-type: none"> (1) A retailer must accept payment for a bill by a small customer in any of the following ways: <ul style="list-style-type: none"> (a) in person; (b) by telephone; (c) by mail; (d) by direct debit; (e) by electronic funds transfer. <p>Note:</p> <p>This subrule is a civil penalty provision for the purposes of the Law. (See the National Regulations, clause 6 and Schedule 1.)</p> (2) A small customer: <ul style="list-style-type: none"> (a) applying for or on a standard retail contract; or (b) on a market retail contract, may request the retailer to permit payment by using Centrepay as a payment option and, subject to rule 74, the retailer may elect to permit this option. (3) [...] (4) [...] (5) [...] (6) Application of this rule to standard retail contracts <p>This rule applies in relation to standard retail contracts.</p> (7) Application of this rule to market retail contracts <p>This rule (other than subrule (1)) applies in relation to market retail contracts (other than prepayment market retail contracts).</p>

Direct debit

[Clause 5.3 of the Code]

Comparative review of Code and NECF

Summary of legislation

Both the Code and the NECF deal with direct debit arrangements.

Notable differences:

	Code	NECF
Must offer direct debit	No	Yes
Retailer and customer must agree to amount of direct debit	No	Yes
Notify customer in writing that retailer will cease to rely on direct debit if requested by customer	No	Yes
Terminate direct debit if requested by customer	No	Yes

Advantages / disadvantages of adopting NECF

Advantages

- More protections for customers.
- Retailers must offer direct debit as a payment method.

Disadvantages

- Increase in regulation.

Draft recommendation

No amendments proposed.

Reasons

As clause 5.3 is proposed to be deleted (see draft recommendation 42 in the main body of the report), no amendments are proposed based on the NECF.

Direct debit

[Clause 5.3 of the Code]

BACKGROUND – Full extract of legislative provisions

Code

5.3 Direct debit

If a retailer offers the option of payment by a direct debit facility to a customer, the retailer must, prior to the direct debit facility commencing, obtain the customer's verifiable consent, and agree with the customer the date of commencement of the direct debit facility and the frequency of the direct debits.

NECF

NERR

32 Payment methods (SRC and MRC)

- (1) [...]
- (2) [...]
- (3) Where a direct debit arrangement is to be entered into between a retailer and a small customer:
 - (a) the retailer and the small customer must agree the amount, initial date and frequency of the direct debits; and
 - (b) the explicit informed consent of the small customer is required for entering into the arrangement.
- (4) Where a direct debit arrangement is entered into between a retailer and a small customer, the retailer must:
 - (a) notify the small customer in writing that if the customer requests the retailer to cease to rely on the arrangement, the retailer will no longer rely on the direct debit authority; and
 - (b) terminate the arrangement on being requested by the customer to do so.

Note:

This subrule is a civil penalty provision for the purposes of the Law. (See the National Regulations, clause 6 and Schedule 1.)

- (5) [...]
- (6) **Application of this rule to standard retail contracts**

This rule applies in relation to standard retail contracts.
- (7) **Application of this rule to market retail contracts**

This rule (other than subrule (1)) applies in relation to market retail contracts (other than prepayment market retail contracts).

Payment in advance

[Clause 5.4 of the Code]

Comparative review of Code and NECF

Summary of legislation

Both the Code and the NECF require retailers to allow a customer to pay a bill in advance.

The Code also provides that:

- A retailer does not have to credit interest to amounts paid in advance.
- \$20 is the minimum amount for which the retailer must accept advance payments, unless otherwise agreed with the customer.

Advantages / disadvantages of adopting NECF

Advantages

- For customers: They can make a payment in advance for any amount.

Disadvantages

- For retailers: As there are often costs associated with payments (for example, credit card or Australia Post fees), the costs incurred by retailers for accepting payment in advance for small amounts may be disproportionate compared to the benefit to the customer.
- Removing the explicit protection for retailers that they do not have to pay interest on amounts paid in advance would make it unclear what the retailer is required to do in this situation. It is questionable that a retailer should have to pay interest on these amounts and is likely to be difficult for retailers to administer.

Draft recommendation

No amendments proposed.³⁵

Reasons

The Code's additional provisions provide clarity around two issues that the NECF does not.

³⁵ Draft recommendation 43 in the main body of the report proposes an amendment to clause 5.4 for reasons not related to the NECF.

Payment in advance

[Clause 5.4 of the Code]

BACKGROUND – Full extract of legislative provisions

Code	NECF
5.4 Payment in advance	<i>NERR</i>
(1) A retailer must accept payment in advance from a customer on request.	32 Payment methods (SRC and MRC)
(2) Acceptance of an advance payment by a retailer will not require the retailer to credit any interest to the amounts paid in advance.	(1) [...]
(3) Subject to clause 6.9, for the purposes of subclause (1), \$20 is the minimum amount for which a retailer will accept advance payments unless otherwise agreed with a customer.	(2) [...]
<i>[A retailer and customer may agree that this clause does not apply, or is amended, in a non-standard contract]</i>	(3) [...]
	(4) [...]
	(5) A retailer must accept payments by a small use customer for a bill in advance.
	(6) Application of this rule to standard retail contracts
	This rule applies in relation to standard retail contracts.
	(7) Application of this rule to market retail contracts
	This rule (other than subrule (1)) applies in relation to market retail contracts (other than prepayment market retail contracts).

Absence or illness

[Clause 5.5 of the Code]

Comparative review of Code and NECF

Summary of legislation

If a residential customer is unable to pay a bill using the methods in clause 5.2 due to absence or illness, the Code requires a retailer to offer the customer on request a redirection of the customer's bill to a third person at no charge.

The NECF does not include an equivalent provision.

Advantages / disadvantages of adopting NECF

Advantages

- Less regulatory burden for retailers.

Disadvantages

- Removal of a customer protection.

Draft recommendation

No amendments proposed.³⁶

Reasons

The NECF provides less protections for customers than the Code.

³⁶ Draft recommendation 44 in the main body of the report proposes an amendment to clause 5.5 for reasons not related to the NECF.

Absence or illness

[Clause 5.5 of the Code]

BACKGROUND – Full extract of legislative provisions	
Code	NECF
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.	No equivalent provision.

Late payments

[Clause 5.6 of the Code]

Comparative review of Code and NECF

Summary of legislation

Both the Code and the NECF provide several protections against the charging of late payment fees by retailers. The protections under the Code only apply to residential customers.

No late payment fees are allowed in the following circumstances:

	Code	NECF
Customer receives concession	Yes ³⁷	No
Customer is in hardship	Yes	Yes
Retailer has given customer payment extension and customer pays by new due date	Yes	No
Customer is on instalment plan and makes payments in accordance with plan	Yes	No
Customer has made complaint directly related to non-payment of bill:		
– to retailer, and complaint remains unresolved	Yes	Yes
– to retailer, and complaint is resolved in favour of customer	Yes	Yes
– to retailer, and complaint is resolved in favour of retailer	Yes ³⁸	Yes
– to energy ombudsman, and complaint has not been determined	Yes	Yes
– to energy ombudsman, and complaint is upheld	Yes	Yes
– to energy ombudsman, and complaint is not upheld	Yes ³⁹	Yes
Within 5 business days of last late payment fee notice	Yes	No
No more than 2 late payment fees for same bill	Yes	No
No more than 12 late payment fees per year	Yes	No

³⁷ Provided the customer did not receive two or more reminder notices within the previous 12 months.

³⁸ Until retailer has made a decision.

³⁹ Until energy ombudsman has made a determination.

Under the Code, a retailer must also retrospectively waive or refund late payment fees for customers who have:

- been assessed as experiencing financial hardship; or
- made a complaint to the retailer or energy ombudsman but the retailer was not aware of the complaint at the time.

The NECF requires that any late payment fee must not exceed the reasonable costs of the retailer in recovering an overdue amount.

Advantages / disadvantages of adopting NECF

Advantages

- Less complex to administer for retailers

Disadvantages

- Less protections for customers

Draft recommendation

No amendments proposed.

Reasons

The NECF provides less protections for customers than the Code

The one additional protection provided to NECF customers (cost of late payment fee) is not relevant as the late payment fees for the two main electricity providers, Synergy and Horizon Power, are set by the WA Government.

Late payments

[Clause 5.6 of the Code]

BACKGROUND – Full extract of legislative provisions

Code	NECF
<p>5.6 Late payments</p> <p>(1) A retailer must not charge a residential customer a late payment fee if—</p> <ul style="list-style-type: none"> (a) the residential customer receives a concession, provided the residential customer did not receive 2 or more reminder notices within the previous 12 months; or (b) the residential customer and the retailer have agreed to— <ul style="list-style-type: none"> (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) subject to subclause (2), 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— <ul style="list-style-type: none"> (i) the complaint has not been resolved by the retailer; (ii) the complaint is resolved by the retailer in favour of the residential customer. If the complaint is not resolved in favour of the residential customer, any late payment fee shall only be calculated from the date of the retailer's decision; or (iii) the complaint has not been determined or has been upheld by the electricity ombudsman (if a complaint has been made to the electricity ombudsman). If the complaint is determined by the electricity ombudsman 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. <p>(2) If a retailer has charged a late payment fee in the circumstances set out in subclause (1)(c) because the retailer was not aware of the complaint, the retailer will not contravene subclause (1)(c) but must refund the late payment fee on the customer's next bill.</p>	<p>NERL</p> <p>24 Late payment fees</p> <p>(1) A retailer may impose a fee for late payment of a bill for a customer retail service.</p> <p>(2) However, if the service is provided under a customer retail contract with a small customer—</p> <ul style="list-style-type: none"> (a) the fee must not exceed the reasonable costs of the retailer in recovering an overdue amount; and (b) if the customer lodges a complaint in relation to the bill under Part 4 of the National Energy Retail Law (South Australia), the retailer must not take steps to recover a fee for late payment while the complaint is being dealt with under that Part. <p>NERR</p> <p>73 Waiver of late payment fee for hardship customer</p> <p>A retailer must waive any fee payable under a customer retail contract with a small customer who is a hardship customer for late payment of a bill for customer retail services.</p> <p>Note: This rule is a civil penalty provision for the purposes of the Law. (See the National Regulations, clause 6 and Schedule 1.)</p>

-
- (3) 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.
 - (4) A retailer must not charge a residential customer more than 2 late payment fees in relation to the same bill or more than 12 late payment fees in a year.
 - (5) If a residential customer has been assessed as being in financial hardship under clause 6. 1(1), a retailer must retrospectively waive any late payment fee charged under the residential customer's last bill prior to the assessment being made.
-

Vacating a supply address

[Clause 5.7 of the Code]

Comparative review of Code and NECF

Summary of legislation

The Code prescribes the final day for which a retailer can charge a customer for electricity used at the supply address.

The NECF does not address this matter; it only deals with termination of a customer's contract.

In WA, termination of a customer's contract is addressed in the *Electricity Industry (Customer Contracts) Regulations 2005*.

Contract termination and liability for payment are not necessarily the same thing. For example, retailers may opt to continue to supply customers under the same contract when they move into a new supply address. If a customer's contract is not terminated when they vacate a supply address, it may not be clear when the customer's liability for payment at that address ends. Clause 5.7 aims to address this matter.

Advantages / disadvantages of adopting NECF

Advantages

Disadvantages

- Less clarity about when a customer's liability for payment ends.

Draft recommendation

No amendments proposed.⁴⁰

Reasons

See NECF disadvantage listed above.

⁴⁰ Draft recommendation 45 in the main body of the report proposes an amendment to clause 5.7 for reasons not related to the NECF.

Vacating a supply address

[Clause 5.7 of the Code]

BACKGROUND – Full extract of legislative provisions

Code	NECF
5.7 Vacating a supply address	No equivalent provision.
(1) Subject to— <ul style="list-style-type: none">(a) subclauses (2) and (4);(b) a customer giving a retailer notice; and(c) the customer vacating the supply address at the time specified in the notice, the retailer must not require the customer to pay for electricity consumed at the customer's supply address from—<ul style="list-style-type: none">(d) the date the customer vacated the supply address, if the customer gave at least 5 days' notice; or(e) 5 days after the customer gave notice, in any other case, unless the retailer and the customer have agreed to an alternative date.	
(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— <ul style="list-style-type: none">(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— <ul style="list-style-type: none">(a) a retailer and a customer enter into a new contract for the supply address, the 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.

*[A retailer and customer may agree that this clause does not
apply, or is amended, in a non-standard contract]*

Debt collection

[Clause 5.8 of the Code]

Comparative review of Code and NECF

Summary of legislation

Both the Code and the NECF preclude a retailer from recovering debt from a residential customer who is:

- on a payment plan (or extension) and adhering to its terms; and/or
- experiencing payment difficulties or financial hardship, until the retailer has offered all available assistance.

The Code also precludes a retailer from recovering debt from a person other than the customer at the supply address.

The Code explicitly allows a retailer to transfer a customer's debt to another customer upon the customer's request, provided the retailer obtains the other customer's verifiable consent.

Advantages / disadvantages of adopting NECF

Advantages

Disadvantages

- Retailers would potentially be able to initiate debt proceedings against someone at the supply address other than the customer.
- Customers would lose the right to ask to transfer debt to another customer, who may be in a better position to pay.

Draft recommendation

No amendments proposed.

Reasons

The NECF provides less protections for customers than the Code.

Debt collection

[Clause 5.8 of the Code]

BACKGROUND – Full extract of legislative provisions

Code	NECF
5.8 Debt collection	NERL
(1) 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.	51 – Debt Recovery A retailer must not commence proceedings for the recovery of a debt relating to the sale and supply of energy from a residential customer if— (a) the customer continues to adhere to the terms of a payment plan or other agreed payment arrangement; or (b) the retailer has failed to comply with the requirements of— (i) its customer hardship policy in relation to that customer; or (ii) this Law and the Rules relating to non-payment of bills, payment plans and assistance to hardship customers or residential customers experiencing payment difficulties.
(2) A retailer must not recover or attempt to recover a debt relating to a supply address from a person other than a customer with whom the retailer has or had entered into a contract for the supply of electricity to that customer's supply address.	
(3) If a customer with a debt owing to a retailer requests the retailer to transfer the debt to another customer, the retailer may transfer the debt to the other customer provided that the retailer obtains the other customer's verifiable consent to the transfer.	

Disconnection for failure to pay a bill – general requirements

[Clause 7.1 of the Code]

Comparative review of Code and NECF

Summary of legislation

Both the Code and the NECF contain comprehensive provisions on the disconnection of customers who fail to pay a bill. There are several differences between both instruments.

One of the differences is that the NECF has a general clause specifying the minimum content and timeframes for reminder notices and disconnection warnings. In the Code, these matters are addressed separately for each type of disconnection.

Another difference is that the NECF has separate disconnection procedures for customers on a shortened billing cycle.⁴¹ These customers do not receive any reminder notices.

Comparison between Code and NECF:

	Code	NECF
Reminder notice		
– Content	<ul style="list-style-type: none">– Retailer’s phone number for billing and payment enquiries– Advice on how the retailer may assist if the customer is experiencing payment difficulties or financial hardship.	<ul style="list-style-type: none">– Date of issue– Date the reminder notice period ends– The bill must be paid during the reminder notice period– Retailer’s phone number for complaints and disputes.
– May be sent	Not less than 15 business days from the date of dispatch of the bill.	No earlier than the next business day after bill pay-by date.
– New due date	Not specified.	No earlier than six business days from the date of issue of the reminder notice.
Direct contact	Use best endeavours to contact the customer to advise of the proposed disconnection. ⁴²	Use best endeavours to contact the customer after giving the customer a disconnection warning. Contact by telephone and electronic means is only taken to have occurred if the customer has acknowledged receipt of the message.
Disconnection warning		
– Content	<ul style="list-style-type: none">– That the retailer may disconnect the customer with at least 5 business days’ notice.	<ul style="list-style-type: none">– Date of issue.– State the matter giving rise to the potential disconnection.– Date the warning notice period ends.

⁴¹ Rule 111(3).

⁴² It is unclear exactly when the retailer must attempt to make contact. The clause is after the reminder notice clause and before the warning notice clause.

	<ul style="list-style-type: none"> – Retailer’s complaint handling processes, including details of the electricity ombudsman. 	<ul style="list-style-type: none"> – The bill must be paid during the warning period. – Inform the customer of applicable reconnection procedures and (if applicable) that a charge will be imposed for reconnection. – Contact details of the energy ombudsman. – Retailer’s telephone number.
– May be sent	Not less than 20 business days from the date of dispatch of the bill	No earlier than the next business day after the end of the reminder notice period. ⁴³
– New due date	Must give customer at least five business days’ notice of the disconnection.	No earlier than six business days from the date of issue of the disconnection warning. ⁴⁴
When disconnection may occur	<p>If the customer has not:</p> <ul style="list-style-type: none"> – paid the retailer's bill by the due date; – agreed with the retailer to an offer of an instalment plan or other payment arrangement to pay the retailer's bill; or – 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. 	<p>If:</p> <ul style="list-style-type: none"> – the customer: <ul style="list-style-type: none"> – has not paid a bill by the pay-by date; or – is on a payment plan with the retailer and has not adhered to the terms of the plan; and – if the customer is a residential customer, the customer: <ul style="list-style-type: none"> – has not paid a bill by the pay-by date; and – has not agreed to an offer to pay the bill by instalments or, having agreed to the offer, has failed to adhere to an instalment arrangement.
Prerequisites for disconnection of customers experiencing payment difficulties or financial hardship		<p>The retailer has offered the customer 2 payment plans in the previous 12 months and:</p> <ul style="list-style-type: none"> – the customer has agreed to neither of them; or – the customer has agreed to one but not the other of them but the plan to which the customer agreed has been cancelled due to non-payment by the customer; or

⁴³ At the earliest, a disconnection warning may be sent 21 business days after the bill issue date.

⁴⁴ See the definition of ‘disconnection warning period’ in rule 108 of the NERR.

- the customer has agreed to both of them, but the plans have been cancelled due to non-payment by the customer.

Advantages / disadvantages of adopting NECF

Advantages

- Customers receive more information on their reminder notices and disconnection warnings.
- Residential customers may only be disconnected if they have been offered at least two instalment plans and failed to accept either plan or did not adhere to the plan(s).

Disadvantages

- Some of the drafting, especially around timeframes, is more complex.
- The framework for timeframes does not align with the current processes of some retailers. Retailers may incur costs to change their systems to comply with the NECF framework.
- Unlike the Code, the NECF does not require a reminder notice to include information about seeking help for hardship or payment difficulties.

Draft recommendation

No amendments proposed.

Reasons

See NECF disadvantages listed above. There are no compelling reasons to adopt the NECF.

Disconnection for failure to pay a bill – general requirements

[Clause 7.1 of the Code]

BACKGROUND – Full extract of legislative provisions

Code	NECF
<p>Subdivision 1 – Disconnection for failure to pay a bill</p> <p>7.1 General requirements</p> <p>(1) Prior to arranging for disconnection of a customer's supply address for failure to pay a bill, a retailer must—</p> <p>(a) give the customer a reminder notice, not less than 15 business days from the date of dispatch of the bill, including—</p> <p>(i) the retailer's telephone number for billing and payment enquiries; and</p> <p>(ii) advice on how the retailer may assist in the event the customer is experiencing payment difficulties or financial hardship;</p> <p>(b) use its best endeavours to contact the customer to advise of the proposed disconnection; and</p> <p>(c) give the customer a disconnection warning, not less than 20 business days from the date of dispatch of the bill, advising the customer—</p> <p>(i) that the retailer may disconnect the customer with at least 5 business days notice to the customer; and</p> <p>(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.</p> <p>(2) For the purposes of subclause (1), a customer has failed to pay a retailer's bill if the customer has not—</p> <p>(a) paid the retailer's bill by the due date;</p> <p>(b) agreed with the retailer to an offer of an instalment plan or other payment arrangement to pay the retailer's bill; or</p> <p>(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.</p>	<p>NERR</p> <p>Part 6 De-energisation (or disconnection) of premises—small customers</p> <p>Division 1 Preliminary</p> <p>107 Application of this Part</p> <p>(1) This Part (except for rules 119 and 120 (1) (a), (2) and (3)) applies to small customers only, and references to a customer are to be construed accordingly.</p> <p>(2) A retailer must not arrange de-energisation of a customer's premises except in accordance with Division 2.</p> <p>Note: This subrule is a civil penalty provision for the purposes of the Law. (See the National Regulations, clause 6 and Schedule 1.)</p> <p>(3) A distributor must not de-energise a customer's premises except in accordance with Division 3.</p> <p>Note: This subrule is a civil penalty provision for the purposes of the Law. (See the National Regulations, clause 6 and Schedule 1.)</p> <p>(4) This Part does not apply to interruptions under Division 6 of Part 4 or under Division 9A of Part 2.</p> <p>(5) A reference in this Part to the de-energisation or re-energisation of a customer's premises includes arranging for the premises to be de-energised or re-energised remotely.</p> <p>108 Definitions</p> <p>In this Part:</p> <p><i>disconnection warning period</i> means the period that starts on the date of issue of a disconnection warning notice under rule 110, which must be no earlier than the next business day after the end of the reminder notice period, and ends no earlier than 6 business days from the date of issue of the disconnection warning notice;</p> <p><i>extreme weather event</i> means an event declared by a local instrument as an extreme weather event in the jurisdiction in which the customer's premises are located;</p> <p><i>protected period</i> means:</p> <p>(a) a business day before 8am or after 3pm; or</p> <p>(b) a Friday or the day before a public holiday; or</p> <p>(c) a weekend or a public holiday; or</p>

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- (d) the days between 20 December and 31 December (both inclusive) in any year;

public holiday, in relation to a customer, means a day that is observed as a local public holiday in the area in which the customer's premises are located (including the whole of the State or Territory in which the area is located);

reminder notice period means the period that starts on the date of issue of a reminder notice under rule 109, which must be no earlier than the next business day after the pay-by date, and ends no earlier than 6 business days from the date of issue of the reminder notice.

109 Reminder notices—retailers

(1) **Nature of reminder notices**

A reminder notice is a notice issued by a retailer after the pay-by date for a bill to remind the customer that payment is required.

(2) **Particulars to be included in reminder notices**

A reminder notice must:

- (a) state the date of its issue; and
- (b) state the date on which the reminder notice period ends; and
- (c) state that payment of the bill must be made during the reminder notice period; and
- (d) include details of the retailer's telephone number for complaints and disputes.

110 Disconnection warning notices—retailers and distributors

(1) **Nature of disconnection warning notices**

A disconnection warning notice is a notice issued by a retailer or a distributor as applicable to warn a customer that the customer's premises will or may be de-energised.

(2) **Particulars to be included in disconnection warning notices**

A disconnection warning notice must:

- (a) state the date of its issue; and
- (b) state the matter giving rise to the potential de-energisation of the customer's premises; and
- (c) where the notice has been issued for not paying a bill:
 - (i) state the date on which the disconnection warning period ends; and
 - (ii) state that payment of the bill must be made during the disconnection warning period; and
- (d) for matters other than not paying a bill—allow a period of not fewer than 5 business

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- days after the date of issue for the customer to rectify the matter before de-energisation will or may occur; and
 - (e) inform the customer of applicable re-energisation procedures and (if applicable) that a charge will be imposed for re-energisation; and
 - (f) include details of the existence and operation of the energy ombudsman, including contact details;
 - (g) include details of the telephone number of the retailer and the distributor (as applicable).

Division 2 Retailer-initiated de-energisation of premises

111 De-energisation for not paying bill

- (1) A retailer may arrange de-energisation of a customer's premises if:
 - (a) the customer:
 - (i) has not paid a bill by the pay-by date; or
 - (ii) is on a payment plan with the retailer and has not adhered to the terms of the plan; and
 - (b) if the customer is a residential customer, the customer:
 - (i) has not paid a bill by the pay-by date; and
 - (ii) has not agreed to an offer to pay the bill by instalments or, having agreed to the offer, has failed to adhere to an instalment arrangement; and
 - (c) the retailer has given the customer a reminder notice; and
 - (d) the retailer has given the customer a disconnection warning notice after the expiry of the period referred to in the reminder notice; and
 - (e) the retailer has, after giving the disconnection warning notice, used its best endeavours to contact the customer, in connection with the failure to pay, or to agree to the offer or to adhere to the payment plan or instalment arrangement as referred to in paragraphs (a) (ii) and (b) (ii), in one of the following ways:
 - (i) in person;
 - (ii) by telephone (in which case contact is, if the telephone is unanswered, taken to have occurred only if the customer acknowledges receipt of a message);
 - (iii) by facsimile or other electronic means (in which case contact is taken to have occurred only if the customer acknowledges receipt of the message); and

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- (f) the customer has refused or failed to take any reasonable action towards settling the debt.
 - (2) Where a customer is a hardship customer or a residential customer who has informed the retailer in writing or by telephone that the customer is experiencing payment difficulties, a retailer must not arrange for de-energisation of the customer's premises under subrule (1), unless the retailer has offered the customer 2 payment plans in the previous 12 months and:
 - (a) the customer has agreed to neither of them; or
 - (b) the customer has agreed to one but not the other of them but the plan to which the customer agreed has been cancelled due to non-payment by the customer; or
 - (c) the customer has agreed to both of them but the plans have been cancelled due to non-payment by the customer.
 - (3) A retailer may arrange de-energisation of a customer's premises if:
 - (a) the customer has, while on a shortened collection cycle, not paid a bill by the pay-by date; and
 - (b) the retailer has given the customer a disconnection warning notice after the pay-by date; and
 - (c) the retailer has, after giving the disconnection warning notice, used its best endeavours to contact the customer, in connection with the failure to pay, or to agree to the offer or to adhere to the payment plan or instalment arrangement as referred to in subrule (1) (a) (ii) and (b) (ii), in one of the following ways:
 - (i) in person;
 - (ii) by telephone (in which case contact is, if the telephone is unanswered, taken to have occurred only if the customer acknowledges receipt of a message);
 - (iii) by facsimile or other electronic means (in which case contact is taken to have occurred only if the customer acknowledges receipt of the message);and
 - (d) the customer has refused or failed to take any reasonable action towards settling the debt.
 - (4) **Application of this rule to standard retail contracts**

This rule applies in relation to standard retail contracts.
 - (5) **Application of this rule to market retail contracts**

This rule applies in relation to market retail contracts.
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Limitations on disconnection for failure to pay bill

draft recommendation
58

[Clause 7.2 of the Code]

Comparative review of Code and NECF

Summary of legislation

Both the Code and the NECF preclude retailers from disconnecting a customer's supply for failure to pay a bill in certain circumstances.

Their approaches differ somewhat. While many of the Code restrictions only apply for failure to pay a bill, most of the NECF restrictions apply to all grounds of disconnection.

Also, in the NECF, all restrictions on disconnection are listed in two rules: rule 116 (for retailers) and rule 120 (for distributors). Those rules not only set out what restrictions apply, but also when the restrictions do not apply (for example, if the customer has used electricity illegally).

Comparison between Code and NECF of the restrictions on disconnection for failure to pay a bill:

	Code	NECF
No disconnection		
Within 1 business day after the expiry of the disconnection warning period	Yes	No
If residential customer is:		
– accepted/adhering to a payment plan	Yes	Yes
– used reasonable endeavours to settle debt before expiry of disconnection warning period	Yes	No
If amount outstanding is less than amount approved by ERA/AER	Yes	Yes
If customer has applied for concession and decision is outstanding	Yes	Yes
If customer has not paid amount which does not relate to the sale of electricity	Yes	Yes
If supply address does not relate to the bill (unless the amount due relates to a supply address previously occupied by the customer)	Yes	No
During an extreme weather event	No	Yes

Advantages / disadvantages of adopting NECF

Advantages

- The restriction on disconnection for customers on an instalment plan is not subject to the customer having used reasonable endeavours to settle the debt before the expiry of the disconnection warning period. Customers who are on an instalment plan should not be expected to settle their debt before the disconnection

Disadvantages

- The NECF does not specifically preclude retailers from disconnecting other supply addresses for which the customer has a supply contract.

warning period as long as they comply with the conditions of their plan.

- Clarifies that retailers may only not disconnect a customer who has applied for a concession, if the customer has informed the retailer of the application or the retailer is otherwise aware.
- Customers may not be disconnected during an extreme weather event.
- The NECF clearly sets out when the restrictions on disconnection do, and do not, apply.

Draft recommendation⁴⁵

- a) Replace clause 7.2(1)(b) of the Code with rule 116(1)(d) of the NERR but do not adopt the words 'is a hardship customer or residential customer and'.
- b) Replace clause 7.2(1)(d) of the Code with rule 116(1)(e) of the NERR but replace the words 'a rebate, concession or relief available under any government funded energy rebate, concession or relief scheme' with 'a concession'.

Reasons

a) Replace clause 7.2(1)(b) of the Code with rule 116(1)(d) of the NERR

Clause 7.2(1)(b) currently requires customers who are on an instalment plan to use reasonable endeavours to settle their debt before the disconnection warning period. This seems unreasonable. The amendment would ensure that disconnection will not occur while the customer 'is adhering to an instalment plan'.

but do not adopt the words 'is a hardship customer or residential customer and'

The Code does not use the term 'hardship customer'. The words are also unnecessary if the reference to 'rule 33 or 72' is replaced with reference to 'clause 6.4(1)'. Under clause 6.4(1) of the Code, instalment plans only have to be offered to residential customers.

b) Replace clause 7.2(1)(d) of the Code with rule 116(1)(e) of the NERR

Retailers will not always be aware that a customer has applied for a concession. Adopting the drafting of rule 116(1)(e) would ensure that the restriction only applies if the customer has informed the retailer, or the retailer is otherwise aware, that the customer has applied for a concession.

but replace the words 'a rebate, concession or relief available under any government funded energy rebate, concession or relief scheme' with 'a concession'

Clause 1.5 of the Code defines concession as 'means a concession, rebate, subsidy or grant related to the supply of electricity available to residential customers only'.

⁴⁵ Draft recommendation 59 in the main body of the report proposes an additional amendment to clause 7.2 for reasons not related to the NECF.

Limitations on disconnection for failure to pay bill

[Clause 7.2 of the Code]

BACKGROUND – Full extract of legislative provisions

Code	NECF
<p>7.2 Limitations on disconnection for failure to pay bill</p> <p>(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 –</p> <p>(a) within 1 business day after the expiry of the period referred to in the disconnection warning;</p> <p>(b) if the retailer has made the residential customer an offer in accordance with clause 6.4(1) and the residential customer –</p> <p>(i) has accepted the offer before the expiry of the period specified by the retailer in the disconnection warning; and</p> <p>(ii) has used reasonable endeavours to settle the debt before the expiry of the time frame specified by the retailer in the disconnection warning;</p> <p>(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;</p> <p>(d) if the customer has made an application for a concession and a decision on the application has not yet been made;</p> <p>(e) if the customer has failed to pay an amount which does not relate to the supply of electricity; or</p> <p>(f) if the supply address does not relate to the bill, unless the amount outstanding relates to a supply address previously occupied by the customer.</p> <p>(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.</p>	<p>NERR</p> <p>116 When retailer must not arrange de-energisation</p> <p>(1) Restrictions on de-energisation</p> <p>Despite any other provisions of this Division but subject to subrules (2), (3) and (4), a retailer must not arrange for the de-energisation of a customer's premises to occur:</p> <p>(a)-(c1) [...]</p> <p>(d) where the customer is a hardship customer or residential customer and is adhering to a payment plan under rule 33 or 72; or</p> <p>(e) where the customer informs the retailer, or the retailer is otherwise aware, that the customer has formally applied for assistance to an organization responsible for a rebate, concession or relief available under any government funded energy charge rebate, concession or relief scheme and a decision on the application has not been made; or</p> <p>(f) on the ground that the customer has failed to pay an amount on a bill that relates to goods and services other than for the sale of energy; or</p> <p>(g) for non-payment of a bill where the amount outstanding is less than an amount approved by the AER and the customer has agreed with the retailer to repay that amount; or</p> <p>(h)-(i) [...]</p>

Dual fuel contracts

[Clause 7.3 of the Code]

Comparative review of Code and NECF

Summary of legislation

The Code and the NECF provide customers on dual fuel contracts with similar protections. Both instruments require the retailer to wait at least 15 business days after disconnecting the gas supply to disconnect the electricity supply.

There are two main differences:

- The Code protection only applies to residential customers, while the NECF applies to all customers.
- The NECF protection only applies to dual fuel contracts, while the Code applies to dual fuel contracts as well as separate contracts for the supply of electricity and gas (provided the customer receives a single bill for energy or separate, simultaneous bills for electricity and gas).

Advantages / disadvantages of adopting NECF

Advantages

- Protection applies to all customers (not only residential customers)

Disadvantages

- Protection only applies to customers on a dual fuel contract.

Draft recommendation

No amendments proposed.

Reasons

See NECF disadvantage listed above.

Dual fuel contracts

[Clause 7.3 of the Code]

BACKGROUND – Full extract of legislative provisions

Code	NECF
7.3 Dual fuel contracts	<i>NERR</i>
(1) If a retailer and a residential 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 residential customer, the retailer must not arrange for disconnection of the residential customer's supply address for failure to pay a bill within 15 business days from the date of disconnection of the residential customer's gas supply.	117 Timing of de-energisation where dual fuel market contract (1) Application of this rule This rule applies where a retailer and a customer have entered into a dual fuel market contract for the customer's premises and the retailer has the right to arrange for de-energisation of the customer's gas supply and the customer's electricity supply under this Division. (2) De-energisation of gas supply Despite any other provision of this Division, the retailer may exercise the right to arrange for de-energisation of the customer's gas supply in accordance with timing determined under the dual fuel market contract. (3) De-energisation of electricity supply The retailer may exercise the right to arrange for de-energisation of the customer's electricity supply in accordance with timing determined under the dual fuel market contract but no earlier than 15 business days after the date of the de-energisation of the customer's gas supply under subrule (2). (4) Restrictions on de-energisation not affected Nothing in this rule affects the operation of rule 116.

Disconnection for denying access to meter – general requirements

[Clause 7.4 of the Code]

draft recommendation
60

Comparative review of Code and NECF

Summary of legislation

Both the Code and the NECF restrict disconnection for denying access to the meter.

The NERR has two provisions for denying access to the meter. Rule 113(1) deals with denying access to read the meter. Rule 113(2) deals with denying access to test, maintain, inspect or alter the meter, check the accuracy of the meter or replace the meter.

The Code implies that clause 7.4 only applies to denying access to the customer's supply address to read the meter, but this is not explicit.⁴⁶

Comparison between Code and NECF disconnection provisions for denying access to read the meter:

	Code	NECF
Minimum period denying access to the meter before disconnection	9 months	3 consecutive meter readings
Provide notice	Yes, of date or timeframe for next scheduled meter reading	Yes, requesting access to the meter
Use best endeavours to contact customer	Yes	Yes ⁴⁷
Give customer opportunity to offer reasonable alternative access arrangements	Yes	Yes, but arrangements must be acceptable to the distributor or metering agent
Advise customer of alternative meters	Yes	No
Notice of intention to arrange for disconnection	No	Yes
Disconnection warning notice	Yes	Yes
– Timeframe for issuing disconnection notice	No	Yes, after expiry of period referred to in 'notice of intention to arrange for disconnection'
– Timeframe for disconnection after notice issued	5 business days	6 business days
Disconnection only allowed if customer has not rectified the matter that give rise to the right to arrange for disconnection	No	Yes

⁴⁶ Clause 7.4(1)(b) twice refers to 'scheduled meter reading'.

⁴⁷ Contact by telephone and electronic means is only taken to have occurred if the customer has acknowledged receipt of the message.

Retailer may arrange for distributor to carry out one or more of the requirements

Yes

Not addressed.

The NECF provides less protections where a customer has denied access for testing, maintaining, inspecting or altering the meter, checking the accuracy of the meter or replacing the meter. In these cases, the retailer only has to give the customer a disconnection warning.

Advantages / disadvantages of adopting NECF

Advantages

- Clarity re protections that apply when access is denied for reasons other than reading the meter.
- Contact by telephone and electronic means is only taken to have occurred if the customer has acknowledged receipt of the message.
- Retailers must provide a reminder notice (notice of intention to arrange for disconnection) and disconnection warning.
- Disconnection only allowed if customer has not rectified the matter that gave rise to the right to arrange for disconnection.

Disadvantages

- Unclear if customers receive prior notice of the date / timeframe of at least one scheduled meter reading.
- Retailers may disconnect supply after 3 consecutive meter readings. As most electricity meters in WA are read every two months, disconnection could occur after 6 months.
- Customers do not receive information about alternative meters, such as meters that can be read remotely.
- Unclear if retailers can arrange for a distributor to carry out one or more of the requirements.

Draft recommendation⁴⁸

Adopt rule 113(2) of the NERR but:

- do not adopt the words ‘in accordance with any requirement under the energy laws or otherwise’.
- extend the application of the clause to distributors.

Reasons

Adopt rule 113(2) of the NERR

To improve clarity about the protections that apply when access is denied for reasons other than reading the meter.

but:

- **do not adopt the words ‘in accordance with any requirement under the energy laws or otherwise’**

The words are likely unnecessary. A retailer should always comply with any requirements under other laws.

- **extend the application of the clause to distributors**

Distributors are most likely to require access to a customer’s meter to test, inspect, alter, check or replace the meter.

⁴⁸ Draft recommendation 61 in the main body of the report proposes an additional amendment to clause 7.4 for reasons not related to the NECF.

Disconnection for denying access to meter – general requirements

[Clause 7.4 of the Code]

BACKGROUND – Full extract of legislative provisions

Code	NECF
7.4 General requirements	<i>NERR</i>
<p>(1) A retailer must not arrange for the disconnection of a customer's supply address for denying access to the meter, unless—</p> <ul style="list-style-type: none"> (a) the customer has denied access for at least 9 consecutive months; (b) the retailer has, prior to giving the customer a disconnection warning under subclause (f), at least once given the customer in writing 5 business days notice— <ul style="list-style-type: none"> (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. <p>(2) A retailer may arrange for a distributor to carry out 1 or more of the requirements referred in subclause (1) on behalf of the retailer.</p>	<p>113 De-energisation for denying access to meter</p> <p>(1) A retailer may arrange for de-energisation of a customer's premises if the customer has failed to allow, for 3 consecutive scheduled meter readings, access to the customer's premises to read a meter and if:</p> <ul style="list-style-type: none"> (a) the retailer has given the customer an opportunity to offer reasonable alternative arrangements for access that are acceptable to the responsible person or metering coordinator (as applicable); and (b) the retailer has, on each of the occasions access was denied, arranged for the customer to be given a notice requesting access to the meter at the premises and advising of the retailer's ability to arrange for de-energisation; and (c) the retailer has used its best endeavours to contact the customer: <ul style="list-style-type: none"> (i) in person; or (ii) by telephone (in which case contact is, if the telephone is unanswered, taken to have occurred only if the customer acknowledges receipt of a message); or (iii) by facsimile or other electronic means (in which case contact is taken to have occurred only if the customer acknowledges receipt of the message); and (d) the retailer has given the customer a notice of its intention to arrange for de-energisation; and (e) the retailer has given the customer a disconnection warning notice after the expiry of the period referred to in the notice of its intention; and (f) the customer has not rectified the matter that gave rise to the right to arrange for de-energisation. <p>(2) A retailer may arrange for de-energisation of a customer's premises if the customer does not provide the retailer or its representatives safe access to the customer's premises in accordance with any requirement under the energy laws or otherwise for the purposes of:</p>

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- (a) testing, maintaining, inspecting or altering any metering installation at the premises;
 - (b) checking the accuracy of metered consumption at the premises; or
 - (c) replacing meters, and if:
 - (d) the retailer has given the customer a disconnection warning notice; and
 - (e) the customer has not rectified the matter that gave rise to the right to arrange for de-energisation of the premises.

(3) **Application of this rule to standard retail contracts**

This rule applies in relation to standard retail contracts.

(4) **Application of this rule to market retail contracts**

This rule applies in relation to market retail contracts.

Disconnection or interruption for emergencies – general requirements

[Clause 7.5 of the Code]

Comparative review of Code and NECF

Summary of legislation

Both the Code and the NECF require distributors to provide a 24-hour emergency line.

Comparison between Code and NECF (rule 91 of the NERR):

	Code	NECF
24-hour telephone service	Yes	Yes
Available in case of:	Emergencies ⁴⁹	Unplanned interruptions ⁵⁰
Telephone service must be established within 30 minutes of distributor being advised of unplanned interruption	No	Yes
At cost of local call	Yes	Yes
Estimate of when supply will be restored	Yes	Yes
If telephone service is automated – must provide option for customer to be directly connected to operator if required	No	Yes
Distributor must use best endeavours to restore supply as soon as possible.	Yes	Yes

The NECF also requires distributors to maintain a fault information and reporting telephone number (rule 85 of the NERR). The Code does not include an equivalent requirement.

⁴⁹ Clause 1.5 of the Code defines an emergency as:

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.

⁵⁰ Rule 88 of the NERRR defines an unplanned interruption as:

means an interruption of the supply of energy to carry out unanticipated or unplanned maintenance or repairs in any case where there is an actual or apprehended threat to the safety, reliability or security of the supply of energy, and includes:

- (a) an interruption in circumstances where, in the opinion of the distributor, a customer's installation or the distribution system poses an immediate threat of injury or material damage to any person, any property or the distribution system; or
- (b) an interruption in circumstances where:
 - (i) there are health or safety reasons warranting an interruption; or
 - (ii) there is an emergency warranting an interruption; or
 - (iii) the distributor is required to interrupt the supply at the direction of a relevant authority; or
- (c) an interruption to shed demand for energy because the total demand for energy at the relevant time exceeds the total supply available; or
- (d) an interruption to restore supply to a customer.

Advantages / disadvantages of adopting NECF

Advantages

- The 24-hour emergency line applies to all unplanned interruptions, not only emergencies.
- Customers have the right to be directed to operator if required.
- Distributors have 30 minutes to make available information on an unplanned interruption after becoming aware of it.
- Distributors must also maintain a general fault information and reporting telephone number. This number could be the same as the number for unplanned interruptions; with customers being able to choose from an automated menu the service they need.

Disadvantages

- WA distributors already provide this information to customers. Regulating this matter in the Code would increase regulatory burden and compliance costs for distributors.

Draft recommendation

No amendments proposed.

Reasons

See NECF disadvantage listed above.

Disconnection or interruption for emergencies – general requirements

[Clause 7.5 of the Code]

BACKGROUND – Full extract of legislative provisions

Code	NECF
<p>7.5 General requirements</p> <p>If a distributor disconnects or interrupts a customer's supply address for emergency reasons, the distributor must—</p> <ul style="list-style-type: none"> (a) provide, by way of a 24 hour emergency line at the cost of a local call (excluding mobile telephones), 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. 	<p><i>NERR</i></p> <p>85 Fault reporting and correction</p> <p>A distributor must maintain a 24 hour fault information and reporting telephone number (the charge for which is no more than the cost of a local call).</p> <p>Note: This rule is a civil penalty provision for the purposes of the Law. (See the National Regulations, clause 6 and Schedule 1.)</p> <p>91 Unplanned interruptions</p> <p>In the case of an unplanned interruption, a distributor must:</p> <ul style="list-style-type: none"> (a) within 30 minutes of being advised of the interruption, or otherwise as soon as practicable, make available, by way of a 24 hour telephone service (the charge for which is no more than the cost of a local call), information on the nature of the interruption and an estimate of the time when supply will be restored or when reliable information on restoration of supply will be available; and (b) if the telephone service is automated—provide options for customers who call the service to be directly connected to a telephone operator if required; and (c) use its best endeavours to restore supply to affected customers as soon as possible. <p>Note: Subrule (c) is a civil penalty provision for the purposes of the Law. (See the National Regulations, clause 6 and Schedule 1.)</p> <p>Definitions</p> <p>unplanned interruption means an interruption of the supply of energy to carry out unanticipated or unplanned maintenance or repairs in any case where there is an actual or apprehended threat to the safety, reliability or security of the supply of energy, and includes:</p> <ul style="list-style-type: none"> (a) an interruption in circumstances where, in the opinion of the distributor, a customer's installation or the distribution system poses an immediate threat of injury or material damage to any person, any property or the distribution system; or (b) an interruption in circumstances where:

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- (i) there are health or safety reasons warranting an interruption; or
 - (ii) there is an emergency warranting an interruption; or
 - (iii) the distributor is required to interrupt the supply at the direction of a relevant authority; or
- (c) an interruption to shed demand for energy because the total demand for energy at the relevant time exceeds the total supply available; or
- (d) an interruption to restore supply to a customer.

interruption means a temporary unavailability or temporary curtailment of the supply of energy to a customer's premises, but does not include unavailability or curtailment in accordance with the terms and conditions of a customer retail contract or customer connection contract, and any applicable tariff, agreed with the customer.

relevant authority means:

- (a) AEMO; or
 - (b) State or federal police; or
 - (c) a person or body who has the power under law to direct a distributor to de-energise premises.
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General limitations on disconnection

[Clause 7.6 of the Code]

draft recommendation

62

Comparative review of Code and NECF

Summary of legislation

Both the Code and the NECF include disconnection restrictions that apply regardless of the reason for the disconnection. Although the restrictions are generally similar, the NECF has some additional restrictions.

Comparison between Code and NECF:

	Code	NECF
<i>No disconnection allowed if</i>		
Unresolved complaint with retailer/distributor about matter relating to disconnection	Yes	Yes
Unresolved complaint about retailer/distributor with Energy Ombudsman about matter relating to disconnection	Yes	Yes
Hardship customer or residential customer is adhering to payment plan	Yes ⁵¹	Yes
Customer has applied to an organisation for financial assistance with their bill	Yes ⁵²	Yes
Customer has failed to pay an amount on a bill that relates to goods and services other than the sale of energy	Yes ⁵³	Yes
For non-payment of a bill where the amount outstanding is less than an amount approved by the ERA / AER	Yes ⁵⁴	Yes
Customer has asserted that explicit informed consent was not obtained but should have been by law	No	Yes
Registered life support customer	Yes	Yes
During extreme weather event	No	Yes
During a protected period		
• Before 8am Monday to Thursday	-	Yes (on business days)
• After 3pm Monday to Thursday	Yes	Yes (on business days)
• Friday	Yes, after noon	Yes, all day
• Weekend	Yes	Yes

⁵¹ This restriction is in clause 7.2 of the Code and discussed under that section.

⁵² Id.

⁵³ Id.

⁵⁴ Id.

- | | | |
|---|---|-----|
| • Day before a public holiday | Yes, but business day before public holiday | Yes |
| • Between 20 and 31 December (both inclusive) | No | Yes |

Advantages / disadvantages of adopting NECF

Advantages

- For customers:
 - Customers may not be disconnected during an extreme weather event.
 - Customers may not be disconnected any time on a Friday.
 - Customers may not be disconnected between 20 and 31 December.
- For retailers: it is clearer when the restrictions on disconnection do not apply.

Disadvantages

- Some of the limitations are only relevant to disconnection for failure to pay a bill. It would be clearer to deal with these limitations separately.
- Retailers are only precluded from arranging disconnection if the customer has made a complaint to the retailer or electricity ombudsman. Under the Code, retailers may also not arrange disconnection if a complaint has been made to the distributor.
- Retailers may not arrange disconnection if a complaint has been made to the electricity ombudsman, even if the retailer is unaware of the complaint.

Draft recommendation

Retailers

- Adopt rule 116(1)(a) of the NERR.

Distributors

- Adopt rule 120(1)(a) of the NERR.
- Replace clause 7.6(2)(b) of the Code with rule 120(1)(e) of the NERR but retain the ability for distributors to disconnect business customers during the protected period if the business's trading hours are only during that period and it is not practicable to disconnect at any other time.

Retailers and distributors

- Replace clause 7.6(3)(a) of the Code with rules 116(3), 120(2) and 120(3)(a) and (b) of the NERR.

Consequential amendment

- Amend clause 1.5 of the Code to insert a definition of 'protected period', consistent with the definition of protected period in rule 108 of the NERR.

Reasons

Retailers

a) Adopt rule 116(1)(a) of the NERR

To ensure life support customers are not disconnected, unless the disconnection was requested by the customer or required for health, safety or emergency reasons. Currently life support customers may only not be disconnected for failure to pay their bill.

Distributors

b) Adopt rule 120(1)(a) of the NERR

To ensure life support customers are not disconnected, unless the disconnection was requested by the customer or required for health, safety or emergency reasons. Currently life support customers may only not be disconnected for failure to pay their bill.

c) Replace clause 7.6(2)(b) of the Code with rule 120(1)(e) of the NERR

Increase customer protections by reducing the hours during which disconnection may occur.

but retain the ability for distributors to disconnect business customers during the protected period if the business's trading hours are only during that period and it is not practicable to disconnect at any other time

This exception was included in 2008 after retailers raised concerns that in some circumstances a business does not open until after the prescribed time period (such as a fish and chips shop).

There are no compelling reasons for removing this exception.

Retailers and distributors

d) Replace clause 7.6(3)(a) of the Code with rules 116(3), 120(2), 120(3)(a) and (b) of the NERR

- To ensure distributors may disconnect a supply address for health and safety reasons.
- For clarity and to improve consistency with the NECF.

Consequential amendment

e) Amend clause 1.5 of the Code to insert a definition of 'protected period', consistent with the definition of protected period in rule 108 of the NERR

Increase customer protections by reducing the hours during which disconnection may occur.

General limitations on disconnection

[Clause 7.6 of the Code]

BACKGROUND – Full extract of legislative provisions	
Code	NECF
<p>7.6 General limitations on disconnection</p> <p>(1) Subject to subclause (3), a retailer must not arrange for disconnection of a customer's supply address if—</p> <p>(a) a complaint has been made to the retailer directly related to the reason for the proposed disconnection; or</p> <p>(b) the retailer is notified by the distributor, electricity ombudsman or an external dispute resolution body that there is a complaint, directly related to the reason for the proposed disconnection, that has been made to the distributor, electricity ombudsman or external dispute resolution body,</p> <p>and the complaint is not resolved by the retailer or distributor or determined by the electricity ombudsman or external dispute resolution body.</p> <p>(2) Subject to subclause (3), a distributor must not disconnect a customer's supply address—</p> <p>(a) if—</p> <p>(i) a complaint has been made to the distributor directly related to the reason for the proposed disconnection; or</p> <p>(ii) the distributor is notified by a retailer, the electricity ombudsman or an external dispute resolution body that there is a complaint, directly related to the reason for the proposed disconnection, that has been made to the retailer, electricity ombudsman or external dispute resolution body,</p> <p>and the complaint is not resolved by the retailer or distributor or determined by the electricity ombudsman or external dispute resolution body; or</p> <p>(b) during any time—</p> <p>(i) after 3.00 pm Monday to Thursday;</p> <p>(ii) after 12.00 noon on a Friday; or</p> <p>(iii) on a Saturday, Sunday, public holiday or on the business day before a public holiday,</p> <p>unless—</p> <p>(iv) the customer is a business customer; and</p> <p>(v) the business customer's normal trading hours—</p>	<p>NERR</p> <p>116 When retailer must not arrange de-energisation</p> <p>(1) Restrictions on de-energisation</p> <p>Despite any other provisions of this Division but subject to subrules (2), (3) and (4), a retailer must not arrange for the de-energisation of a customer's premises to occur:</p> <p>(a) where the premises are registered under Part 7 as having life support equipment; or</p> <p>(b) where the customer has made a complaint, directly related to the reason for the proposed de-energisation, to the retailer under the retailer's standard complaints and dispute resolution procedures, and the complaint remains unresolved; or</p> <p>(c) where the customer has made a complaint, directly related to the reason for the proposed de-energisation, to the energy ombudsman, and the complaint remains unresolved; or</p> <p>(c1) where the customer has contacted the retailer under section 41(2)(a) of the Law and the issue raised by the customer remains unresolved; or</p> <p>(d) where the customer is a hardship customer or residential customer and is adhering to a payment plan under rule 33 or 72; or</p> <p>(e) where the customer informs the retailer, or the retailer is otherwise aware, that the customer has formally applied for assistance to an organisation responsible for a rebate, concession or relief available under any government funded energy charge rebate, concession or relief scheme and a decision on the application has not been made; or</p> <p>(f) on the ground that the customer has failed to pay an amount on a bill that relates to goods and services other than for the sale of energy; or</p> <p>(g) for non-payment of a bill where the amount outstanding is less than an amount approved by the AER and the customer has agreed with the retailer to repay that amount; or</p> <p>(h) where the customer's premises are to be de-energised under rule 111—during an extreme weather event; or</p> <p>(i) during a protected period.</p>

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- (A) fall within the time frames set out in subclause (b)(i) (ii) or (iii); and
 - (B) do not fall within any other time period; and
 - (vi) it is not practicable for the distributor to disconnect at any other time.
 - (3) A retailer or a distributor may arrange for disconnection or interruption of a customer's supply address if—
 - (a) the disconnection was requested by the customer; or
 - (b) the disconnection or interruption was carried out for emergency reasons.
 - (2) **Restrictions not applying for non-access to meter**

The restrictions in subrule (1)(d), (e) and (f) do not apply if the reason for deenergisation was failure to provide access to a meter.
 - (3) **Non-application of restrictions where de-energisation requested by customer**

The restrictions in subrule (1) do not apply if the customer has requested deenergisation.
 - (4) **Non-application of restrictions where illegal use of energy**

Apart from the restriction in subrule (1)(a) relating to life support equipment, the restrictions in subrule (1) do not apply in relation to de-energisation of a customer's premises for:

 - (a) the fraudulent acquisition of energy at those premises; or
 - (b) the intentional consumption of energy at those premises otherwise than in accordance with the energy laws.
 - (5) **Application of this rule to standard retail contracts**

This rule applies in relation to standard retail contracts.
 - (6) **Application of this rule to market retail contracts**

This rule applies in relation to market retail contracts.

120 When distributor must not de-energise premises

- (1) **Restrictions on de-energisation**

Despite any other provisions of this Division but subject to subrules (2), (3) and (4), a distributor must not de-energise a customer's premises:

 - (a) where the premises are registered under Part 7 as having life support equipment; or
 - (b) where the customer has made a complaint, directly related to the reason for the proposed de-energisation, to the distributor under the distributor's standard complaints and dispute resolution procedures, and the complaint remains unresolved; or
 - (c) where the customer has made a complaint, directly related to the reason for the proposed de-energisation, to the energy ombudsman and the complaint remains unresolved; or
 - (d) where the customer's premises are to be de-energised under rule 111— during an extreme weather event; or
 - (e) during a protected period.
- (2) **Non-application of restrictions where de-energisation requested by customer**

The restrictions in subrule (1) do not apply if the customer has requested deenergisation.

(3) **Non-application of restrictions where emergency, health or safety issues, emergency or de-energisation direction**

The restrictions in subrule (1) do not apply if:

- (a) there are health or safety reasons warranting de-energisation (as referred to in rule 119(1)(g)); or
- (b) there is an emergency warranting de-energisation (as referred to in rule 119(1)(h)); or
- (c) the distributor is required to de-energise the premises at the direction of a relevant authority (as referred to in rule 119(1)(i)).

(4) **Non-application of restrictions where illegal use or interference**

Apart from the restriction in subrule (1)(a) relating to life support equipment, the restrictions in subrule (1) do not apply in relation to de-energisation of a customer's premises where the customer is in breach of rule 119 (2).

Comparative review of Code and NECF

Summary of legislation

Both the Code and the NECF deal with life support. The provisions in the NECF are much more extensive than those in the Code.

One of the differences between the NECF and the Code is that under the NECF customers may register their supply address as requiring life support with either their retailer or distributor. Under the Code, customers can only register with their retailer. This difference is likely due to the fact that NECF customers have a direct contractual relationship with both their retailer and distributor, while Code customers only have a direct contractual relationship with their retailer.

The NECF provisions that prescribe what should happen if a customer registers with a distributor are therefore not relevant to the Code.

Other notable differences:

	Code	NECF
When retailer/distributor must register customer⁵⁵	Once customer provides the retailer with medical confirmation that their address requires life support equipment.	Once customer advises the retailer or distributor that a person residing or intending to reside at the customer's premises requires life support equipment. The customer has 50 business days to provide medical confirmation.
Medical confirmation	Confirmation from an 'appropriately qualified medical practitioner'. ⁵⁶	Confirmation from a registered medical practitioner.
What the retailer/distributor must do after registration	Retailer must: <ul style="list-style-type: none"> • register the customer's address as a life support address. • register the customer's contact details. • notify the distributor. 	Retailer / distributor must: <ul style="list-style-type: none"> • register that the customer requires life support equipment. • provide in writing to the customer: <ul style="list-style-type: none"> – a medical confirmation form. – information explaining that they will only be protected if they provide the medical confirmation form. – advice that there may be retailer or distributor planned interruptions.

⁵⁵ Protection commences upon registration.

⁵⁶ The Code defines a 'appropriately qualified medical practitioner' as 'means –
(a) within the Perth Metropolitan Area, a specialist medical practitioner, a hospice doctor, or a practitioner working in a specialist department of a hospital; 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 a hospice doctor.'

		<ul style="list-style-type: none"> – advice about how to deal with an unplanned interruption. – emergency phone numbers for the retailer and the distributor. – advice that if they change retailer, they will need to inform the new retailer about the life support. • notify the distributor / retailer about the life support at the customer's residence.
Disconnection	<ul style="list-style-type: none"> • The customer must not be disconnected from the time the customer provides medical confirmation. • The restriction on disconnection only applies to disconnection for failure to pay a bill. 	<ul style="list-style-type: none"> • The premises must not be disconnected from the date the life support is required. • The restriction on disconnection applies to all types of disconnection (except if the customer requested disconnection, for health or safety reasons, or in case of an emergency).
Written notice of planned interruptions	3 business days	4 business days
Deregistration	<ul style="list-style-type: none"> • The retailer or distributor must register the change. • The retailer must notify the distributor of the change. 	Very detailed deregistration processes. The retailer or distributor must also provide notification of several matters to customers who are being deregistered.
Registration and deregistration policies		<p>Retailers and distributors must establish policies, systems and procedures for registering and deregistering life support requirements.</p> <p>Details of registration and deregistration must be maintained and kept up to date.</p>

Advantages / disadvantages of adopting NECF

Advantages

- NECF provides more comprehensive processes and protection for life support customers.

Disadvantages

- Adopting all of the NECF provisions would likely overregulate and overcomplicate management of life support customers.
 - Greater regulatory burden for retailers and distributors.
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Draft recommendation⁵⁷

- a) Adopt rules 124(1)(b)(iv), (v) and (vi) of the NERR but:
- specify that the information has to be provided within 5 business days of the retailer registering the customer's supply address as a life support equipment address, rather than of 'receipt of advice from the customer'.
 - amend rule 124(1)(b)(v) so retailers have to recommend customers to prepare a plan of action to deal with an unplanned interruption.
 - specify that the telephone service does not have to be available to mobile phones at the cost of a local call.
- b) Delete clause 7.7(4)(a) of the Code.

Reasons

a) **Adopt rules 124(1)(b)(iv), (v) and (vi) of the NERR**

Increase customer protections by ensuring retailers provide customers with the following information:

- advice that the distributor must notify them of planned interruptions.
- advise them to prepare a plan of action to deal with an unplanned interruption.
- the emergency contact phone numbers for the retailer and distributor.

but:

- **specify that the information has to be provided within 5 business days of the retailer registering the customer's supply address as a life support equipment address, rather than of 'receipt of advice from the customer'**

The protections of the Code only apply if a customer has provided the retailer with confirmation from an appropriately qualified medical practitioner that a person residing at the supply address requires life support equipment. The proposed amendment would ensure that retailers only have to provide the information to customers who have provided the required confirmation; rather than only advice.

- **amend rule 124(1)(b)(v) so retailers have to recommend customers to prepare a plan of action to deal with an unplanned interruption**

As each customers' circumstances will differ, it is difficult for retailers to provide information to customers that assists them to prepare a plan of action that suits their individual circumstances. The ECCC considers that retailers should instead have to recommend that customers prepare a plan of action.

- **specify that the telephone service does not have to be available to mobile phones at the cost of a local call**

A similar clarification is included in other Code clauses. There are no compelling reasons for not including this clarification.

b) **Delete clause 7.7(4)(a) of the Code**

This is a consequential amendment of draft recommendations 62(a) and (b).

Draft recommendations 62(a) and (b) are to adopt rules 116(1)(a) and 120(1)(a) of the NERR. These rules provide that a retailer and distributor may only disconnect supply to life support customers if the customer requested disconnection, for health or safety reasons, or in case of an emergency. To avoid duplication, clause 7.7(4)(a) of the Code should be deleted.

⁵⁷ Draft recommendations 64, 65, 66, 67 and 68 propose additional amendments to clause 7.7 for reasons not related to the NECF.

Life support

[Clause 7.7 of the Code]

BACKGROUND – Full extract of legislative provisions

Code	NECF
<p>7.7 Life Support</p> <p>(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—</p> <p>(a) register the customer's supply address as a life support equipment address;</p> <p>(b) register the customer's contact details;</p> <p>(c) notify the customer's distributor that the customer's supply address is a life support equipment address, and of the contact details of the customer—</p> <p>(i) that same day, if the confirmation is received before 3pm on a business day; or</p> <p>(ii) no later than the next business day, if the confirmation is received after 3pm or on a Saturday, Sunday or public holiday; and</p> <p>(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.</p> <p>(2) If a customer registered with a retailer under subclause (1) notifies the retailer—</p> <p>(a) that the person residing at the customer's supply address who requires life support equipment is changing supply address;</p> <p>(b) that the customer is changing supply address but the person who requires life support equipment is not changing supply address;</p> <p>(c) of a change in contact details; or</p> <p>(d) that the customer's supply address no longer requires registration as a life support equipment address,</p> <p>the retailer must—</p> <p>(e) register the change;</p> <p>(f) notify the customer's distributor of the change—</p> <p>(i) that same day, if the notification is received before 3pm on a business day; or</p> <p>(ii) no later than the next business day, if the notification is received after 3pm or on a Saturday, Sunday or public holiday; and</p>	<p>NERR</p> <p>Part 7 Life support equipment</p> <p>123 Application of this Part</p> <p>This Part applies in relation to a customer who is a party to a contract with a retailer for the sale of energy, and prevails to the extent of any inconsistency with Part 6 except in the case of an emergency warranting de-energisation of the premises of a customer referred to in rule 119.</p> <p>123A Definitions</p> <p>In this Part:</p> <p><i>confirmation reminder notice</i> – see subrule 124A(1)(b);</p> <p><i>deregistration</i> or <i>deregister</i> means the updating of a retailer's or distributor's registration of a customer's premises under subrules 124(1)(a), 124(3), 124(4)(a) or 124(5) to remove, for that particular premises, the requirement for life support equipment;</p> <p><i>deregistration notice</i> means a written notice issued by a retailer or distributor to inform a customer that their premises will cease to be registered as requiring life support equipment if the customer does not provide medical confirmation by the date specified in that deregistration notice;</p> <p><i>Market Settlement</i> and <i>Transfer Solution Procedures</i> has the same meaning as in the NER.</p> <p><i>medical confirmation</i> means certification from a registered medical practitioner that a person residing or intending to reside at a customer's premises requires life support equipment;</p> <p><i>medical confirmation form</i> means a written form issued by a retailer or distributor:</p> <p>(a) when the retailer or distributor receives advice from a customer that a person residing or intending to reside at the customer's premises requires life support equipment; and</p> <p>(b) to facilitate the provision of medical confirmation by the customer to the retailer or distributor.</p> <p>124 Registration of life support equipment</p> <p>(1) Retailer obligations when advised by customer</p> <p>When advised by a customer that a person residing or intending to reside at the customer's premises requires life support equipment, a retailer must:</p>

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- (g) continue to comply with subclause (1)(d) with respect to that customer's supply address.
 - (3) If 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 or update the details notified by the retailer under subclause (2)—
 - (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; and
 - (b) if informed by a relevant government agency, notify the retailer in accordance with the timeframes specified in subclause (3)(a).
 - (4) If life support equipment is registered at a customer's supply address under subclause (3)(a), a distributor must—
 - (a) not disconnect 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; and
 - (b) prior to any planned interruption, provide at least 3 business days written notice to the customer's supply address and any other address nominated by the customer, or notice by electronic means to the customer, and unless expressly requested in writing by the customer not to, use best endeavours to obtain verbal acknowledgement, written acknowledgement or acknowledgement by electronic means from the customer or someone residing at the supply address that the notice has been received.
 - (4A) Notwithstanding clause 7.7(4)(b)—
 - (a) an interruption, planned or otherwise, to restore supply to a supply address that is registered as a life support equipment address is not subject to the notice requirements in clause 7.7(4)(b); however
 - (b) a distributor must use best endeavours to contact the customer, or someone residing at the supply address, prior to an interruption to restore supply to a supply address that is registered as a life support equipment address.
 - (5) If a distributor has already provided notice of a planned interruption under the Electricity Industry
 - (a) register that a person residing or intending to reside at the customer's premises requires life support equipment and the date from which the life support equipment is required;
 - (b) subject to subrule (2), no later than 5 business days after receipt of advice from the customer, provide in writing to the customer:
 - (i) a medical confirmation form;
 - (ii) information explaining that, if the customer fails to provide medical confirmation, the customer's premises may be deregistered and, if so, the customer will cease to receive the protections under this Part;
 - (iii) advice that there may be retailer planned interruptions under rule 59C to the supply at the address and that the retailer is required to notify them of these interruptions in accordance with rule 124B;
 - (iv) advice that there may be distributor planned interruptions or unplanned interruptions to the supply at the address and that the distributor is required to notify them of a distributor planned interruption in accordance with rule 124B;
 - (v) information to assist the customer to prepare a plan of action in the case of an unplanned interruption;
 - (vi) an emergency telephone contact number for the distributor and the retailer (the charge for which is no more than the cost of a local call); and
 - (vii) advice that if the customer decides to change retailer at the premises and a person residing at the customer's premises continues to require life support equipment, the customer should advise their new retailer of the requirement for life support equipment; and
 - (c) subject to subrule (2), notify the distributor that a person residing or intending to reside at the customer's premises requires life support equipment and the date from which the life support equipment is required.
 - (2) Subrules (1)(b) (other than subrules (1)(b)(iii) and (1)(b)(vi)) and (1)(c) do not apply to a retailer if:
 - (a) a customer of that retailer has previously advised the distributor for the premises that a person residing or intending to reside at the customer's premises requires life support equipment;
 - (b) the customer advises that retailer that they have already provided medical confirmation to the distributor for the premises; and
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- Code that will affect a supply address, prior to the distributor registering a customer's supply address as a life support equipment address under clause 7.7(3)(a), the distributor must use best endeavours to contact that customer or someone residing at the supply address prior to the planned interruption.
- (6) (a) No earlier than 3 months prior to the 12 month anniversary of the confirmation from the appropriately qualified medical practitioner referred to in subclause (1), and in any event no later than 3 months after the 12 month anniversary of the confirmation, a retailer must contact a 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 the initial certification or re-certification from an appropriately qualified medical practitioner within the last 3 years, request that the customer provide that re-certification.
- (b) A retailer must provide a minimum period of 3 months for a customer to provide the information requested by the retailer in subclause (6)(a).
- (7) (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 subclause (7)(b), a customer fails to provide the information requested by a retailer for the purposes of subclause (6)(a)(i) or the re-certification referred to in subclause (6)(a)(ii), within the time period referred to in subclause (6)(b), or greater period if allowed by the retailer, the retailer's and distributor's obligations under subclauses (1) to (6) terminate and the retailer or distributor (as applicable) must remove the customer's details from the life support equipment address register upon being made aware of any of the matters in subclauses (7)(a)(i), (ii) or (iii)—
 - (iv) the next business day, if the retailer or distributor (as applicable) becomes aware of the relevant matter in subclause (7)(a)(i), (ii) or (iii) before 3pm on a business day; or
 - (v) within 2 business days, if the retailer or distributor (as applicable) becomes aware of the relevant matter in subclause (7)(a)(i),
- (c) the retailer confirms with the distributor for the premises that the customer has already provided medical confirmation to the distributor.
- (3) **Retailer obligations when advised by distributor**
- When notified by a distributor:
- (a) under subrule (4)(c), a retailer must register that a person residing or intending to reside at the customer's premises requires life support equipment and the date from which the life support equipment is required; and
 - (b) under subrule 124B(2)(b), a retailer must:
 - (i) register that a person residing or intending to reside at the customer's premises requires life support equipment and the date from which the life support equipment is required; and
 - (ii) no later than 5 business days after receipt of advice from the distributor, provide the customer with the information required by subrules (1)(b)(iii) and (1)(b)(vi), if not already provided by the retailer to the customer in respect of the customer's premises.
- (4) **Distributor obligations when advised by customer**
- When advised by a customer that a person residing or intending to reside at the customer's premises requires life support equipment, a distributor must:
- (a) register that a person residing or intending to reside at the customer's premises requires life support equipment and the date from which the life support equipment is required;
 - (b) no later than 5 business days after receipt of advice from the customer, provide in writing to the customer:
 - (i) a medical confirmation form;
 - (ii) information explaining that, if the customer fails to provide medical confirmation, the customer's premises may be deregistered and, if so, the customer will cease to receive the protections under this Part;
 - (iii) advice that there may be retailer planned interruptions under rule 59C to the supply at the address and that the retailer is required to notify them of these interruptions in accordance with rule 124B;
 - (iv) advice that there may be distributor planned interruptions or unplanned interruptions to the supply at the address and that the distributor is required to notify them of a distributor planned interruption in accordance with rule 124B;
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- (ii) or (iii) after 3pm or on a Saturday, Sunday or public holiday.
- (b) A customer will have failed to provide the information requested by a retailer for the purposes of subclause (6)(a)(i) or the re-certification referred to in subclause (6)(a)(ii) if 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; or
 - (D) Not Used
 - (E) by post sent to the customer's supply address and any other address nominated by the customer.
- (c) If a distributor's obligations under subclauses (3), (4), (4A) and (5) terminate as a result of the operation of subclause (7)(a)(iii), a retailer must notify the distributor of this fact as soon as reasonably practicable, but in any event, within 3 business days.
- (d) For the avoidance of doubt, the retailer's and distributor's obligations under subclauses (1) to (6) do not terminate by operation of this subclause (7) if the retailer or distributor has been informed in accordance with subclause (1) that another person who resides at the supply address continues to require life support equipment.
- (v) information to assist the customer to prepare a plan of action in the case of an unplanned interruption;
 - (vi) an emergency telephone contact number for the distributor and the retailer (the charge for which is no more than the cost of a local call); and
 - (vii) advice that if the customer decides to change retailer at the premises and a person residing at the customer's premises continues to require life support equipment, the customer should advise their new retailer of the requirement for life support equipment; and
- (c) notify the retailer that a person residing or intending to reside at the customer's premises requires life support equipment and the date from which the life support equipment is required.
- (5) **Distributor obligations when advised by retailer**
- When notified by a retailer under subrule (1)(c), a distributor must register that a person residing or intending to reside at the customer's premises requires life support equipment and the date from which the life support equipment is required.
- (6) **Content of medical confirmation form**
- (a) A medical confirmation form must:
- (i) be dated;
 - (ii) state that completion and return of the form to the retailer or distributor (as the case may be) will satisfy the requirement to provide medical confirmation under the Rules;
 - (iii) request the following information from the customer:
 - (A) property address;
 - (B) the date from which the customer requires supply of energy at the premises for the purposes of the life support equipment; and
 - (C) medical confirmation;
 - (iv) specify the types of equipment that fall within the definition of life support equipment;
 - (v) advise the date by which the customer must return the medical confirmation form to the retailer or distributor (as the case may be); and
 - (vi) advise the customer they can request an extension of time to complete and return the medical confirmation form.
- (7) **Application of this rule to standard retail contracts**
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This rule applies in relation to standard retail contracts.

(8) Application of this rule to market retail contracts

This rule applies in relation to market retail contracts.

124A Confirmation of premises as requiring life support equipment

- (1) Where a medical confirmation form is provided under rule 124, the retailer or distributor (as the case may be) must:
 - (a) from the date of the medical confirmation form, give the customer a minimum of 50 business days to provide medical confirmation;
 - (b) provide the customer at least two written notices to remind the customer that the customer must provide medical confirmation (each a **confirmation reminder notice**);
 - (c) ensure the first confirmation reminder notice is provided no less than 15 business days from the date of issue of the medical confirmation form;
 - (d) ensure the second confirmation reminder notice is provided no less than 15 business days from the date of issue of the first confirmation reminder notice; and
 - (e) on request from a customer, give the customer at least one extension of time to provide medical confirmation. The extension must be a minimum of 25 business days.
- (2) A confirmation reminder notice must:
 - (a) be dated;
 - (b) state the date by which the medical confirmation is required;
 - (c) specify the types of equipment that fall within the definition of life support equipment; and
 - (d) advise the customer that:
 - (i) the customer must provide medical confirmation;
 - (ii) the premises is temporarily registered as requiring life support equipment until the medical confirmation is received;
 - (iii) failure to provide medical confirmation may result in the premises being deregistered; and
 - (iv) the customer can request an extension of time to provide medical confirmation.

(3) Application of this rule to standard retail contracts

This rule applies in relation to standard retail contracts.

(4) Application of this rule to market retail contracts

This rule applies in relation to market retail contracts.

124B Ongoing retailer and distributor obligations

(1) Retailer obligations

Where a retailer is required to register a customer's premises under subrule 124(1)(a) or 124(3), the retailer has the following ongoing obligations:

- (a) give the distributor relevant information about the life support equipment requirements for the customer's premises and any relevant contact details for the purposes of updating the distributor's registration under subrule 124(4)(a) or 124(5), unless the relevant information was provided to the retailer by the distributor;
- (b) when advised by a customer or distributor of any updates to the life support equipment requirements for the customer's premises or any relevant contact details, update the retailer's registration;
- (c) except in the case of a retailer planned interruption under rule 59C, not arrange for the de-energisation of the premises from the date the life support equipment will be required at the premises; and
- (d) in the case of a retailer planned interruption under rule 59C, other than in the circumstances described in paragraph (e), from the date the life support equipment will be required at the premises, give the customer at least 4 business days written notice of the retailer planned interruption to supply at the premises (the 4 business days to be counted from, but not including the date of receipt of the notice); and
- (e) in the case of a retailer planned interruption where the customer has provided consent to the retailer under subrule 59C(1)(c), give written notice to the customer of the expected time and duration of the retailer planned interruption, and specify a 24 hour telephone number for enquiries (the charge for which is no more than the cost of a local call).

Note:

This subrule is a civil penalty provision for the purposes of the Law. (See the National Regulations, clause 6 and Schedule 1.)

(2) Distributor obligations

- (a) Where a distributor is required to register a customer's premises under subrule 124(4)(a) or 124(5), the distributor has the following ongoing obligations:

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- (i) give the retailer relevant information about the life support equipment requirements for the customer's premises and any relevant contact details for the purposes of updating the retailer's registration under subrule 124(1)(a) or 124(3), unless the relevant information was provided to the distributor by the retailer;
 - (ii) when advised by a customer or retailer of any updates to the life support equipment requirements for the customer's premises or any relevant contact details, update the distributor's registration;
 - (iii) except in the case of an interruption, not arrange for the de-energisation of the premises from the date the life support equipment will be required at the premises;
 - (iv) in the case of an interruption that is a distributor planned interruption other than in the circumstances described in subparagraph (v), from the date the life support equipment will be required at the premises, give the customer at least 4 business days written notice of the interruption to supply at the premises (the 4 business days to be counted from, but not including the date of receipt of the notice); and
 - (v) in the case of a distributor planned interruption where the customer has provided consent to the distributor under subrule 90(1)(c), give written notice to the customer of the expected time and duration of the distributor planned interruption, and specify a 24 hour telephone number for enquiries (the charge for which is no more than the cost of a local call);
- (b) In addition to the obligations specified in subrule (2)(a), where a distributor is required to register a customer's premises under subrule 124(4)(a), if the distributor becomes aware (including by way of notification in accordance with the Market Settlement and Transfer Solution Procedures) that the customer has subsequently transferred to another retailer (a new retailer) at that premises, the distributor must notify the new retailer that a person residing at the customer's premises requires life support equipment.

Note:

This subrule is a civil penalty provision for the purposes of the Law. (See the National Regulations, clause 6 and Schedule 1.)

(3) **Application of this rule to standard retail contracts**

This rule applies in relation to standard retail contracts.

(4) **Application of this rule to market retail contracts**

This rule applies in relation to market retail contracts.

125 Deregistration of premises

(1) A retailer or distributor may only deregister a customer's premises in the circumstances permitted under this rule 125.

(2) If a customer's premises is deregistered:

- (a) by a retailer, the retailer must, within 5 business days of the date of deregistration, notify the distributor of the date of deregistration and reason for deregistration;
- (b) by a distributor, the distributor must, within 5 business days of the date of deregistration, notify the retailer of the date of deregistration and reason for deregistration; and
- (c) the retailer and the distributor must update their registrations under subrules 124(1)(a), 124(3), 124(4)(a) and 124(5) as required by rule 126.

(3) **Cessation of retailer and distributor obligations after deregistration**

The retailer and distributor obligations under rule 124B cease to apply in respect of a customer's premises once that customer's premises is validly deregistered.

(4) **Deregistration where medical confirmation not provided**

Where a customer, whose premises have been registered by a retailer under subrule 124(1)(a) (and subrule 124(2) does not apply), fails to provide medical confirmation, the retailer may deregister the customer's premises only when:

- (a) the retailer has complied with the requirements under rule 124A;
- (b) the retailer has taken reasonable steps to contact the customer in connection with the customer's failure to provide medical confirmation in one of the following ways:
 - (i) in person;
 - (ii) by telephone; or
 - (iii) by electronic means;
- (c) the retailer has provided the customer with a deregistration notice no less than 15 business days from the date of issue of the second confirmation reminder notice issued under subrule 124A(1)(d); and

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- (d) the customer has not provided medical confirmation before the date for deregistration specified in the deregistration notice.
 - (5) Where a customer, whose premises have been registered by a distributor under subrule 124(4)(a), fails to provide medical confirmation, the distributor may deregister the customer's premises only when:
 - (a) the distributor has complied with the requirements under rule 124A;
 - (b) the distributor has taken reasonable steps to contact the customer in connection with the customer's failure to provide medical confirmation in one of the following ways:
 - (i) in person;
 - (ii) by telephone; or
 - (iii) by electronic means;
 - (c) the distributor has provided the customer with a deregistration notice no less than 15 business days from the date of issue of the second confirmation reminder notice issued under subrule 124A(1)(d); and
 - (d) the customer has not provided medical confirmation before the date for deregistration specified in the deregistration notice.
 - (6) A deregistration notice must:
 - (a) be dated;
 - (b) specify the date on which the customer's premises will be deregistered, which must be at least 15 business days from the date of the deregistration notice;
 - (c) advise the customer the premises will cease to be registered as requiring life support equipment unless medical confirmation is provided before the date for deregistration; and
 - (d) advise the customer that the customer will no longer receive the protections under this Part when the premises is deregistered.
 - (7) A distributor may deregister a customer's premises registered under subrule 124(5) after being notified by the retailer that the retailer has deregistered the customer's premises pursuant to subrule (4).
 - (8) A retailer may deregister a customer's premises registered under subrule 124(3) after being notified by the distributor that the distributor has deregistered the customer's premises pursuant to subrule (5).
 - (9) **Deregistration where there is a change in the customer's circumstances**
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Where a customer whose premises have been registered by a retailer under subrule 124(1)(a) or 124(3) advises the retailer that the person for whom the life support equipment is required has vacated the premises or no longer requires the life support equipment, the retailer may deregister the customer's premises on the date specified in accordance with subrule (9)(a)(ii) if:

- (a) the retailer has provided written notification to the customer advising:
 - (i) that the customer's premises will be deregistered on the basis that the customer has advised the retailer that the person for whom the life support equipment is required has vacated the premises or no longer requires the life support equipment;
 - (ii) the date on which the customer's premises will be deregistered, which must be at least 15 business days from the date of that written notification;
 - (iii) that the customer will no longer receive the protections under this Part when the premises is deregistered; and
 - (iv) that the customer must contact the retailer prior to the date specified in accordance with subrule (9)(a)(ii) if the person for whom the life support equipment is required has not vacated the premises or requires the life support equipment; and
- (b) the customer has not contacted the retailer prior to the date specified in accordance with subrule (9)(a)(ii) to advise that the person for whom the life support equipment is required has not vacated the premises or requires the life support equipment.

- (10) Where a customer whose premises have been registered by a distributor under subrule 124(4)(a) or 124(5) advises the distributor that the person for whom the life support equipment is required has vacated the premises or no longer requires the life support equipment, the distributor may deregister the customer's premises on the date specified in accordance with subrule (10)(a)(ii) if:

- (a) the distributor has provided written notification to the customer advising:
 - (i) that the customer's premises will be deregistered on the basis that the customer has advised the distributor that the person for whom the life support equipment is required has vacated the premises or no longer requires the life support equipment;

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- (ii) the date on which the customer's premises will be deregistered, which must be at least 15 business days from the date of that written notification;
 - (i) that the customer will no longer receive the protections under this Part when the premises is deregistered; and
 - (iv) that the customer must contact the distributor prior to the date specified in accordance with subrule (10)(a)(ii) if the person for whom the life support equipment is required has not vacated the premises or requires the life support equipment; and
 - (b) the customer has not contacted the distributor prior to the date specified in accordance with subrule (10)(a)(ii) to advise that the person for whom the life support equipment is required has not vacated the premises or requires the life support equipment.
- (11) A retailer may deregister a customer's premises after being notified by the distributor that the distributor has deregistered the customer's premises pursuant to subrule (10).
- (12) A distributor may deregister a customer's premises after being notified by the retailer that the retailer has deregistered the customer's premises pursuant to subrule (9).
- (13) A retailer or distributor may, at any time, request a customer whose premises have been registered under rule 124 to confirm whether the person for whom life support equipment is required still resides at the premises or still requires life support equipment.
- (14) **Deregistration where there is a change in the customer's retailer**
- Where a distributor has registered a customer's premises pursuant to subrule 124(5) and the distributor becomes aware (including by way of notification in accordance with the Market Settlement and Transfer Solution Procedures) that the customer has subsequently transferred to another retailer at that premises, the distributor may deregister the customer's premises on the date specified in accordance with subrule (14)(a)(ii) if:
- (a) the distributor has provided written notification to the customer advising:
 - (i) that the customer's premises will be deregistered;
 - (ii) the date on which the customer's premises will be deregistered, which must be at least 15 business days from the date of that written notification;
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- (iii) that the customer will no longer receive the protections under this Part when the premises is deregistered; and
 - (iv) that the customer must contact the distributor prior to the date specified in accordance with subrule (14)(a)(ii) if a person residing at the customer's premises requires life support equipment; and
 - (b) the customer has not contacted the distributor prior to the date specified in accordance with subrule (14)(a)(ii) to advise that a person residing at the customer's premises requires life support equipment.
- (15) Nothing in subrule (14) affects the operation of subrules 124(4)(a) and 124(5) following a customer's transfer to the other retailer.
- (16) **Application of this rule to standard retail contracts**
- This rule applies in relation to standard retail contracts.
- (17) **Application of this rule to market retail contracts**
- This rule applies in relation to market retail contracts.

126 Registration and deregistration details must be kept by retailers and distributors

Retailers and distributors must:

- (a) Establish policies, systems and procedures for registering and deregistering a premises as requiring life support equipment to facilitate compliance with the requirements in this Part.
 - (b) Ensure that life support equipment registration and deregistration details maintained in accordance with rules 124, 124A, 124B and 125 are kept up to date, including:
 - (i) the date when the customer requires supply of energy at the premises for the purposes of the life support equipment;
 - (ii) when medical confirmation was received from the customer in respect of the premises;
 - (iii) the date when the premises is deregistered and the reason for deregistration; and
 - (iv) a record of communications with the customer required by rules 124A and 125.
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Reconnection by retailer

[Clause 8.1 of the Code]

draft recommendation

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Comparative review of Code and NECF

Summary of legislation

Both the Code and the NECF specify when a retailer must arrange reconnection of a customer's supply address.

The Code provides timeframes for the retailer to organise reconnection whilst the NECF focuses on timeframes for customers to rectify the reason for the disconnection.

Notable differences:

	Code	NECF
When retailer must arrange reconnection	Requires a retailer to arrange reconnection if the customer has rectified the reason for the disconnection. Unlike the NECF, the Code sets out for each disconnection ground the measures the customer must have taken to rectify the reason for the disconnection	Requires a retailer to arrange reconnection if 'the customer has rectified the matter that led to' the disconnection.
Timeframe within which rectification must occur	No timeframe given.	Customer must rectify the issue within 10 business days of disconnection
Payment of reconnection fee	Customer must have: <ul style="list-style-type: none">– paid the reconnection fee; or– accepted an offer for an instalment plan for the reconnection fee.	Customer must have paid the reconnection fee.
Timeframe for forwarding reconnection request to distributor	<ul style="list-style-type: none">– The same day, if request received before 3pm on a business day.– Before 3pm the next business day, in any other event.	No timeframe given.

Advantages / disadvantages of adopting NECF

Advantages

- Removing timeframes for forwarding reconnection requests reduces regulatory burden and compliance costs for retailers.
- Setting timeframes for customers to rectify issues with their account provides certainty for retailers.
- Less complex drafting.

Disadvantages

- Removing timeframes for forwarding reconnection requests may result in longer reconnection times for customers.
- Customers only have 10 business days to rectify the issue which may not be enough time for some customers.

- Customers no longer have the right to pay their reconnection fee as part of an instalment plan.

Draft recommendation

- a) Replace clause 8.1(1) of the Code with rule 121(1) of the NERR but:
 - do not adopt the requirement that a customer must rectify the issue and request reconnection within 10 business days.
 - retain clause 8.1(1)(e)(ii) of the Code.
 - do not adopt the words ‘in accordance with any requirements under the energy laws’ and ‘or arrange to re-energise the customer’s premises remotely if permitted under energy laws’.
- b) Retain clauses 8.1(2) and (3) of the Code.

Reasons

a) Replace clause 8.1(1) of the Code with rule 121(1) of the NERR

To simplify the drafting. Rather than setting out for each ground of disconnection how the customer must rectify the issue, the NERR includes a general requirement that the customer must have ‘rectified the matter that led to the de-energisation’.

but:

- **do not adopt the requirement that a customer must rectify the issue and request reconnection within 10 business days**
Some customers may need more time to rectify the issue. There are no compelling reasons for adopting this requirement.
- **retain clause 8.1(1)(e)(ii) of the Code**
To ensure customers can continue to pay their reconnection fee as part of an instalment plan. There are no compelling reasons for removing this customer protection.
- **do not adopt the words ‘in accordance with any requirements under the energy laws’ and ‘or arrange to re-energise the customer’s premises remotely if permitted under energy laws’**
The words are likely unnecessary. A retailer should always comply with any requirements under other laws.
Also, the Code does not distinguish between physical and remote reconnections.

b) Retain clause 8.1(2) of the Code

To ensure customers are reconnected within prescribed timeframes.

Retain clause 8.1(3) of the Code

This subclause was inserted in 2018 to clarify that a retailer who has not met the timeframes of subclause (2) but has taken measures to ensure the customer is still reconnected on time (e.g. by issuing an urgent reconnection request with the distributor) has not breached clause 8.1. There are no compelling reasons for removing this provision.

Reconnection by retailer

[Clause 8.1 of the Code]

BACKGROUND – Full extract of legislative provisions

Code	NECF
<p>8.1 Reconnection by retailer</p> <p>(1) If a retailer has arranged for disconnection of a customer's supply address due to—</p> <ul style="list-style-type: none"> (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— <ul style="list-style-type: none"> (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. <p>(2) For the purposes of subclause (1), a retailer must forward the request for reconnection to the relevant distributor—</p> <ul style="list-style-type: none"> (a) that same business day, if the request is received before 3pm on a business day; or (b) no later than 3pm on the next business day, if the request is received— <ul style="list-style-type: none"> (i) after 3pm on a business day, or (ii) on a Saturday, Sunday or public holiday. <p>(3) If a retailer does not forward the request for reconnection to the relevant distributor within the timeframes in subclause (2), the retailer will not be in breach of this clause 8.1 if the retailer causes the customer's supply address to be reconnected by the distributor within the timeframes in clause 8.2(2) as if the distributor had received the request for reconnection from the retailer in accordance with subclause (2).</p> <p><i>[A retailer and customer may agree that this clause does not apply, or is amended, in a non-standard contract]</i></p>	<p>NERR</p> <p>Division 4 Re-energisation of premises</p> <p>121 Obligation on retailer to arrange re-energisation of premises</p> <p>(1) Where a retailer has arranged for the de-energisation of a small customer's premises and the customer has within 10 business days of the de-energisation:</p> <ul style="list-style-type: none"> (a) if relevant, rectified the matter that led to the de-energisation or made arrangements to the satisfaction of the retailer; and (b) made a request for re-energisation; and (c) paid any charge for re-energisation; <p>the retailer must, in accordance with any requirements under the energy laws, initiate a request to the distributor for re-energisation of the premises or arrange to re-energise the customer's premises remotely if permitted under energy laws.</p> <p><i>Note: This subrule is a civil penalty provision for the purposes of the Law. (See the National Regulations, clause 6 and Schedule 1.)</i></p> <p>(2) Application of this rule to standard retail contracts</p> <p>This rule applies in relation to standard retail contracts.</p> <p>(3) Application of this rule to market retail contracts</p> <p>This rule applies in relation to market retail contracts.</p>

Comparative review of Code and NECF

Summary of legislation

Both the Code and the NECF specify when a distributor must reconnect a customer's supply address. While the Code only deals with reconnections following retailer initiated disconnections, the NECF also deals with reconnections following distributor initiated disconnections.

The other notable difference between the Code and the NECF is that the Code specifies the minimum timeframe within which the distributor must reconnect the customer's supply address. The NECF does not specify reconnection timeframes.⁵⁸

Advantages / disadvantages of adopting NECF

Advantages

- Removing timeframes for reconnections reduces regulatory burden and compliance costs for distributors.
- Sets standards for distributor-initiated reconnections (e.g. distributor disconnected the supply address for health and safety reasons, but the customer has rectified the matter that gave rise to the disconnection).

Disadvantages

- Removing timeframes for reconnections may result in longer reconnection times for customers.
- Customers only have 10 business days to rectify the issue which may not be enough time for some customers.

Draft recommendation

- Replace clause 8.2(1) of the Code with rule 122(1) of the NERR except for the words 'in accordance with the distributor service standards'.
- Adopt rule 122(2) of the NERR except for:
 - the requirement that a customer must rectify the issue and request reconnection within 10 business days.
 - the words 'in accordance with the distributor service standards'.
- Retain clauses 8.2(2) and (3) of the Code.

Reasons

a) Replace clause 8.2(1) of the Code with rule 122(1) of the NERR

To improve consistency with the NECF.

except for the words 'in accordance with the distributor service standards'

The term distributor service standards is not defined in the NERR. As it is unclear to which standards the term refers, it is difficult to determine the equivalent standards for WA distributors. Also, clause 8.2 currently does not include a similar requirement.

b) Adopt rule 122(2) of the NERR

Increase customer protections by providing standards for reconnections following distributor initiated disconnections.

except for:

- **the requirement that a customer must rectify the issue and request reconnection within 10 business days**

⁵⁸ Rules 122(1) and (2) do require the distributor to reconnect the supply address 'in accordance with the distributor service standards'.

The NERR's 10-business day timeframe likely aims to provide certainty to distributors about when their obligation to reconnect a customer's supply address finishes and they may terminate the customer's contract. As, under the WA framework, distributors and customers do not have a direct contractual relationship, there is no need to specify a timeframe.

– **the words 'in accordance with the distributor service standards'**

The term distributor service standards is not defined in the NERR. As it is unclear to which standards the term refers, it is difficult to determine the equivalent standards for WA distributors. Also, clause 8.2 currently does not include a similar requirement.

c) Retain clause 8.2(2) of the Code

To ensure customers are reconnected within prescribed timeframes.

Retain clause 8.2(3) of the Code

To ensure a distributor does not have to meet the prescribed timeframes in case of an emergency.

Reconnection by distributor

[Clause 8.2 of the Code]

BACKGROUND – Full extract of legislative provisions

Code	NECF
<p>8.2 Reconnection by distributor</p> <p>(1) If a distributor has disconnected a customer's supply address on request by the customer's retailer, and a retailer has subsequently requested the distributor to reconnect the customer's supply address, the distributor must reconnect the customer's supply address.</p> <p>(2) For the purposes of subclause (1), a distributor must reconnect a customer's supply address—</p> <p>(a) for supply addresses located within the metropolitan area—</p> <p>(i) within 1 business day of receipt of the request, if the request is received prior to 3pm on a business day; and</p> <p>(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;</p> <p>(b) for supply addresses located within the regional area—</p> <p>(i) within 5 business days of receipt of the request, if the request is received prior to 3pm on a business day; and</p> <p>(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.</p> <p>(3) Subclause (2) does not apply in the event of an emergency.</p>	<p>NERR</p> <p>122 Obligation on distributor to re-energise premises</p> <p>(1) Re-energisation where de-energisation was retailer-initiated</p> <p>Where:</p> <p>(a) a distributor has de-energised a small customer's premises at the request of a retailer; and</p> <p>(b) the retailer has initiated a request to the distributor for re-energisation of the premises, the distributor must, in accordance with the distributor service standards, re-energise the premises.</p> <p>(2) Re-energisation where de-energisation was not retailer-initiated</p> <p>Where a distributor has de-energised a small customer's premises otherwise than at the request of a retailer and the customer has within 10 business days of the de-energisation:</p> <p>(a) if relevant, rectified the matter that led to the de-energisation; and</p> <p>(b) made a request for re-energisation; and</p> <p>(c) paid any charge for re-energisation, the distributor must, in accordance with the distributor service standards, re-energise the premises.</p> <p><i>Note: This rule is a civil penalty provision for the purposes of the Law. (See the National Regulations, clause 6 and Schedule 1.)</i></p>

Comparative review of Code and NECF

Summary of legislation

The Code includes several clauses that require a retailer to provide certain information to a customer.

The NECF includes a general provision for retailers and distributors (rules 56 and 80) about the provision of information. Under the provision, retailers and distributors must publish certain information on their website. If a customer requests the information, the retailer or distributor may either refer the customer to the website or provide a copy of the information to the customer. If the customer requests a copy of the information, the retailer or distributor must provide it.

Advantages / disadvantages of adopting NECF

Advantages

- The information will be available on the retailer's and distributor's website.
- Retailers and distributors may refer customers to their website, which may reduce their compliance costs.

Disadvantages

- Retailers and distributors must publish certain information on their website and should ensure it remains up to date. This may increase compliance costs for retailers and distributors.

Draft recommendation

Adopt rules 56 and 80 of the NERR to the extent that they explain how information must be provided to customers but do not adopt the words 'but information requested more than once in any 12 month period may be provided subject to a reasonable charge' (in rules 56(4) and 80(4)).

Reasons

Adopt rules 56 and 80 of the NERR

- Consolidating several of the information provisions from the Code into two clauses would simplify the drafting.
- To ensure the specified information is also available online.
- To clarify that a retailer or distributor only has to give a copy of the information if requested by the customer. In other cases, the retailer or distributor may choose to either refer the customer to the retailer's or distributor's website or give the information to the customer.

to the extent that they explain how information must be provided to customers

What information must be provided under the new clauses is discussed in the analyses for clauses 10.3, 10.4, 10.6, 10.8, 10.10 and 12.1.

but do not adopt the words 'but information requested more than once in any 12 month period may be provided subject to a reasonable charge' (in rules 56(4) and 80(4))

The information specified in Part 10 must currently be provided free of charge.⁵⁹ There are no compelling reasons for removing this protection for customers.

⁵⁹ The Code does provide that retailers and distributors may charge for the provision of historical billing and consumption data. However, provision of historical billing and consumption data is not proposed to be included in any new, general information provision clauses.

Information and communication

[Part 10]

BACKGROUND – Full extract of legislative provisions	
Code	NECF
No equivalent provision.	<p><i>NERR</i></p> <p>Division 9 Other retailer obligations</p> <p>56 Provision of information to customers</p> <p>(1) A retailer must publish on its website a summary of the rights, entitlements and obligations of small customers, including:</p> <ul style="list-style-type: none">(a) the retailer's standard complaints and dispute resolution procedure;(b) the contact details for the relevant energy ombudsman; and(c) in the case of electricity, details of applicable energisation and reenergisation timeframes. <p>(2) If a small customer requests information of the kind referred to in subrule (1), the retailer must either:</p> <ul style="list-style-type: none">(a) refer the customer to the retailer's website; or(b) provide the information to the customer. <p>(3) The retailer must provide a copy of any information of that kind to the customer if the customer requests a copy.</p> <p>(4) The information or a copy of the information requested under this rule must be provided without charge, but information requested more than once in any 12 month period may be provided subject to a reasonable charge.</p> <p>Division 2 Customer connection services</p> <p>86A Provision of information to customers</p> <p>(1) A distributor must publish the following information on its website:</p> <ul style="list-style-type: none">(a) a description of the distributor's customer connection contracts and how copies of the contracts may be obtained;(b) details of distributor service standards and any associated GSL schemes;(c) details of applicable energisation and re-energisation timeframes;(d) notice of a customer's rights in respect of the negotiation of different terms;(e) details of charges for customer connection services;(f) information relating to new connections or connection alterations;

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- (g) a description of the distributor's and customer's respective rights and obligations concerning the provision of customer connection services under the energy laws;
 - (h) a summary of the rights, entitlements and obligations of small customers, including:
 - (i) the distributor's standard complaints and dispute resolution procedure; and
 - (ii) the contact details for the energy ombudsman.
- (2) If a customer requests information of the kind referred to in subrule (1), the distributor must either:
 - (a) refer the customer to the distributor's website; or
 - (b) provide the information to the customer.
 - (3) However, the distributor must provide a copy of any information of that kind to the customer if the customer requests a copy.
 - (4) The information or a copy of the information requested under this rule must be provided without charge, but information requested more than once in any 12 month period may be provided subject to a reasonable charge.
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Comparative review of Code and NECF

Summary of legislation

Changes to tariffs

Both the Code and the NECF require retailers to notify customers when tariffs are changed. The NECF has different notice requirements for market retail contracts and standard retail contracts.

Notable differences:

	Code	NECF
Content of notice	Not specified	<i>Market and standard retail contracts:</i> Specify that the customer's tariffs are being varied; when the variation will commence; the customer's existing and the varied tariffs; that tariffs include GST; and that the customer can request historical billing and energy consumption data.
Timing of notice	No later than next bill	<ul style="list-style-type: none"> – <i>Market retail contracts:</i> At least 5 business days before change applies.⁶⁰ – <i>Standard retail contracts:</i> <ul style="list-style-type: none"> – At least 10 business days before change applies: publication in a newspaper and on the retailer's website. – At least 5 business days before change applies: to the customer.
Delivery of notice	Not specified	<i>Market and standard retail contracts:</i> by the customer's preferred form of communication, or otherwise by the same method as that used for delivery of the bill.
Exceptions	None	<ul style="list-style-type: none"> – <i>Market and standard retail contracts:</i> <ul style="list-style-type: none"> – Where customer has entered into a new contract and has already been informed. – Where variation is a result of change in government concessions or rebates – Where variation is a result of changes in bank fees, credit card fees or payment processing charges. – <i>Market retail contracts:</i> <ul style="list-style-type: none"> – Where variation is a result of benefit change for which notice has already been given. – Where the tariff varies continuously based on the prevailing spot price of electricity. – <i>Standard retail contracts:</i> <ul style="list-style-type: none"> – Where prices are regulated.

⁶⁰ If the variation is due to changes in network charges, notices must be given as soon as practicable, and in any event no later than the customer's next bill.

General tariff information

The Code requires retailers to provide information to customers, upon request, about tariffs and alternative tariffs, within 8 business days and in writing if the customer requests a written response. The NECF does not include an equivalent provision.⁶¹

Advantages / disadvantages of adopting NECF

Advantages

Changes to tariffs

- Customers would generally be given advance notice of tariff variations, rather than potentially not receiving notice until they get their next bill.
- Customers would have more certainty about the type of information the retailer must provide and the form it must be provided in.

General tariff information

- Retailers would no longer be required to respond to requests for information about tariffs and alternative tariffs, which could reduce compliance costs for retailers.

Disadvantages

Changes to tariffs

- The more prescriptive requirements could increase compliance costs for retailers.
- Some of the provisions are unnecessary in a non-contestable retail market.
- More complex drafting.

General tariff information

- Customers would no longer be entitled to information about tariffs and alternative tariffs.

Draft recommendation⁶²

- a) Adopt rules 46(3), (4)(a), (4A) (except for (4A)(e)), (4B)(a), (c) and (e) of the NERR for customers whose tariffs are not regulated, but:
 - amend rule 46(4A)(f) by deleting the words 'and, if they are being sold electricity, energy consumption data'.
 - amend rule 46(4B)(a) by deleting the words 'pursuant to rule 46A and section 39(1)(a) of the Law'.
 - b) Amend clause 10.1(1) of the Code so it only applies to customers whose tariffs are regulated.
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⁶¹ The NERR does require retailers to set out in market retail contracts all tariffs and charges payable by the customer. The model terms for standard retail contracts also deal with tariffs and charges. In Western Australia, the *Electricity Industry (Customer Contracts) Regulations 2005* include similar requirements for electricity contracts.

⁶² Draft recommendation 76 in the main body of the report propose an additional amendment to clause 10.1 for reasons not related to the NECF.

a) Adopt rules 46(3), (4)(a), (4A) (except for (4A)(e)), (4B)(a), (c) and (e) of the NERR for customers whose tariffs are not regulated⁶³

Customers whose tariffs are not regulated should receive prior notice of tariff variations so they can make an informed choice about whether to stay with their retailer or switch.

The notice requirements under the NERR also only apply to customers that are on non-regulated tariffs.⁶⁴

but:

- **amend rule 46(4A)(f) by deleting the words ‘and, if they are being sold electricity, energy consumption data’**

Under the Code, retailers are not required to provide historical consumption data to customers.

- **amend rule 46(4B)(a) by deleting the words ‘pursuant to rule 46A and section 39(1)(a) of the Law’**

The Code does not include an equivalent clause.

b) Retain clause 10.1(1) of the Code but amend so it only applies to customers whose tariffs are regulated

To ensure customers on regulated tariffs continue to receive notice if their tariffs change.

⁶³ It is not proposed to adopt rules 46(1), (2), (4)(b), (4A)(e), (4B)(b), (4B)(d), (4C) and (5) of the NERR because:

- Rule 46(1): This subrule provides that the notice requirements of rule 46 only apply to market retail contracts. The subrule would not be adopted as the notice requirements in the Code will apply to any customer whose tariffs are not regulated, regardless of the type of contract the customer is supplied under.
- Rules 46(2) and (5): These subrules prescribe the matters a retailer must address in a market retail contract. Under the WA legislative framework, the contents of customer contracts must be prescribed in the *Electricity Industry (Customer Contracts) Regulations 2005*, not the Code.
- Rule 46(4)(b): This subrule prescribes how retailers must notify customers of tariff changes (‘delivered by the customer’s preferred form of communication where this has been communicated to the retailer, or otherwise by the same method as that used for delivery of the customer’s bill’). It is not proposed to adopt this subrule to ensure retailers retain flexibility as to how they advise customers of tariff changes.
- Rule 46(4A)(e): This subrule requires a notice to specify that the tariffs and charges are inclusive of GST. However, subrules (4A)(c) and (d) already require the retailer to identify the tariffs and charges inclusive of GST.
- Rule 46(4B)(b): This subrule provides an exception for tariff variations due to benefit changes. Energy Policy WA is considering incorporating regulations about benefit changes in the *Electricity Industry (Customer Contracts) Regulations 2005*. As the Code will not address benefits at this stage, it is not proposed to adopt rule 46(4b)(b) in the Code. For more information, see Department of Treasury, Public Utilities Office (now: Energy Policy WA), 2019, [Review of energy customer contract regulations](#), p 16-17
- Rule 46(4B)(d): This subrule provides an exception for tariff variations directly resulting from changes to government concessions or rebates. As, in practice, the new clause will only be relevant for contestable customers, this exception should not be needed.
- Rule 46(4C): This subrule relates to matters set out in the National Energy Rules (as opposed to the NERR).

⁶⁴ Rule 46 only applies to market retail contracts, which are all based on non-regulated tariffs. Schedule 1, clause 8.2(3a)(ii) specifically excludes standard retail contracts with regulated tariffs from the notice requirements.

Tariff information

[Clause 10.1 of the Code]

BACKGROUND – Full extract of legislative provisions

Code	NECF
<p>10.1 Tariff information</p> <ol style="list-style-type: none"> (1) A retailer must give notice to each of its customers affected by a variation in its tariffs, fees and charges, no later than the next bill in a customer's billing cycle. (2) A retailer must give or make available to a customer on request, at no charge, reasonable information on the retailer's tariffs, fees and charges, including any alternative tariffs that may be available to that customer. (3) A retailer must give or make available to a customer the information referred to under subclause (2) within 8 business days of the date of receipt. If requested by the customer, the retailer must give the information in writing. 	<p>NERR</p> <p>Division 7 Market retail contracts</p> <p>46 Tariffs and charges</p> <ol style="list-style-type: none"> (1) This rule sets out some minimum requirements that are to apply in relation to the terms and conditions of market retail contracts (other than a prepayment meter market retail contract). (2) A retailer must set out in a market retail contract with a small customer all tariffs and charges payable by the customer. (3) The retailer must give notice to the customer of any variation to the tariffs and charges that affects the customer. (4) The notice must: <ol style="list-style-type: none"> (a) be given at least five business days before the variation in the tariffs and charges are to apply to the customer; and (b) be delivered by the customer's preferred form of communication where this has been communicated to the retailer, or otherwise by the same method as that used for delivery of the customer's bill. <p><i>Note: This subrule is a civil penalty provision for the purposes of the Law. (See the National Regulations, clause 6 and Schedule 1.)</i></p> <ol style="list-style-type: none"> (4A) The notice must: <ol style="list-style-type: none"> (a) specify that the customer's tariffs and charges are being varied; (b) specify the date on which the variation will come into effect; (c) identify the customer's existing tariffs and charges inclusive of GST; (d) identify the customer's tariffs and charges as varied inclusive of GST; (e) specify that the tariffs and charges identified in subrules (4A)(c) and (d) are inclusive of GST; and (f) specify that the customer can request historical billing data and, if they are being sold electricity, energy consumption data, from the retailer. <p><i>Note: Rules 28 and 56A make provision for customers to request historical billing information and energy consumption data.</i></p> <p><i>Note: This subrule is a civil penalty provision for the purposes of the Law. (See the National Regulations, clause 6 and Schedule 1.)</i></p>

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- (4B) Despite this rule 46, a retailer is not required to provide a notice under subrule (3):
- (a) where the customer has entered into a market retail contract with the retailer within 10 business days before the date on which the variation referred to in subrule (3) is to take effect, and the retailer has informed the customer of such variation pursuant to rule 46A and section 39(1)(a) of the Law;
 - (b) where the variations to the tariffs and charges are a direct result of a benefit change and the retailer has provided the customer with a notice under rule 48A;
 - (c) with respect to a tariff or charge that continually varies in relation to the prevailing spot price of energy. For the avoidance of doubt, this exemption does not apply (and the retailer must provide notice under subrule (3)) with respect to variations to any remaining tariffs and charges that form part of the same market retail contract;
 - (d) where the variations to the tariffs and charges are a direct result of a change to, or withdrawal or expiry of, a government funded energy charge rebate, concession or relief scheme; or
 - (e) where the variations to the tariffs and charges are a direct result of a change to any bank charges or fees, credit card charges or fees, or payment processing charges or fees applicable to the customer.
- (4C) Despite subrule (4)(a), a retailer must provide the notice under subrule (3) as soon as practicable, and in any event no later than the customer's next bill, where the variations to the tariffs and charges are a direct result of a tariff reassignment by the distributor pursuant to clause 6B.A3.2 of the NER. For the purposes of providing a notice under this subrule (4C), the reference to:
- (a) "are being varied" in subrule (4A)(a) is taken to be "are being varied or have been varied (whichever is applicable)"; and
 - (b) "will come into effect" in subrule (4A)(b) is taken to be "will come into effect or has come into effect (whichever is applicable)".
- (5) The retailer must set out in the market retail contract the obligations with regard to notice that the retailer must comply with where the tariffs and charges are to be varied.

Schedule 1 Model terms and conditions for standard retail contracts

Price for energy and other services

8.2 Changes to tariffs and charges

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- (a) If we vary our standing offer prices, we will publish the variation in a newspaper and on our website at least 10 business days before it starts.
 - (a1) We will also:
 - (i) notify you at least five business days before the variation in the tariffs and charges are to apply to you; and
 - (ii) deliver the notice by your preferred form of communication where you have communicated this to us, or otherwise by the same method as that used for delivery of your bill.
 - (a2) The notice must:
 - (i) specify that your tariffs and charges are being varied;
 - (ii) specify the date on which the variation will come into effect;
 - (iii) identify your existing tariffs and charges inclusive of GST;
 - (iv) identify your tariffs and charges as varied inclusive of GST;
 - (v) specify that the tariffs and charges identified in paragraphs (a2)(iii) and (iv) are inclusive of GST; and
 - (vi) specify that you can request historical billing data and, if you are being sold electricity, energy consumption data, from us.
 - (a3) Despite clause 8.2 of this contract, we are not required to provide a notice under paragraph (a1):
 - (i) where you have entered into a standard retail contract with us within 10 business days before the date on which the variation referred to in clause 8.2(a) is to take effect, and we have informed you of such variation;
 - (ii) where your standing offer prices are regulated, or are otherwise set by legislation, a government agency or regulatory authority;
 - (iii) where the variations to the tariffs and charges are a direct result of a change to, or withdrawal or expiry of, a government funded energy charge rebate, concession or relief scheme; or
 - (iv) where the variations to the tariffs and charges are a direct result of a change to any bank charges or fees, credit card charges or fees, or payment processing charges or fees applicable to you.
 - (a4) Despite paragraph (a1)(i), we will provide you with the notice under paragraph (a1) as soon as practicable, and in any event no later than your next bill, where the variations to your tariffs and charges are a direct result of a tariff reassignment by the distributor pursuant to clause 6B.A3.2 of
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the NER. For the purpose of providing a notice under this paragraph (a4), the reference to:

- (i) "are being varied" in paragraph (a2)(i) is taken to be "are being varied or have been varied (whichever is applicable)"; and
 - (ii) "will come into effect" in paragraph (a2)(ii) is taken to be "will come into effect or has come into effect (whichever is applicable)".
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Historical billing data

[Clause 10.2 of the Code]

Comparative review of Code and NECF

Summary of legislation

Both the Code and the NECF require retailers to provide historical billing data to customers on request.

Notable differences:

	Code	NECF
Customers entitled to data	Non-contestable customers only	All customers
Timeframe for providing data	Within 10 business days of: <ul style="list-style-type: none">– customer request; or– payment of any applicable charge	Promptly
Charges for providing data	No charge if data: <ul style="list-style-type: none">– is for period less than 2 years and not provided within last 12 months.– relates to a dispute with the retailer.	No charge, unless data: <ul style="list-style-type: none">– is for period of more than 2 years– has been requested more than four times in any 12-month period.
Amount of time data must be kept by retailer	7 years	Not specified.

Advantages / disadvantages of adopting NECF

Advantages

- All customers would be entitled to historical billing data.
- Customers would be able to request billing data up to four times a year, free of charge (instead of once).
- Reduction in compliance costs as retailers would not be required to keep billing data for 7 years.

Disadvantages

- Customers may have to wait longer for data to be provided after they have made a request.
- Increased costs to retailers of providing data more often free of charge.

Draft recommendation

No amendments proposed.⁶⁵

Reasons

There are no compelling reasons to adopt the NECF framework.

⁶⁵ Draft recommendations 77 and 78 in the main body of the report propose amendments to clause 10.2 for reasons not related to the NECF.

Historical billing data

[Clause 10.2 of the Code]

BACKGROUND – Full extract of legislative provisions

Code	NECF
<p>10.2 Historical billing data</p> <p>(1) A retailer must give a non-contestable customer on request the non-contestable customer's billing data.</p> <p>(2) If a non-contestable customer requests billing data under subclause (1)—</p> <p>(a) for a period less than the previous 2 years and no more than once a year; or</p> <p>(b) in relation to a dispute with a retailer, the retailer must give the billing data at no charge.</p> <p>(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—</p> <p>(a) the request; or</p> <p>(b) payment for the retailer's reasonable charge for providing the billing data (if requested by the retailer).</p> <p>(4) A retailer must keep a non-contestable customer's billing data for 7 years.</p>	<p>NERR</p> <p>28 Historical billing information (SRC and MRC)</p> <p>(1) A retailer must promptly provide a small customer with historical billing data for that customer for the previous 2 years on request.</p> <p><i>Note: This subrule is a civil penalty provision for the purposes of the Law. (See the National Regulations, clause 6 and Schedule 1.)</i></p> <p>(2) Historical billing data provided to the small customer for the previous 2 years must be provided without charge, but may be provided subject to a reasonable charge where the data requested is for an earlier period or has been requested more than:</p> <p>(a) four times in any 12 month period, in the case of the supply of electricity; or</p> <p>(b) once in any 12 month period, in the case of the supply of gas.</p> <p><i>Note: This subrule is a civil penalty provision for the purposes of the Law. (See the National Regulations, clause 6 and Schedule 1.)</i></p> <p>(3) Application of this rule to standard retail contracts</p> <p>This rule applies in relation to standard retail contracts.</p> <p>(4) Application of this rule to market retail contracts</p> <p>This rule applies in relation to market retail contracts (other than prepayment meter market retail contracts).</p>

Concessions

[Clause 10.3 of the Code]

Comparative review of Code and NECF

Summary of legislation

The Code requires retailers to provide information to customers about concessions on request at no charge, including the name and contact details of the organisation responsible for administering the concessions (if the retailer is not responsible).

The NECF does not include an equivalent provision.

Advantages / disadvantages of adopting NECF

Advantages

- Removing the requirement would reduce compliance costs for retailers and shift the onus for and costs of informing consumers to the government agencies responsible for administering the concessions.

Disadvantages

- Removing the requirement removes an additional layer of protection for consumers.

Draft recommendation

No amendments proposed.⁶⁶

Reasons

The NECF provides less protections for customers than the Code.

⁶⁶ Draft recommendation 79 proposes an amendment to clause 10.3 for reasons not related to the NECF.

Concessions

[Clause 10.3 of the Code]

BACKGROUND – Full extract of legislative provisions	
Code	NECF
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).	No equivalent provision.

Service standard payments

[Clause 10.3A of the Code]

Comparative review of Code and NECF

Summary of legislation

Both the Code and the NECF require that customers have access to information about service standard payments.

Notable differences:

	Code	NECF
Person responsible for providing information about service standard payments	Retailer (on behalf of distributor) ⁶⁷	Distributor
Method of publication	In writing to customer, at least once a year	On website
Information to be provided	<ul style="list-style-type: none">Amount of the paymentEligibility criteria for payment	Details of distributor service standard and any associated guaranteed service level schemes

Advantages / disadvantages of adopting NECF

Advantages

- Requiring distributors to publish the information on their website would reduce compliance costs for retailers but may increase compliance costs for distributors. The cost of publishing the information on a website would be lower than providing written details to customers annually.

Disadvantages

- Customers may be less aware of their rights because they are less likely to access the information of their own accord, compared to if it is provided directly to them.
- The information may not include the amount of the payment and the eligibility criteria.

Draft recommendation

No amendments proposed.

Reasons

Retaining clause 10.3A increases the likelihood that customers are aware of their rights to service standard payments.

⁶⁷ Under the WA legislative framework, the distributor does not have a direct contractual relationship with the customer.

Service standard payments

[Clause 10.3A of the Code]

BACKGROUND – Full extract of legislative provisions	
Code	NECF
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.	<i>NERR</i> 80 Provision of information to customers (1) A distributor must publish the following information on its website: ... (b) details of distributor service standards and any associated GSL [Guaranteed Service Level] schemes;

Energy efficiency advice

[Clause 10.4 of the Code]

Comparative review of Code and NECF

Summary of legislation

The Code requires retailers to give, or make available, on request general information to consumers on cost effective and efficient ways to utilise electricity, and the typical running costs of major domestic appliances.

The NECF does not include an equivalent provision.

Advantages / disadvantages of adopting NECF

Advantages

- Reduce compliance costs for retailers.

Disadvantages

- Customers will no longer be able to seek energy efficiency advice from the retailer.

Draft recommendation

No amendments proposed.⁶⁸

Reasons

The NECF provides less protections for customers than the Code.

⁶⁸ Draft recommendation 80 proposes an amendment to clause 10.4 for reasons not related to the NECF.

Energy efficiency advice

[Clause 10.4 of the Code]

BACKGROUND – Full extract of legislative provisions

Code	NECF
<p>10.4 Energy Efficiency Advice</p> <p>A retailer must give, or make available to a customer on request, at no charge, general information on—</p> <p>(a) cost effective and efficient ways to utilise electricity (including referring the customer to a relevant information source); and</p> <p>(b) the typical running costs of major domestic appliances.</p>	<p>No equivalent provision.</p>

Distribution matters

[Clause 10.5 of the Code]

Comparative review of Code and NECF

Summary of legislation

Both the Code and the NECF require retailers to respond to customer enquiries about distribution matters. The NECF is more prescriptive than the Code. The NECF prescribes:

- Different steps retailers must take if the enquiry is made over the phone or by other means.
- Timeframes in which the retailer must take these steps.
- Certain information that must be provided (e.g. which telephone numbers).

The NECF also includes requirements about how retailers and distributors must share information with each other to respond to customer enquiries expeditiously.

Advantages / disadvantages of adopting NECF

Advantages

- More regulatory certainty about the process retailers must comply with when responding to distribution matters.

Disadvantages

- Greater regulatory burden and compliance costs for retailers
- More complex drafting.

Draft recommendation

No amendments proposed.

Reasons

See NECF disadvantages listed above.

Distribution matters

[Clause 10.5 of the Code]

BACKGROUND – Full extract of legislative provisions	
Code	NECF
<p>10.5 Distribution matters</p> <p>If a customer asks a retailer for information relating to the distribution of electricity, the retailer must—</p> <ul style="list-style-type: none"> (a) give the information to the customer; or (b) refer the customer to the relevant distributor for a response. 	<p><i>NERR</i></p> <p>102 Enquiries or complaints relating to the distributor</p> <ul style="list-style-type: none"> (1) If a person makes an enquiry or complaint to a retailer about an issue relating to a distribution system or customer connection services (other than a fault, an emergency, a distributor planned interruption or an unplanned interruption), the retailer must: <ul style="list-style-type: none"> (a) if the enquiry or complaint is made by telephone—refer the person to the relevant distributor's enquiry or complaints telephone number where practicable; or (b) otherwise, as soon as practicable, but no later than the next business day after receiving the enquiry or complaint, provide the relevant distributor with the details of the enquiry or the complaint, including contact details of both the person making the enquiry or complaint and the person who received the enquiry or complaint. (2) If a retailer requests a distributor to provide information about a shared customer's energy consumption, the distributor must use its best endeavours to provide the information to the retailer at no cost and in a timely manner to allow the retailer to carry out its obligations to provide information to its customer. (3) The distributor must respond to an enquiry expeditiously. ... (5) The retailer must provide to the distributor on request copies of any documents or written records (including in electronic format) relating to an enquiry or complaint and provide any other assistance reasonably requested by the distributor for the purpose of responding to an enquiry or resolving a complaint.

Obligations particular to distributors – general information

[Clause 10.6 of the Code]

draft recommendation
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Comparative review of Code and NECF

Summary of legislation

General information

Both the Code and the NECF require distributors to provide certain information to customers.

Notable differences:

	Code	NECF
<i>Information to be provided</i> ⁶⁹		
Customer's electrical installation	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.	Information relating to new connections and connection alterations.
Distribution services	<ul style="list-style-type: none"> • Advice on facilities required to protect the distributor's equipment. • Advice on how to obtain information on protecting the customer's equipment. • 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. • General information on safe use of electricity • General information on quality of supply. • General information on reliability of supply. 	A description of the distributor's and customer's respective rights and obligations concerning the provision of customer connection services under the energy laws.
Unplanned interruptions	Explanation for any unplanned interruptions to the customer's supply address	Information on the nature of the interruption ⁷⁰
Connection charges	No equivalent provision.	Details of charges for connection services.

⁶⁹ This table does not include rule 80(1)(b) of the NERR as this subrule is already discussed under clause 10.3A.

⁷⁰ *National Energy Retail Rules* rule 91(a)

Connection timeframes	No equivalent provision.	Details of applicable connection and reconnection timeframes.
Connection contracts	No equivalent provision <i>(not applicable as customers do not have a direct contractual relationship with their distributor)</i>	<ul style="list-style-type: none"> • A description of the distributor's connection contract and how to obtain a copy. • Notice of a customer's rights to negotiate different terms.

Information about quality of supply

Both the Code and the NECF oblige distributors to explain any quality of supply that is not consistent with the law if a customer requests an explanation.

Notable differences:

- The NECF requires a best endeavours explanation, whereas the Code requires 'an explanation'.
- The NECF sets out timeframes in which the distributor must respond to a customer's request for a written response. The Code does not set out timeframes for information to be provided.

Advantages / disadvantages of adopting NECF

Advantages

- The drafting to describe the information that must be provided is simpler.
- All the information must be included on the distributor's website.
- Customers have the right to ask about a broader range of information.
- Customers have more certainty over the timeframes in which explanations will be provided about unlawful quality of supply and unplanned supply interruptions.

Disadvantages

- Customers would lose the right to ask for general information about safe use, and quality and reliability of supply.
- Compliance costs might increase due to the requirement to publish the information on the distributor's website.
- Compliance costs might increase if a timeframe is introduced for providing customers with an explanation for changes in quality of supply.

Draft recommendation

- Replace clauses 10.6(a), (d), (e) and (f) of the Code⁷¹ with rule 80(1)(g) of the NERR but:
 - incorporate the clauses into the new, general information provision.
 - amend rule 80(1)(g) by replacing the term 'customer connection services' with a description of those services.⁷²

⁷¹ Clauses 10.6(a), (d), (e) and (f) of the Code require distributors to provide:

- 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.
- advice on facilities required to protect the distributor's equipment.
- advice on how to obtain information on protecting the customer's equipment.
- 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.

⁷² Rule 80(1)(g) of the NERR requires distributors to provide a description of the distributor's and customer's respective rights and obligations concerning the provision of customer connection services under the energy laws.

-
- b) Adopt rules 80(1)(c), (e) and (f) of the NERR⁷³ and incorporate the clauses into the new, general information provision.
 - c) Retain clauses 10.6(g), (h) and (i) of the Code⁷⁴ but incorporate the clauses into the new, general information provision.
 - d) Retain clauses 10.6(b) and (c) of the Code.⁷⁵
-

Reasons

a) Replace clauses 10.6(a), (d), (e) and (f) of the Code with rule 80(1)(g) of the NERR

To simplify the drafting of the Code, these requirements could be replaced with a new, general obligation to provide information on the distributor's and customer's rights and obligations concerning the connection and supply of electricity.

but:

– incorporate the clauses into the new, general information provision

To simplify the drafting of the Code.

To ensure the information is available on the distributor's website.

– amend rule 80(1)(g) by replacing the term 'customer connection services' with a description of those services

The term customer connection services is not a defined term in the Code.

b) Adopt rules 80(1)(c), (e) and (f) of the NERR

See NECF advantages listed above (bullet points 1 to 3).

and incorporate into the new, general information provision

To simplify the drafting of the Code.

To ensure the information is available on the distributor's website.

c) Retain clauses 10.6(g), (h) and (i)

To ensure customers continue to have access to general information on the safe use of electricity, and quality and reliability of supply. There are no compelling reasons for removing these protections for customers.

but incorporate the clauses into the new, general information provision

To simplify the drafting of the Code.

To ensure the information is available on the distributor's website.

d) Retain clause 10.6(b) and (c)

These clauses cannot be incorporated into the new, general information provision clause as the information that must be provided is specific to the customer's supply address.

⁷³ Rules 80(1)(c), (e) and (f) of the NERR require distributors to provide:

- details of applicable connection and reconnection timeframes.
- details of charges for connection services.
- information relating to new connections and connection alterations.

⁷⁴ Clause 10.6(g), (h) and (i) of the Code deal with:

- (d) general information on the safe use of electricity.
- (e) general information on quality of supply.
- (f) general information on reliability of supply.

⁷⁵ Clauses 10.6(b) and (c) of the Code deal with:

- (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 interruptions of supply to the customer's supply address.

Obligations particular to distributors – general information

[Clause 10.6 of the Code]

BACKGROUND – Full extract of legislative provisions	
Code	NECF
<p><i>General information</i></p> <p>10.6 General information</p> <p>A distributor must give a customer on request, at no charge, the following information—</p> <ol style="list-style-type: none"> 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; [...] an explanation for any unplanned interruption of supply to the customer's supply address; advice on facilities required to protect the distributor's equipment; advice on how to obtain information on protecting the customer's equipment; 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; general information on safe use of electricity; general information on quality of supply; and general information on reliability of supply. 	<p><i>NERR</i></p> <p><i>General information</i></p> <p>80 Provision of information to customers</p> <ol style="list-style-type: none"> A distributor must publish the following information on its website: <ol style="list-style-type: none"> a description of the distributor's customer connection contracts and how copies of the contracts may be obtained; details of distributor service standards and any associated GSL schemes; details of applicable energisation and re-energisation timeframes; notice of a customer's rights in respect of the negotiation of different terms; details of charges for customer connection services; information relating to new connections or connection alterations; a description of the distributor's and customer's respective rights and obligations concerning the provision of customer connection services under the energy laws; a summary of the rights, entitlements and obligations of small customers, including: <ol style="list-style-type: none"> the distributor's standard complaints and dispute resolution procedure; and the contact details for the energy ombudsman. If a customer requests information of the kind referred to in subrule (1), the distributor must either: <ol style="list-style-type: none"> refer the customer to the distributor's website; or provide the information to the customer. However, the distributor must provide a copy of any information of that kind to the customer if the customer requests a copy. The information or a copy of the information requested under this rule must be provided without charge, but information requested more than once in any 12-month period may be provided subject to a reasonable charge. <p><i>Note: This rule is a civil penalty provision for the purposes of the Law. (See the National Regulations, clause 6 and Schedule 1.)</i></p>

Information about quality of supply

10.6 General information

A distributor must give a customer on request, at no charge, the following information—

- (a) [...]
 - (b) an explanation for any unplanned or approved change in the quality of supply of electricity outside of the limits prescribed by law;
- [...]

Information about quality of supply

Schedule 2 – Model terms and conditions for standard retail contracts

10.4 Your right to information about interruptions

- (a) If you request us to do so, we will use our best endeavours to explain:
 - (i) [...]
 - (ii) a supply of energy to the premises of a quality in breach of any relevant standards under the energy laws..
 - (b) If you request an explanation be in writing we must, within 10 business days of receiving the request, give you either:
 - (i) the written explanation; or
 - (ii) an estimate of the time it will take to provide a more detailed explanation if a longer period is reasonably needed.
-

Historical consumption data

[Clause 10.7 of the Code]

Comparative review of Code and NECF

Summary of legislation

Both the Code and the NECF require the provision of historical consumption data to customers on request.

Under the NECF, distributors must not only provide historical consumption data but also information about the distributor's charges.

Notable differences:

	Code	NECF
Data may be sought from	Distributor	<ul style="list-style-type: none">• Retailer• Distributor• Previous retailer
Charges	Free of charge <u>if</u> : <ul style="list-style-type: none">– for period less than previous 2 years and no more than twice a year– in relation to a dispute with the distributor	Free of charge <u>unless</u> requested: <ul style="list-style-type: none">– more than 4 times in 12 months– in different manner or form than specified in metering data procedures– by customer authorised representative as part of request for several customers.– from previous retailer
Timeframe for providing the data	10 business days	Not specified
Number of years data must be kept	7 years	Not specified

Advantages / disadvantages of adopting NECF

Advantages

- Customers are able to request consumption data up to four times a year, free of charge.
- Both retailers and distributors have to provide the data.
- Customers have the right to request historical billing and consumption data from their previous retailer.

Disadvantages

- Increased costs to retailers as they have to provide the data as well.
- Customers may not be able to access data, needed to resolve disputes with the retailer, free of charge.
- No legislated, maximum timeframe for keeping data.
- No legislated, maximum timeframe for providing the data. Customers may have to wait longer for data after they have made a request.

Draft recommendation

No amendments proposed.⁷⁶

Reasons

There are no compelling reasons to adopt the NECF.

⁷⁶ Draft recommendations 82 and 83 propose amendments to clause 10.7 for reasons not related to the NECF.

Historical consumption data

[Clause 10.7 of the Code]

BACKGROUND – Full extract of legislative provisions

Code	NECF
<p>10.7 Historical consumption data</p> <p>(1) A distributor must give a customer on request the customer's consumption data.</p> <p>(2) If a customer requests consumption data under subclause (1)—</p> <p>(a) for a period less than the previous 2 years, 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</p> <p>(b) in relation to a dispute with a distributor, the distributor must give the consumption data at no charge.</p> <p>(3) A distributor must give a customer the consumption data requested under subclause (1) within 10 business days of the date of receipt of—</p> <p>(a) the request; or</p> <p>(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.</p> <p>(4) A distributor must keep a customer's consumption data for 7 years.</p>	<p>NERR</p> <p>56A Energy consumption information - supply of electricity only</p> <p>(1) A retailer must, on a request by a small customer or a customer authorized representative, provide information about that customer's energy consumption for the previous 2 years in the manner and form required by the metering data provision procedures.</p> <p>(2) Subject to paragraph (3), information referred to in paragraph (1) must be provided without charge.</p> <p>(3) Information under paragraph (1) may be provided subject to a reasonable charge where it has been requested:</p> <p>(a) more than four times in any 12 month period;</p> <p>(b) in a different manner or form than that specified in the metering data provision procedures; or</p> <p>(c) by a customer authorised representative as part of a request for information about more than one small customer.</p> <p>(4) Application of this rule to standard retail contracts</p> <p>This rule applies in relation to standard retail contracts.</p> <p>(5) Application of this rule to market retail contracts</p> <p>This rule applies in relation to market retail contracts (other than prepayment meter market retail contracts).</p> <p>56B Historical billing and energy consumption information – supply of electricity only</p> <p>(1) A reference to a retailer in rules 28 and 56A is a reference to a small customer's current retailer.</p> <p>(2) If a small customer or customer authorised representative requests from the small customer's previous retailer historical billing or energy consumption information for a period within two years prior to the date of the request then, even though the small customer's contract with the previous retailer may otherwise have terminated, the previous retailer must provide the person that made the request with any of the information requested that is then retained by, or otherwise</p>

available to, the previous retailer, to the extent that information relates to the period in which the small customer was a customer of the previous retailer. The previous retailer may provide this information subject to a reasonable charge.

(3) **Application of this rule to standard retail contracts**

This rule applies in relation to standard retail contracts.

(4) **Application of this rule to market retail contracts**

This rule applies in relation to market retail contracts (other than prepayment meter market retail contracts).

86A Provision of information - supply of electricity

- (1) In the case of supply of electricity, a distributor must, on request by a customer, customer authorised representative or a customer's retailer, provide information about the:
 - (a) customer's energy consumption for the previous 2 years in the manner and form required by the metering data provision procedures; or
 - (b) distributor's charges.
 - (2) Subject to paragraph (3), information referred to in paragraph (1) must be provided without charge.
 - (3) Information under paragraph (1) may be provided subject to a reasonable charge where it has been requested:
 - (a) directly by a customer more than 4 times in any 12 month period;
 - (b) in a different manner or form than that specified in the metering data provision procedures; or
 - (c) by a customer authorised representative as part of a request for information about more than one customer.
-

Distribution standards

[Clause 10.8 of the Code]

Comparative review of Code and NECF

Summary of legislation

The Code requires a distributor to:

- Tell a customer, on request, how to obtain certain information on distribution standards and metering arrangements.
- Publish that information on its website.

The NECF does not include an equivalent provision.

Advantages / disadvantages of adopting NECF

Advantages

- Less regulatory burden for distributors

Disadvantages

- Less protection for customers.

Draft recommendation

No amendments proposed.⁷⁷

Reasons

The NECF provides less protections for customers than the Code.

⁷⁷ Draft recommendation 84 proposes an amendment to clause 10.8 for reasons not related to the NECF.

Distribution standards

[Clause 10.8 of the Code]

BACKGROUND – Full extract of legislative provisions	
Code	NECF
10.8 Distribution standards	No equivalent provision
(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 <i>Electricity Act 1945</i> ; 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).	

Written information must be easy to understand

[Clause 10.9 of the Code]

Comparative review of Code and NECF

Summary of legislation

The Code requires retailers and distributors to provide written information to customers that is clear, simple, concise and easy to understand.

The NECF requires information to be in clear, simple and concise language in a few specific circumstances under different rules.

Advantages / disadvantages of adopting NECF

Advantages

Disadvantages

- Removes broad requirement for easy to understand information to be provided in all circumstances under the Code.

Draft recommendation

No amendments proposed.

Reasons

Clause 10.9 requires provision of easy to understand information to customers in all circumstances. This provides better protection for customers.

Written information must be easy to understand

[Clause 10.9 of the Code]

BACKGROUND – Full extract of legislative provisions	
Code	NECF
<p>10.9 Written information must be easy to understand</p> <p>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.</p>	<p><i>NERR</i></p> <p>21 Estimation as basis for bills</p> <p>(3C) A retailer must make available to small customers at no charge and in clear, simple and concise language for the purposes of subrule (3A):</p> <ul style="list-style-type: none"> (a) guidance on how to read the customer's meter; and (b) the types of information the customer is required to provide when lodging the customer read estimate; and (c) instructions on the methods by which the customer can lodge the customer read estimate. <p>131 Operating instructions to be provided</p> <p>(1) A retailer must, at no charge, provide the following information on the use of the prepayment meter system to a small customer who enters into a prepayment meter market retail contract:</p> <ul style="list-style-type: none"> (a) instructions on how to operate the prepayment meter system that are: <ul style="list-style-type: none"> (i) expressed in clear, simple and concise language; and (ii) in a format that makes it easy for a person not familiar with the operation of a prepayment meter system to understand... <p>170 Retailer obligations—electricity consumption benchmarks</p> <p>(1) Without limiting any requirement under rule 25, a retailer must provide the following particulars in a bill for a residential customer:</p> <ul style="list-style-type: none"> (a) a comparison of the customer's electricity consumption against the electricity consumption benchmarks under rule 169; (b) a statement indicating the purpose of the information provided with respect to those benchmarks; (c) a reference to an energy efficiency website. <p>(2) A retailer is required to present the information in subrule (1) in a graphical or tabular form, as appropriate, but may do so in a location on the bill that is convenient for the retailer.</p>

-
- (3) A retailer must present the information in subrule (1) in a manner which is easy for the customer to understand.
-

Code of Conduct

[Clause 10.10 of the Code]

Comparative review of Code and NECF

Summary of legislation

The Code requires retailers and distributors to:

- on request, inform a customer how to obtain a copy of the code.
- make electronic copies of the Code available on their websites at no cost.

The NECF does not include an equivalent provision.

Advantages / disadvantages of adopting NECF

Advantages

- Less regulatory burden for retailers and distributors.

Disadvantages

- Customers may no longer be able to access the Code from their retailer's or distributor's website.

Draft recommendation

No amendments proposed.⁷⁸

Reasons

The NECF provides less protections for customers than the Code.

⁷⁸ Draft recommendation 85 in the main body of the report propose an amendment to clause 10.10 for reasons not related to the NECF.

Code of Conduct

[Clause 10.10 of the Code]

BACKGROUND – Full extract of legislative provisions	
Code	NECF
10.10 Code of Conduct	No equivalent provision.
(1) A retailer and a distributor must tell a customer on request how the customer can obtain a copy of the Code.	
(2) A retailer and a distributor must make electronic copies of the Code available, at no charge, on the retailer's or distributor's website.	
(3) Not Used	

Special information needs

[Clause 10.11 of the Code]

Comparative review of Code and NECF

Summary of legislation

The Code requires retailers and distributors to provide services that assist customers interpret information, such as multi-lingual interpreter services, TTY services and large print copies. The NECF only deals with interpreter services.

The obligations in the Code and NECF are structured very differently.

The Code includes a general obligation on retailers and distributors to make available, free of charge, services that assist the customer in interpreting information provided by the retailer or distributor. The services only have to be made available to residential customers and on request.

The Code also requires retailers and distributors to include telephone numbers for TTY and interpreter services on their bills, bill related information, reminder notices and disconnection warnings.

The NECF only requires retailers to refer residential customers to interpreter services if necessary, and to include contact details of interpreter services (in community languages) on the bill and on notices for meter replacements.

Advantages / disadvantages of adopting NECF

Advantages

- Less regulatory burden for retailers and distributors.

Disadvantages

- NECF does not require the services to be provided free of charge.
- NECF only refers to interpreter services, not TTY services.
- Information about the services does not have to be included on reminder notices and disconnection warnings.
- There is no obligation to include the National Interpreter Symbol on bills, reminder notices and disconnection warnings.
- Information about interpreter services must be included in community languages, which will take up valuable space on, for example, bills.

Draft recommendation

No amendments proposed.⁷⁹

Reasons

The NECF provides less protections for customers than the Code.

⁷⁹ Draft recommendation 86 in the main body of the report propose amendments to clause 10.11 for reasons not related to the NECF.

Special information needs

[Clause 10.11 of the Code]

BACKGROUND – Full extract of legislative provisions

Code	NECF
<p>10.11 Special Information Needs</p> <p>(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).</p> <p>(2) A retailer and, if appropriate, a distributor must include in relation to residential customers—</p> <ul style="list-style-type: none"> (a) the telephone number for its TTY services; (b) the telephone number for independent multi-lingual services; and (c) the telephone number for interpreter services together with the National Interpreter Symbol and the words “Interpreter Services”, on the— (d) bill and bill related information (including, for example, the notice referred to in clause 4.2(3) and statements relating to an instalment plan); (e) reminder notice; and (f) disconnection warning. 	<p>NERR</p> <p>Division 3 Customer retail contracts—pre-contractual procedures</p> <p>19 Responsibilities of designated retailer in response to request for sale of energy (SRC)</p> <p>(1) A designated retailer must, as soon as practicable, provide a small customer requesting the sale of energy under the retailer's standing offer with the following information: [...]</p> <ul style="list-style-type: none"> (d) information in community languages about the availability of interpreter services for the languages concerned and telephone numbers for the services. <p>Division 4 Customer retail contracts—billing</p> <p>25 Contents of bills (SRC and MRC)</p> <p>(1) A retailer must prepare a bill so that a small customer can easily verify that the bill conforms to their customer retail contract and must include the following particulars in a bill for a small customer: [...]</p> <ul style="list-style-type: none"> (w) contact details of interpreter services in community languages; <p>Division 9 Other retailer obligations</p> <p>55 Referral to interpreter services</p> <p>A retailer must refer a residential customer to a relevant interpreter service if a referral is necessary or appropriate to meet the reasonable needs of the customer.</p> <p><i>Note: This rule is a civil penalty provision for the purposes of the Law. (See the National Regulations, clause 6 and Schedule 1.)</i></p> <p>59A Notice to small customers on deployment of new electricity meters (SRC and MRC)</p> <p>(2) If a retailer proposes to undertake a new meter deployment, the retailer must give to the small customer:</p> <ul style="list-style-type: none"> (a) a notice [...]; and (b) a second notice [...]. <p>(3) A notice under subrule (2)(a) and (b) must state: [...]</p> <ul style="list-style-type: none"> (f) contact details of interpreter services in community languages.

Note: This subrule is a civil penalty provision for the purposes of the Law. (See the National Regulations, clause 6 and Schedule 1.)

Division 5 Distributor obligations to customers

87 Referral to interpreter services

A distributor must refer a residential customer to a relevant interpreter service if a referral is necessary or appropriate to meet the reasonable needs of the customer.

Metering

[Clause 10.12 of the Code]

Comparative review of Code and NECF

Summary of legislation

The Code requires distributors to advise customers, on request and at no charge, about the different types of meters available. This includes information about the suitability of different types of meters for customers, purpose, costs, installation, operation and maintenance procedures.

The NECF does not include an equivalent provision.

Advantages / disadvantages of adopting NECF

Advantages

- Less regulatory burden for distributors.

Disadvantages

- Less protection for customers.
- Customers would not be entitled to information about the different types of meters that are available to them.

Draft recommendation

No amendments proposed.

Reasons

Clause 10.12 provides information to customers about the different types of meters available. It is important that this information is available to customers.

It is not proposed to incorporate clause 10.12 in the new, general information provision as some of the information that must be provided is specific to the customer's circumstances.

Metering

[Clause 10.12 of the Code]

BACKGROUND – Full extract of legislative provisions

Code

NECF

10.12 Metering

No equivalent provision.

- (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.

Obligation to establish complaints handling process

[Clause 12.1 of the Code]

draft recommendations
87 and 90

Comparative review of Code and NECF

Summary of legislation

Both the Code and the NECF require retailers and distributors to have complaints handling processes.

The NECF sets out what matters a customer can make a complaint about. These are defined as 'relevant matters' in the NERL.

Notable differences:

	Code	NECF
AS/NZS 10002:2014⁸⁰	'comply with'	'be substantially consistent with'
Timeframe for handling complaints	<ul style="list-style-type: none"> 10 business days to acknowledge complaint 20 business days to respond to complaint 	As set out in the retailer's or distributor's complaints handling process
Information to be given when responding to a complaint	That the customer has the right to have the complaint considered by a senior employee	-
Information to be given to customer at conclusion of complaints process	<p>When the complaint has not been resolved in a manner acceptable to the customer:</p> <ul style="list-style-type: none"> The reasons for the outcome 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 	<ul style="list-style-type: none"> The outcome of the complaint process That, if the customer is not satisfied with the outcome, the customer may make a complaint or take a dispute to the energy ombudsman The telephone number and other contact details of the energy ombudsman
Review of complaints handling process	-	Must be regularly reviewed and kept up to date

Advantages / disadvantages of adopting NECF

Advantages

- Information about the complaints process must be published on the retailer's and distributor's websites.

Disadvantages

- No timeframes for acknowledging and responding to customer complaints.

⁸⁰ Standards Australia and Standards New Zealand, 2014, *AS/NZS 10002:2014 Guidelines for complaint management in organizations*

- Customers must be informed of the outcome of the complaint process and the reasons for the decision regarding the outcome. The Code only requires this for complaints not resolved internally in a manner acceptable to the customer.
- Less complex drafting
- Customer does not have to be informed that they have the right to have the complaint considered by a senior employee.

Draft recommendation⁸¹

- Insert the words 'including the obligations set out in [clause...]' in clause 12.1(2)(b)(ii)(B) of the Code.
- Delete clause 12.1(3) and include a new clause that requires retailers and distributors, when they respond to a complaint, to inform the customer of the information set out in:
 - Section 82(4) of the NERL, but do not include the words 'as soon as reasonably possible but, in any event, within any time limits applicable under the retailer's or distributor's standard complaints and dispute resolution procedures'.
 - Section 82(5) of the NERL but do not include the words 'may make a complaint or' and 'if the customer is not satisfied with the outcome' and provide instead that the information does not have to be provided if the customer has advised the retailer or distributor that the complaint has been resolved in a manner acceptable to the customer.
- Add the following subclauses to the new, general information provision:
 - a summary of the customer's rights, entitlements and obligations under the retailer's or distributor's standard complaints and dispute resolution procedures.
 - the contact details for the electricity ombudsman.

Reasons

- Insert the words 'including the obligations set out in [clause...]' in clause 12.1(2)(b)(ii)(B)**
Consequential amendment of deleting 'for the purposes of subclause (2)(b)(ii)(B)' in subclause (3).
- Delete clause 12.1(3) and include a new clause that requires retailers and distributors, when they respond to a complaint, to inform the customer of the information set out in:**
 - Section 82(4) of the NERL**
To ensure that customers will be advised of the outcome and reasons for a decision following every complaint, not only when the complaint has not been resolved internally in a manner acceptable to the customer.
but do not include the words 'as soon as reasonably possible but, in any event, within any time limits applicable under the retailer's or distributor's standard complaints and dispute resolution procedures'
The reference to time limits is not necessary as clause 12.1(4) already prescribes time limits for acknowledging and responding to complaints.
 - Section 82(5) of the NERL**
To improve consistency with the NECF.
Adoption of section 82(5) would also ensure that retailers and distributors no longer have to inform customers of the existence of a 'relevant external dispute resolution body' in addition to the electricity ombudsman. It should be sufficient for retailers and distributors

⁸¹ Draft recommendations 88 and 89 in the main body of the report propose additional amendments to clause 12.1 for reasons not related to the NECF.

to advise customers of the existence of electricity ombudsman, without also having to advise them of other external dispute resolution bodies.

but do not include the words:

- **'may make a complaint or'**

A retailer or distributor should not have to inform a customer that they may make a complaint *after* the customer has made a complaint.

- **'if the customer is not satisfied with the outcome' and provide instead that the information does not have to be provided if the customer has advised the retailer or distributor that the complaint has been resolved in a manner acceptable to the customer**

To ensure that call centre operators do not have to advise customers about the availability of the electricity ombudsman when the customer has already advised that they consider the complaint resolved.

To rely on the exception, retailers will have to confirm with the customer that the complaint has been resolved. If the retailer fails to obtain confirmation and the customer does not indicate on their own accord that they consider the complaint resolved, the retailer must provide the information.

A similar provision is currently included in clause 12.1(3)(b)(ii) of the Code. However, the wording of this clause is less clear as it does not explicitly provide that the customer must have advised the retailer that the complaint has been resolved in a manner acceptable to the customer.

c) Add the following subclauses to the new general, information provisions:

- **a summary of the customer's rights, entitlements and obligations under the retailer's or distributor's standard complaints and dispute resolution procedures**
- **the contact details for the electricity ombudsman**

To improve the provision of information to customers by requiring retailers and distributors to publish a summary of their complaints handling processes and the electricity ombudsman's contact details on their website, and provide a copy of the information to customers on request.

Obligation to establish complaints handling process

[Clause 12.1 of the Code]

BACKGROUND – Full extract of legislative provisions	
Code	NECF
<p>12.1 Obligation to establish complaints handling process</p> <p>(1) A retailer and distributor must develop, maintain and implement an internal process for handling complaints and resolving disputes.</p> <p>(2) The complaints handling process under subclause (1) must—</p> <p>(a) comply with Australian Standard AS/NZS 10002:2014;</p> <p>(b) address at least—</p> <p>(i) how complaints must be lodged by customers;</p> <p>(ii) how complaints will be handled by a retailer or distributor, including—</p> <p>(A) a right of a 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;</p> <p>(B) the information that will be provided to a customer;</p> <p>(iii) response times for complaints; and</p> <p>(iv) method of response;</p> <p>(c) detail how a retailer will handle complaints about the retailer, electricity marketing agents or marketing; and</p> <p>(d) be available at no cost to customers.</p> <p>(3) For the purposes of subclause (2)(b)(ii)(B), a retailer or distributor must at least—</p> <p>(a) when responding to a 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</p> <p>(b) when a complaint has not been resolved internally in a manner acceptable to a customer, advise the customer—</p> <p>(i) of the reasons for the outcome (on request, the retailer or distributor must supply such reasons in writing); and</p> <p>(ii) that the customer has the right to raise the complaint with the electricity ombudsman</p>	<p>NERL</p> <p>79 Definitions</p> <p>[...]</p> <p><i>relevant matter</i> means a matter arising between a small customer and a retailer or distributor—</p> <p>(a) under or in connection with this Law, the National Regulations or the Rules, including but not limited to a matter concerning any of the following:</p> <p>(i) the carrying out of an energy marketing activity by a person;</p> <p>(ii) a retailer's obligations before a customer retail contract is formed (whether or not the contract is eventually formed);</p> <p>(iii) a customer retail contract between a small customer and a retailer;</p> <p>(iv) a deemed standard connection contract between a small customer and a distributor;</p> <p>(v) a negotiated connection contract between a small customer and a distributor;</p> <p>(vi) a decision of a distributor under Division 3 of Part 7 in relation to a customer's claim for compensation; or</p> <p>(b) under or in connection with the NER or NGR concerning a new connection or a connection alteration, but does not include matters concerning the setting of tariffs and charges of distributors or retailers.</p> <p>81 Standard complaints and dispute resolution procedures</p> <p>(1) Every retailer and every distributor must develop, make and publish on its website a set of procedures detailing the retailer's or distributor's procedures for handling small customer complaints and disputes, to be known as its standard complaints and dispute resolution procedures.</p> <p>(2) The procedures must be regularly reviewed and kept up to date.</p> <p>(3) The procedures must be substantially consistent with the Australian Standard AS ISO 10002-2006 (Customer satisfaction—Guidelines for complaints handling in organizations) as amended and updated from time to time.</p>

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- or another relevant external dispute resolution body and provide the Freecall telephone number of the electricity ombudsman.
- (4) For the purpose of subclause (2)(b)(iii), a retailer or distributor must, on receipt of a written complaint by a customer—
- (a) acknowledge the complaint within 10 business days; and
 - (b) respond to the complaint by addressing the matters in the complaint within 20 business days.

82—Complaints made to retailer or distributor for internal resolution

- (1) A small customer may make a complaint to a retailer or distributor about a relevant matter, or any aspect of a relevant matter, concerning the customer and the retailer or distributor.
- (2) The retailer or distributor must deal with the complaint if it is made in accordance with the retailer's or distributor's standard complaints and dispute resolution procedures, including any time limits applicable under those procedures for making a complaint.
- (3) The complaint must be handled in accordance with the retailer's or distributor's standard complaints and dispute resolution procedures, including any time limits applicable under those procedures for handling a complaint.
- (4) The retailer or distributor must inform the small customer of the outcome of the complaint process, and of the retailer's or distributor's reasons for the decision regarding the outcome, as soon as reasonably possible but, in any event, within any time limits applicable under the retailer's or distributor's standard complaints and dispute resolution procedures.
- (5) A retailer or distributor must inform a small customer—
 - (a) that, if the customer is not satisfied with the outcome, the customer may make a complaint or take a dispute to the energy ombudsman; and
 - (b) of the telephone number and other contact details of the energy ombudsman.

NERR

50 Small customer complaints and dispute resolution information

- (1) A retailer must include, as a minimum requirement in relation to the terms and conditions of a market retail contract, provisions to the effect of the following:
 - (a) the small customer may, if they have a query, complaint or dispute, contact the retailer;
 - (b) the retailer is obliged to handle a complaint made by a small customer in accordance with the retailer's standard complaints and dispute resolution procedures, which can be found on the retailer's website or provided to the customer on request;
 - (c) the retailer must inform the small customer of the outcome of the customer's complaint;
 - (d) if the small customer is not satisfied with the retailer's response to the customer's complaint, the customer has a right to refer

the complaint or dispute to the energy ombudsman.

- (2) The provisions required to be included in the market retail contract must provide the retailer's contact details for the small customer to contact the retailer in connection with a query, complaint or dispute.

Note: This rule is a civil penalty provision for the purposes of the Law. (See the National Regulations, clause 6 and Schedule 1.)

56 Provision of information to customers

- (1) A retailer must publish on its website a summary of the rights, entitlements and obligations of small customers, including:
- (a) the retailer's standard complaints and dispute resolution procedure;
 - (b) the contact details for the relevant energy ombudsman; and
 - (c) in the case of electricity, details of applicable energisation and re-energisation timeframes.
- (2) If a small customer requests information of the kind referred to in subrule (1), the retailer must either:
- (a) refer the customer to the retailer's website; or
 - (b) provide the information to the customer.
- (3) The retailer must provide a copy of any information of that kind to the customer if the customer requests a copy.
- (4) The information or a copy of the information requested under this rule must be provided without charge, but information requested more than once in any 12 month period may be provided subject to a reasonable charge.

Note: This rule is a civil penalty provision for the purposes of the Law. (See the National Regulations, clause 6 and Schedule 1.)

80 Provision of information to customers

- (1) A distributor must publish the following information on its website:
- (a)-(g) [...]
 - (h) a summary of the rights, entitlements and obligations of small customers, including:
 - (i) the distributor's standard complaints and dispute resolution procedure;
 - and
 - (ii) the contact details for the energy ombudsman.
- (2) If a customer requests information of the kind referred to in subrule (1), the distributor must either:

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- (a) refer the customer to the distributor's website;
or
 - (b) provide the information to the customer.
- (3) However, the distributor must provide a copy of any information of that kind to the customer if the customer requests a copy.
- (4) The information or a copy of the information requested under this rule must be provided without charge, but information requested more than once in any 12 month period may be provided subject to a reasonable charge.

Note: This rule is a civil penalty provision for the purposes of the Law. (See the National Regulations, clause 6 and Schedule 1.)

Obligation to comply with a guideline that distinguishes customer queries from complaints

[Clause 12.2 of the Code]

Comparative review of Code and NECF

Summary of legislation

The Code requires retailers to comply with any ERA guideline about distinguishing customer queries from complaints.

The NECF does not include an equivalent provision.

Advantages / disadvantages of adopting NECF

Advantages

- Reduce regulatory burden and compliance costs for retailers.

Disadvantages

- The ERA would lose the ability to require retailers to comply with guidelines about this issue.

Draft recommendation

No amendments proposed.

Reasons

Draft recommendation 91 in the main body of the report is to delete clause 12.2, but for reasons not directly related to the NECF.

Obligation to comply with a guideline that distinguishes customer queries from complaints

[Clause 12.2 of the Code]

BACKGROUND – Full extract of legislative provisions

Code

NECF

12.2 Obligation to comply with a guideline that distinguishes customer queries from complaints

No equivalent provision.

A retailer must comply with any guideline developed by the Authority relating to distinguishing customer queries from complaints.

Information provision

[Clause 12.3 of the Code]

Comparative review of Code and NECF

Summary of legislation

The Code requires retailers, distributors and electricity marketing agents to give customers on request, at no charge, information that will assist them in using complaints handling processes. The NECF does not include an equivalent provision.

Advantages / disadvantages of adopting NECF

Advantages

- Less regulatory burden for retailers, distributors and electricity marketing agents.

Disadvantages

- Removes additional protection for customers.

Draft recommendation

No amendments proposed.

Reasons

Draft recommendation 92 in the main body of the report is to delete clause 12.3, but for reasons not directly related to the NECF.

Information provision

[Clause 12.3 of the Code]

BACKGROUND – Full extract of legislative provisions	
Code	NECF
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.	No equivalent provision.

Obligation to refer complaint

[Clause 12.4 of the Code]

Comparative review of Code and NECF

Summary of legislation

The Code requires retailers, distributors and electricity marketing agents that receive a customer complaint that does not relate to their functions, to inform the customer of the entity they reasonably consider to be appropriate to deal with the complaint.

The NECF does not include an equivalent provision.

Advantages / disadvantages of adopting NERR

Advantages

- Less regulatory burden for retailers, distributors and electricity marketing agents.

Disadvantages

- Less protection for customers.

Draft recommendation

No amendments proposed.

Reasons

- The NECF provides less protections for customers than the Code.
- Retaining clause 12.4 of the Code ensures customers continue to be redirected to the appropriate entity.
- The requirement is not particularly onerous for retailers, distributors or electricity marketing agents. The information is only required to be provided if the appropriate entity is known.

Obligation to refer complaint

[Clause 12.4 of the Code]

BACKGROUND – Full extract of legislative provisions	
Code	NECF
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 of the entity that the retailer, distributor or electricity marketing agent reasonably considers to be the appropriate entity to deal with the complaint (if known).	No equivalent provision.

Appendix 5 Variation from the Code

Table 3: Variation from the Code

Clause		Listed in clause 1.10 ²⁵⁹	Includes the words 'unless otherwise agreed' ²⁶⁰
3.1(2)	Obligation to forward connection application Unless the customer agrees otherwise , a retailer must forward the customer's request for connection to the relevant distributor— (a) that same day, [...]; or (b) the next business day, [...].	No	Yes
4.1 (amended)	Billing cycle (1) A retailer must issue bills to a customer at least once every 100 days. (2) A retailer and a customer may agree to a billing cycle with a regular recurrent period that differs from the customer's standard billing cycle where the retailer obtains the verifiable consent of the customer. (3) Subclause (1) does not apply if a retailer— (i) has not received the required energy data from the distributor for the purposes of preparing the bill, despite using best endeavours to obtain the metering data from the distributor; or (ii) 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 <i>Electricity Industry (Customer Contracts) Regulations 2005</i> and the bill is the first bill issued to that customer at that supply address.	Yes	'agree' to a different billing cycle (subclause (2))
4.2 (amended)	Shortened billing cycle (1) [To be drafted by the PCO: The clause would provide that a retailer may only place a customer on a shortened billing cycle without the customer's verifiable consent if:] (a) in the case of a residential customer, the customer is not experiencing payment difficulties [or financial hardship]; (b) the retailer has given the customer a [reminder notice or disconnection warning] for [3] consecutive bills; and (c) [To be drafted by the PCO: The clause would provide that, before giving the customer a reminder notice or disconnection warning for the third consecutive bill, the	Yes	No

²⁵⁹ A retailer and customer may agree to contract out of this clause in writing under a non-standard contract.

²⁶⁰ A retailer and customer may agree to contract out of this clause in writing or verbally, under a standard form or a non-standard contract.

	<p>retailer must have given the customer a notice informing the customer that:]</p> <ul style="list-style-type: none"> (i) [To be drafted by PCO: The clause would provide that the notice must inform the customer that receipt of a reminder notice or disconnection warning for a third consecutive bill, may result in the customer being placed on a shortened billing cycle]; (ii) if the customer is a residential customer, assistance is available for residential customers experiencing payment difficulties or financial hardship; (iii) the customer may obtain further information from the retailer on a specified telephone number; and (iv) once on a shortened billing cycle, the customer must pay 3 consecutive bills by the due date to return to the customer's previous billing cycle. <p>(2) The retailer must, within 10 business days of placing the [customer] on a shortened [billing] cycle, give the customer notice that—</p> <ul style="list-style-type: none"> (a) the customer has been placed on a shortened [billing] cycle; and (b) the customer must pay 3 consecutive bills in the customer's billing cycle by the due date in order to be removed from the shortened [billing] cycle; and (c) failure to make a payment may result in arrangements being made for disconnection of the supply of [electricity]. <p>(3) A shortened billing cycle must be at least 10 business days.</p> <p>(4) A retailer must return a customer, who is subject to a shortened billing cycle and has paid 3 consecutive bills by the due date, on request, to the billing cycle that applied to the customer before the shortened billing cycle commenced.</p> <p>(5) A retailer must inform a customer, who is subject to a shortened billing cycle, at least once every 3 months that, if the customer pays 3 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.</p>		
4.5(1)	<p>Particulars on each bill</p> <p>(1) Unless a customer agrees otherwise, a retailer must include at least the following information on the customer's bill— [...]</p>	No	Yes
4.6 (amended)	<p>Basis of bill</p> <p>(1) A retailer may base a customer's bill on—</p> <ul style="list-style-type: none"> (a) energy data provided for the relevant meter at the customer's supply address provided by the distributor or metering data agent; or (b) any other method agreed by the retailer and the customer. 	No	'any other method agreed' (subclause (1)(b))
5.1 (amended)	<p>Due dates for payment</p> <p>The due date for a bill must not be earlier than 13 business days from the bill issue date unless otherwise agreed with a customer.</p>	Yes	Yes
5.2	Minimum payment methods	Yes	Yes

<i>(amended)</i>	Unless otherwise agreed with a customer , a retailer must accept payment for a bill by a customer in any of the following ways— [...]		
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 a retailer will accept advance payments unless otherwise agreed with a customer .	Yes	Yes
5.7	Vacating a supply address (1) Subject to— (a) subclauses (2) and (4); (b) a customer giving a retailer notice; and (c) the customer vacating the supply address at the time specified in the notice, the retailer must not require the 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 5 days' notice; or (e) 5 days after the customer gave notice, in any other case, unless the retailer and the customer have agreed to an alternative date.	Yes	Yes
6.4(3)(b)	Alternative payment arrangements (3) If a residential customer accepts an instalment plan offered by a retailer, the retailer must— (a) within 5 business days of the residential customer accepting the instalment plan provide the residential customer with information in writing or by electronic means that specifies— (i) the terms of the instalment plan (including the number and amount of payments, the duration of payments and how the payments are calculated); (ii) the consequences of not adhering to the instalment plan; and (iii) the importance of contacting the retailer for further assistance if the residential customer cannot meet or continue to meet the instalment plan terms, and (b) notify the residential customer in writing or by electronic means of any amendments to the instalment plan at least 5 business days before they come into effect (unless otherwise agreed with the residential customer) and provide the residential customer with information in writing or by electronic means that clearly explains and assists the residential customer to understand those changes.	No	Yes
8.1 <i>(amended)</i>	Reconnection by retailer (1) Where a retailer has arranged for the disconnection of a customer's supply address and the customer has— (a) if relevant, rectified the matter that led to the disconnection or made arrangements to the satisfaction of the retailer; (b) made a request for reconnection; and	Yes	No

	<p>(c) either—</p> <ul style="list-style-type: none"> (i) paid any charge for reconnection; or (ii) accepted an offer of an instalment plan for the retailer's reasonable charges for reconnection, if any; <p>the retailer must initiate a request to the distributor for reconnection of the supply address.</p>		
9.7	<p>Recharge facilities</p> <p>Unless otherwise agreed with the customer, a retailer must ensure that—</p> <ul style="list-style-type: none"> (a) at least 1 recharge facility is located as close as practicable to a pre-payment meter, and in any case no further than 40 kilometres away; (b) a pre-payment meter customer can access a recharge facility at least 3 hours per day, 5 days per week; (c) it uses best endeavours to ensure that the pre-payment meter customer can access a recharge facility for periods greater than required under subclause (b); and (d) the minimum amount to be credited by a recharge facility does not exceed \$20 per increment. 	No	Yes
14.7(1)(c)	<p>Method of payment</p> <ul style="list-style-type: none"> (1) A retailer who is required to make a payment under clauses 14.1, 14.2 or 14.3 must do so— <ul style="list-style-type: none"> (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. 	No	Yes
14.7(2)(c)	<p>Method of payment</p> <ul style="list-style-type: none"> (2) A distributor who is required to make a payment under clauses 14.4 or 14.5 must do so— <ul style="list-style-type: none"> (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. 	No	Yes

Appendix 6 Part 3 of the *Energy Retail Code* (Vic), version 17

Part 3 Assistance for residential customers anticipating or facing payment difficulties

Division 1 Operation of this Part

71 Purpose

The purpose of this Part is to set out the minimum standards of assistance to which *residential customers* anticipating or facing payment difficulties are entitled, so that *disconnection* of a *residential customer* for not paying a bill is a measure of last resort.

72 Application of this Part

This Part applies to *customers* who are *residential customers*. Where a clause states it applies to *exempt persons* in one or more *categories* it applies to people who purchase electricity principally for personal, household or domestic use from an *exempt person* in the relevant *category*.

73 Interpretation of this Part

The approach that the *Commission* will take to the interpretation of this Part is as follows.

- (a) clear words will be given their natural and ordinary meaning; and
- (b) if words appear to be capable of having more than one meaning, the *Commission* will have regard to the following, in the following order, in seeking to discover the intended meaning of those words:
 - (i) firstly (for Divisions 2 and 3), the objective of the Division; and
 - (ii) secondly, the purpose of this Part; and
 - (iii) thirdly, any guidelines published by the *Commission* under section 13 of the *Essential Services Commission Act 2001* (Vic); and
 - (iv) fourthly, any relevant guidance notes published by the *Commission* under its Energy Compliance and Enforcement Policy; and
 - (v) fifthly, any written information issued by the *Commission* regarding the assistance that *residential customers* might reasonably expect to be provided by their *retailer* under this Part.

Division 2 Standard assistance

74 Objective

The objective of this Division is to give *residential customers* an entitlement to minimum standard forms of assistance, to help them avoid getting into arrears with their *retailer*.

75 Application of this Division

This Division applies to all *residential customers*. Where a clause states it applies to *exempt persons* in one or more *categories* it applies to people who purchase electricity principally for personal, household or domestic use from an *exempt person* in the relevant *category*.

76 Standard assistance

- (1) A *retailer* must take steps to provide to its *residential customers* the forms of standard assistance, from those listed in subclause (2), it elects to make available to help them avoid getting into arrears.
- (2) Standard assistance made available must include at least 3 of the following:
 - (a) making payments of an equal amount over a specified period;
 - (b) options for making payments at different intervals;
 - (c) extending by a specified period the *pay-by date* for a bill for at least one billing cycle in any 12 month period;
 - (d) paying for *energy* use in advance.
- (3) **Application of this clause to exempt persons**

This clause applies to *exempt persons* in the following *categories*.

VD2, VR2, VR3 and VR4.

Division 3 Tailored assistance

77 Objective

The objective of this Division is to give *residential customers* an entitlement to minimum standards of flexible and practicable assistance that makes it easier for them to pay for their on-going *energy* use, repay their arrears and lower their *energy* costs.

78 Application of this Division

This Division applies to all *residential customers* who are in arrears. Where a clause states it applies to *exempt persons* in one or more *categories* it applies to people who purchase

electricity principally for personal, household or domestic use from an *exempt person* in the relevant *category*.

79 Minimum assistance

- (1) Tailored assistance consists of the following measures:
 - (a) repayment of arrears over not more than 2 years by payments at regular intervals of up to one month;
 - (b) advice from the *retailer* about payment options that would enable a *customer* to repay their arrears over not more than 2 years;
 - (c) specific advice about the likely cost of a *customer's* future *energy* use and how this cost may be lowered;
 - (d) specific advice about any government and non-government assistance (including Utility Relief Grants and *energy* concessions) available to help a *customer* meet their *energy* costs;
 - (e) practical assistance to help a *customer* lower their *energy* costs including, but not limited to:
 - (i) the tariff that is most likely to minimise the *customer's* *energy* costs, based on the *retailer's* knowledge of the *customer's* pattern of *energy* use and payment history; and
 - (ii) practical assistance to help the *customer* reduce their use of *energy*, based on the *customer's* pattern of *energy* use and on the circumstances of where the *customer* lives, provided there is scope for action to be taken for that purpose; and
 - (iii) information about how the *customer* is progressing towards lowering their *energy* costs given at sufficient intervals for the *customer* to be able to adequately assess that progress;
 - (f) an initial period of at least 6 months during which:
 - (i) repayment of the *customer's* arrears is put on hold; and
 - (ii) the *customer* pays less than the full cost of their on-going *energy* use while working to lower that cost;
 - (g) any other assistance consistent with the objective of this Division.
- (2) A *customer* is entitled, at the very least, to the assistance mentioned in subclause (1)(a) to (d), while continuing to pay the full cost of their on-going *energy* use.
- (2A) During the *coronavirus obligation period*, a *residential customer* is also entitled, at the very least, to the assistance mentioned in subclause 79(1)(e)(i), while continuing to pay the full cost of their on-going *energy* use.

- (2AA) The *coronavirus obligation period* ends on the *coronavirus obligation end date* which may be extended by the *Commission* to a date not later than 30 September 2021 by the publication of a prominent statement on its website to that effect.
- (3) A *customer* is entitled, at the very least, to the assistance mentioned in subclause (1)(c) to (f) if they cannot pay the full cost of their on-going *energy* use.
- (4) The *retailer* may extend the assistance mentioned in subclause (1)(f) for a further period or periods if the extension would assist the *customer* to continue to lower the cost of their *energy* use.
- (5) A *customer* who has exercised an entitlement to the assistance mentioned in subclause (1)(f) may, at the end of the period during which that assistance is provided (including that period as extended under subclause (4)), exercise an entitlement mentioned in subclause (2).
- (6) **Application of this clause to exempt persons**

This clause applies to *exempt persons* in the following *categories*:

VD2, VR2, VR3 and VR4.

Exempt persons in those *categories* must offer the assistance described in subclauses (1)(a), (b), (d) and (g) to their *customers*.

Note:

Additional tailored assistance obligations are imposed under clause 52E in relation to residential customers who are party to exempt market retail contracts.

80 Information about assistance available

- (1) A *residential customer* who has not paid a bill by its *pay-by date* and who contacts the *retailer* is entitled to be given by the *retailer* information about the assistance to which the *customer* is entitled under this Division and how to access it.
- (2) A *residential customer* who has not paid a bill by its *pay-by date* and who has arrears of more than \$55 (inclusive of GST) is entitled to be contacted by the *retailer*, within 21 *business days* after that *pay-by-date*, and given information about the assistance to which the *customer* is entitled under this Division and how to access it.
- (3) The *retailer* must allow the *customer* no less than 6 *business days* to consider the information given under subclause (1) or (2), request further information, and put forward a payment proposal under clause 81.
- (4) Nothing in this clause limits clause 86.
- (5) **Application of this clause to exempt persons**

This clause applies to exempt persons in the following categories:

VD2, VR2, VR3 and VR4.

81 Payment arrangements

- (1) This clause applies to a *residential customer* whose repayment of arrears is not on hold under clause 79(1)(f)(i).
- (2) The *retailer* must accept a payment proposal or revised proposal put forward under this clause by the *residential customer* that complies with subclause (3).
- (3) A payment proposal or revised proposal complies with this subclause if it:
 - (a) provides for the making of payments of equal amounts at regular intervals of up to one month; and
 - (b) would result in the *residential customer's* arrears being fully paid in no more than 2 years after the first payment; and
 - (c) provides for payments for *energy* use being made together with payments to reduce arrears; and
 - (d) is based on a reasonable forecast of the *customer's energy* use over the next 12 months.
- (4) However, the *retailer* may accept a payment proposal or revised proposal that does any or all of the following:
 - (a) provides for payments of different amounts at different intervals;
 - (b) would result in the arrears being fully paid by a date later than 2 years after the first payment;
 - (c) provides for payments for *energy* use being made separately from payments for arrears.
- (5) On accepting a payment proposal or a revised proposal, the *retailer* must give the *customer* a written schedule of payments showing:
 - (a) the total number of payments to be made to pay the arrears; and
 - (b) the period over which the payments are to be made; and
 - (c) the date by which each payment must be made; and
 - (d) the amount of each payment.
- (6) If a *residential customer* receiving assistance under this Division fails to make a payment by the date on which it was payable, the *retailer* must contact the *customer* to discuss their putting forward a revised proposal under this clause.
- (7) **Application of this clause to exempt persons**

This clause applies to exempt persons in the following categories:

VD2, VR2, VR3 and VR4.

82 Non-payment of amounts towards on-going energy use

- (1) This clause applies to a *residential customer* whose repayment of arrears is on hold under clause 79(1)(f)(i).
- (2) If the *residential customer* fails to make a payment towards the cost of their on-going *energy* use by the date on which it was payable, the *retailer* must contact the *customer* to discuss varying the amount payable, or the frequency of those payments, or both, to give the *customer* more time to lower their *energy* costs.
- (3) If a *customer* is not meeting their responsibility to implement practical assistance referred to in clause 79(1)(e)(ii) provided by the *retailer*, the *retailer* must contact the *customer* and work with them to identify an implementation timeframe, consistent with the objective of this Division.
- (4) The *retailer* may add any amount unpaid for *energy* use to the *customer's* arrears.

83 Continued provision of assistance

- (1) A *retailer* is required to continue to provide assistance under this Division to a *residential customer* unless:
 - (a) after the *retailer* has complied with clause 81(6), the *customer* has refused or failed to take reasonable action towards paying for their on-going *energy* use and repaying their arrears; or
 - (b) after the *retailer* has complied with clause 82(2), the *customer* has refused or failed to take reasonable action towards making payments towards the cost of their on-going *energy* use; or
 - (c) the *customer* is not facing payment difficulties.

(2) Application of this clause to exempt persons

This clause applies to *exempt persons* in the following *categories*:

VD2, VR2, VR3 and VR4.

Division 3A Pay-on-time discounts to be honoured

83A Objective

The objective of this Division is to require *retailers* to honour pay-on-time discounts to *residential customers* who are in arrears and who are receiving tailored assistance.

83B Application of this Division

This Division applies to all *residential customers* who are in arrears under *market retail contracts*. Where a clause states it applies to *exempt persons* in one or more *categories* it applies to people who purchase electricity principally for personal, household or domestic use from an *exempt person* in the relevant *category* and who are in arrears under their *exempt person arrangement*.

83C Pay-on-time discounts to be honoured

- (1) If a *residential customer* fails to pay a bill by its *pay-by date*, or by any extended *pay-by date* that the *retailer* has offered as standard assistance, and receives tailored assistance under this Division in respect of that bill, and:
 - (a) the *residential customer* later clears the arrears in respect of that bill; or
 - (b) the *retailer* later becomes entitled to withdraw tailored assistance to the *residential customer* under clause 83(1),

the *retailer* must not subsequently recover the amount of any *pay-on-time discount* in respect of that bill or any other bill whose *pay-by date* occurred while the *customer* was continuing to receive tailored assistance.

Note:

Clause 92(1) prohibits a retailer from commencing or continuing with proceedings for the recovery of arrears from a residential customer who is receiving standard assistance or tailored assistance under this Part.

- (2) **Application of this clause to exempt persons**

This clause applies to *exempt persons* in the following *categories*:

VD2, VR2, VR3 and VR4.

Division 4 Financial Hardship Policies

84 Approval of financial hardship policies

A *retailer* must prepare a financial hardship policy, and submit it to the *Commission* for approval, as mentioned in section 43(1) of the *Electricity Industry Act* or section 48G(1) of the *Gas Industry Act*.

85 Content of financial hardship policies

A financial hardship policy must include:

- (a) the matters set out in section 43C of the *Electricity Industry Act* or section 48GC of the *Gas Industry Act*; and
- (b) the entitlements to minimum assistance set out in Division 3 of this Part; and

- (c) any matters covered by guidelines or guidance notes published by the *Commission* in relation to those entitlements.

Division 5 Communications

86 Provision of information to customers

- (1) A *retailer* must ensure that its financial hardship policy is easily accessible on its website in a readily printable form.
- (2) A *retailer* must send a copy of its financial hardship policy to any *residential customer* who requests to be sent a copy.
- (3) A *retailer* must ensure that information is readily available to *residential customers* about:
 - (a) the financial hardship policy of the *retailer*; and
 - (b) the assistance available under Division 2 or 3 and how to access that assistance; and
 - (c) approaches to lowering *energy* costs; and
 - (d) government and non-government assistance (including Utility Relief Grants and energy concessions) that may be available to help with meeting *energy* costs.
- (4) Without limiting the means by which information may be made readily available, information is readily available for the purposes of subclause (3) if:
 - (a) it is easily accessible on the *retailer's* website in a readily printable form; or
 - (b) it is sent to any *residential customer* who requests to be sent that information.

(5) Application of this clause to exempt persons

Subclauses (3)(b),(c), (d) and (4)(b) of this clause apply to *exempt persons* in the following *categories*:

VD2, VR2, VR3 and VR4.

Note: Clause 87(2) states how information is required to be sent to a residential customer.

87 Written communications

- (1) Any written communication by a *retailer* to a *residential customer* under, or in connection with, this Part must be:
 - (a) expressed in plain language; and
 - (b) legible; and

- (c) presented clearly and appropriately having regard to its nature.
- (2) Despite clause 3F, a *retailer* must give or send by post to a *residential customer* any written communication required or permitted to be given or sent under, or in connection with, this Part unless the *customer* has given *explicit informed consent* to receiving it in another way.
- (3) Information sent by post to a *residential customer* must be taken to be delivered at the time at which it would be delivered in the ordinary course of post.
- (4) Information sent by registered post to a *residential customer* must be taken to be delivered at the time at which it would ordinarily be delivered by registered post.
- (5) A *retailer* must not impose a charge on a *residential customer* for any written communication given or sent to the *customer* (whether by post or otherwise) under, or in connection with, this Part.
- (6) **Application of this clause to exempt persons**

This clause applies to *exempt persons* in the following *categories*.

VD2, VR2, VR3 and VR4;

88 Effect of this Division

Nothing in this Division limits clause 56 or any other provision of this Code about providing information to *residential customers*.

Division 6 Miscellaneous

89 Retailer obligations

- (1) A *retailer* must:
 - (aa) in any dealing with an *affected customer* who is receiving, or is entitled to receive, assistance pursuant to Part 3A (Assistance for customers affected by family violence), take into account the particular circumstances of that *affected customer*; and
 - (a) in any dealing with a *residential customer* under, or in connection with, Division 3 take into account all of the circumstances of the *customer* of which they are aware and, having regard to those circumstances, act fairly and reasonably; and
 - (b) at all times when it is relevant to do so, including on being contacted by a *residential customer*, give the *customer* in a timely manner clear and unambiguous information about the assistance available under this Part; and
 - (c) in a timely manner provide, or use its best endeavours to provide, a *residential customer* who is entitled to receive assistance under this Part with that assistance; and

- (d) give a *residential customer* who is receiving, or is entitled to receive, assistance under this Part clear information about how to access other assistance provided by government or community service providers for which the *customer* is or may be eligible; and
- (e) work cooperatively with any government or non-government service, including the Energy and Water Ombudsman (Victoria), providing support to a *residential customer* who is receiving assistance under this Part to ensure that the assistance being provided by the *retailer* complements, and is provided in a coordinated way with, that support; and
- (f) in relation to a *residential customer* who is receiving, or is entitled to receive, assistance under this Part, comply with any relevant guideline published by the *Commission* relating to *customers* in particular payment difficulty.

(2) **Application of this clause to exempt persons**

This clause applies to *exempt persons* in the following *categories*.

VD2, VR2, VR3 and VR4.

90 Assistance beyond the minimum standards

- (1) Nothing in this Part prevents a *retailer* from providing to *residential customers*, who are anticipating or facing payment difficulties, assistance in addition to the minimum standards set out in this Part.

(2) **Application of this clause to exempt persons**

This clause applies to *exempt persons* in the following *categories*.

VD2, VR2, VR3 and VR4.

91 Restriction on conditions

- (1) A retailer *must* not impose any condition on the provision of assistance under this Part (whether in accordance with the minimum standards set out in this Part or in addition to them) that requires the *customer* to provide personal or financial information or to waive any entitlement under this Part.

(2) **Application of this clause to exempt persons**

This clause applies to *exempt persons* in the following *categories*.

VD2, VR2, VR3 and VR4.

92 Debt

(1) Restriction on debt recovery

A *retailer* must not commence or continue with proceedings for the recovery of arrears from a *residential customer* who is receiving assistance under this Part.

(2) Restriction on sale of debt

A *retailer* must not sell or otherwise dispose of the debt of a *residential customer* who is in arrears:

- (a) at any time while the *customer* is receiving assistance under this Part; or
- (b) within 10 *business days* after the *customer* has been disconnected from their *energy* supply under clause 111A.

(3) Guideline to be complied with on sale of debt to third party

A *retailer* must not sell or otherwise dispose of the debt of a *residential customer* to a third party other than in accordance with the guideline "*Debt collection guideline: for collectors and creditors*" jointly published by the Australian Competition and Consumer Commission and the Australian Securities and Investments Commission.

(4) Waiver of debt

Nothing in this Part prevents a *retailer* from waiving any fee, charge or amount of arrears for a *residential customer*.

(5) Application of this clause to exempt persons

This clause applies to *exempt persons* in the following *categories*:

VD2, VR2, VR3 and VR4.

93 Supply capacity control product

- (1) A *retailer* must not offer a *supply capacity control product* to a *residential customer* for any credit management purpose.

(2) Application of this clause to exempt persons

This clause applies to *exempt persons* in the following *categories*:

VD2, VR2, VR3 and VR4.

94 Payment by Centrepay (SRC and MRC)

- (1) This clause applies where a *residential customer* requests a *retailer* to permit payment by using *Centrepay* as a payment option (see clause 32).

- (2) If the *residential customer* is applying for or on a *standard retail contract*, the retailer must allow the *customer* to use *Centrepay* as a payment option.
- (3) If the *residential customer* is on a *market retail contract* and *Centrepay* is available as a payment option under that contract, the *retailer* must allow the *customer* to use *Centrepay* as a payment option.
- (4) If the *residential customer* is on a *market retail contract* and *Centrepay* is not available as a payment option under that contract, the *retailer* must undertake a review of the *market retail contract*.
- (5) If, as a result of a review, an alternative *customer retail contract* is considered to be more appropriate, the *retailer* must transfer the *customer* to that alternative contract, where the *retailer* has obtained the customer's *explicit informed consent*.
- (6) Any alternative *customer retail contract* offered to a *residential customer* must make *Centrepay* available as a payment option.
- (7) If, as a result of the review, there is no alternative *customer retail contract* considered to be more appropriate, the *retailer* must make *Centrepay* available as a payment option under the *residential customer's* existing *market retail contract*.
- (8) The *retailer* must not charge the *residential customer* for the review, for any transfer to an alternative *customer retail contract* or any early termination charge or other penalty for the early termination of the *customer's* previous *customer retail contract*.

Appendix 7 Part 3A of the *Energy Retail Code* (Vic), version 17

Part 3A Assistance for customers affected by family violence

Division 1 – Operation of this Part

106A Requirement

A *retailer* is required to perform its obligations under this Part in a way that promotes the purpose of this Part.

106B Purpose

The purpose of this Part is to promote protections for *affected customers*.

106C Interpretation of this Part

The approach that the *Commission* will take to the interpretation of this Part is as follows:

- (1) clear words will be given their natural and ordinary meaning; and
- (2) where this Part appears to be capable of having more than one meaning, the *Commission* will have regard to the following, in the following order, in seeking to discover the intended meaning of the Part:
 - (a) first, the objective of the relevant Division(s);
 - (b) secondly, the purpose of this Part;
 - (c) thirdly, any guidelines published by the *Commission* under section 13 of the *Essential Services Commission Act 2001* (Vic);
 - (d) fourthly, any relevant guidance notes published by the *Commission* under its Energy Compliance and Enforcement Policy; and
 - (e) fifthly, any written information issued by the *Commission* regarding an affected *customer's* entitlement to supporting measures under this Part.

Division 2 - Providing family violence assistance—minimum standards

106D Requirement

A *retailer* is required to perform its obligations under this Division in a way that promotes the objective of this Division.

106E Objective

The objective of this Division is to give *affected customers* an entitlement to safe, supportive and flexible assistance from a *retailer* when managing their personal and financial security.

106F Training

- (1) A *retailer* must ensure that training is provided to any person (including employees, agents and contractors) acting on its behalf who:
 - (a) may engage with *affected customers* by any means of communication; or
 - (b) is a manager of a person identified in paragraph (a); or
 - (c) is responsible for systems and processes that guide interactions with *customers*.
- (2) For the purposes of subclause (1), a *retailer* must ensure that the training provided addresses:
 - (a) the nature and consequences of *family violence*; and
 - (b) the application of the *retailer's family violence policy*; and
 - (c) how to identify *affected customers*; and
 - (d) how to engage appropriately and effectively with *affected customers*.

106G Account security

- (1) Notwithstanding any other requirement in this Code, a *retailer* must not disclose or provide access to confidential information about an *affected customer* to any other person without the consent of the *affected customer*.
- (2) In this clause, the term "confidential information" refers to any information that may be used to identify or locate an *affected customer*, including information about their whereabouts, contact details, or financial or personal circumstances.
- (3) In this clause, the term "any other person" includes a person who is or has been a joint account holder with an *affected customer*.
- (4) To identify a safe method of communication with an affected customer, a retailer must:
 - (a) take reasonable steps to elicit the *affected customer's* preferred method of communication; and
 - (b) offer alternative methods of communication if the *affected customer's* preferred method of communication identified in paragraph (a) is not practicable.
- (5) An *affected customer's* entitlement for communications to be in accordance with the method of communication identified pursuant to subclause (4) takes precedence over

any other *customer* entitlement or retailer requirement in this Code to communicate with or provide information to a *customer* in a particular way.

- (6) A *retailer* must keep a record of arrangements reached pursuant to subclause (4).

106H Customer service

A *retailer* must provide for a secure process designed to avoid the need for an *affected customer* to repeatedly disclose or refer to their experience of *family violence* by:

- (a) providing a method for readily identifying the account of a *customer* who has been identified as an *affected customer*; and
- (b) providing for effective ongoing engagement with an *affected customer*.

106I Debt management

- (1) Before taking action to recover arrears from an *affected customer*, a *retailer* must take into account:
 - (a) the potential impact of debt recovery action at that time on the *affected customer*; and
 - (b) whether other persons are jointly or severally responsible for the *energy* usage that resulted in the accumulation of those arrears.
- (2) Nothing in this Part prevents a *retailer* from waiving, suspending or repurchasing the debt of an *affected customer*.

106J Family violence as a potential cause of payment difficulty

A *retailer* must recognise *family violence* as a potential cause of payment difficulty.

106K External support

- (1) A *retailer* must provide an *affected customer* with information about the availability of one or more external *family violence* support services at a time and in a manner that is safe, respectful and appropriate given the *affected customer's* circumstances.
- (2) A *retailer* must publish on its website and keep up to date a list of one or more external *family violence* support services.

106L Evidence

- (1) A *retailer* may only seek documentary evidence of *family violence* when considering debt management and recovery under clause 106I, or restrictions on *de-energisation* in Part 6.
- (2) Any documentary evidence sought in accordance with subclause (1) must be limited to that which is reasonably required by the *retailer* for the purposes of considering debt

management and recovery under clause 106I, or restrictions on *de-energisation* in Part 6.

106M Assistance beyond the minimum standards

Nothing in this part prevents a *retailer* from providing assistance to affected customers in addition to the minimum standards set out in this Part.

Division 3 – Family violence policies

106N Family violence policy

A *retailer* must have a *family violence policy* that addresses this Part.

106O Family violence policy to be accessible

A *retailer* must ensure that its *family violence policy* is easily accessible on its website in a readily printable form.

106P Family violence policy to be reviewed

A *retailer* must review its *family violence policy* no less than once every two years.

Division 4 – Compliance and reporting

106Q Compliance

- (1) A *retailer* must maintain records that are sufficient to evidence its compliance with this Part.
- (2) The *retailer* must ensure that the records required to be maintained pursuant to subclause (1) are retained:
 - (a) for at least 2 years; or
 - (b) for as long as the *customer* continues to receive assistance under this Part; or
 - (c) where a *customer* has, within the periods referred to in paragraph (a) or (b) above, made a complaint or referred a dispute to the energy ombudsman in relation to the provision of *family violence* assistance by the *retailer*—for the period the complaint or dispute remains unresolved, whichever is the longer period.