

## Submission in response to the Electricity Code Consultative Committee's 2024 Review of the Code of Conduct for the Supply of Electricity to Small Use Customers - Draft review report 2024

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### Introduction

We thank the Electricity Code Consultative Committee (**ECCC**) for this opportunity to contribute to the 2024 review of the *Code of Conduct for the Supply of Electricity to Small Use Customers 2022* (**review and Code**, respectively). The ECCC's draft report (**draft report**) contains several recommendations to amend the Code and raises other issues for stakeholder consideration, feedback on which will be used to inform the ECCC's final report.

Our submission addresses the following matters raised in the review:

- Draft recommendation 12 – changes to the provision of information to prepayment meter customers who frequently disconnect;
- Proposal for a disconnection moratorium in extreme heatwave or fire danger; and
- Proposal for 'door knock prior to disconnection' program.

### Draft recommendation 12 – Provision of information to prepayment meter customers

#### Background

The ECCC recommends removing a requirement for retailers to provide specific information to prepayment customers who have disconnected 2 or more times in any 1-month period for longer than 120 minutes on each occasion. However, the exact form of the amendment

to achieve this recommendation is not outlined in the draft report, which creates some uncertainty about the actual impacts of the recommendation.

Generally, clause 66 concerns retailer obligations in those circumstances where a prepayment meter customer self-identifies as experiencing payment difficulties or where the retailer identifies that the customer may be experiencing payment difficulties due to repeated (more than twice) and lengthy (greater than 2 hours) disconnections across any 1-month period.

Clause 66(2) requires the retailer to use best endeavours to provide the information outlined in paragraphs (a)-(e) to prepayment customers experiencing payment difficulties as soon as is reasonably practicable. Subsection (3) requires the information to be provided in writing upon request by the customer. Subsection (4) limits the number of times the retailer is obliged to provide the information across a 12-month period i.e., where the retailer repeatedly identifies potential customer vulnerability under clause 66(1)(b) it is only required to provide the customer with information on the first occasion within the 12-month timeframe.

The ECCC's recommendation is not accompanied by proposed amendments, however, could foreseeably involve an amendment to clause 66(2) to enliven retailer obligations for information provision only in those circumstances where a customer requests such information. Alternatively, it could involve deleting clause 66 subsections (2)-(4) to effect the change.

We note that during 2023-23 there were 1,450 prepayment customers across Horizon Power's licence area and 11 prepayment customers in Synergy's licensed area.<sup>1</sup> These are primarily if not exclusively Aboriginal households living in regional and remote parts of the state.<sup>2</sup>

## Submissions

The ECCC should clarify how it proposes to achieve this recommendation so that the impacts of the change are made explicit and therefore evaluable.

In the Economic Regulation Authority of Western Australia (**ERA WA**) Annual Data Report 2022/23 – Energy retailers it was reported that households using prepay experienced 49,799 disconnections during the relevant financial year, representing an average of 34.1 disconnections (of varying duration) per household.<sup>3</sup> Many prepayment households experienced repeated and lengthy disconnections i.e., disconnections lasting longer than 2 hours for two or more times in any 1-month period were reported as having occurred on 2,741 occasions – among a customer base of remote First Nations households, many of

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<sup>1</sup> Economic Regulation Authority, Annual Data Report 2022/23 – Energy retailers, p. 6, available online at <<https://www.erawa.com.au/cproot/23827/2/Final-for-publication-Retailers-Annual-data-report-202223.pdf>>.

<sup>2</sup> Riley, B. et al. (2023) Disconnected during disruption: Energy insecurity of Indigenous Australian prepay customers during the COVID-19 pandemic. *Energy research & social science*. Vol.99, p.103049. <https://doi.org/10.1016/j.erss.2023.103049>

<sup>3</sup> Economic Regulation Authority, Annual Data Report 2022/23 – Energy retailers, p. 33, available online at <<https://www.erawa.com.au/cproot/23827/2/Final-for-publication-Retailers-Annual-data-report-202223.pdf>>.

whom are likely to be on low incomes, have limited capacity to change their energy use and face significant barriers to accessing the benefits of solar energy or make performance upgrades in remote public housing.<sup>4</sup>

Disconnections of any duration are likely to disrupt the safe and healthy functioning of Aboriginal homes in these remote parts of the state where prepay has long been targeted.<sup>5</sup> As pointed out by the ECCC (in relation to proposed door knock protections for residential post-paying customers):

*Electricity disconnections in general, have significant impacts on customers such as spoilage of food and medicines in the fridge, loss of heating or cooling causing significant health impacts, loss of internet, computers and cooking facilities.*<sup>6</sup>

There are very limited formal protections from the harms of disconnection available to prepayment customers under the Code. The protections offered are:

- Provision of emergency credit of \$20 – clause 61
- Retailer requirements to consider a request for reduced fees, charges or debt where a customer is experiencing financial difficulties– clause 66(5), and
- Access to supports under the retailer’s approved hardship policy – clause 46.

Except for emergency credit, these protections require the *customer* to proactively take steps to engage with the retailer to access those limited supports that are available. These typically *follow* experiences of disconnection, rather than prevent their occurrence.

Our observation is that approved hardship policies have generally overlooked the circumstances of prepay customers and instead focus on supports for those who post-pay and are facing difficulties in paying their bill.<sup>7</sup>

Horizon Power’s website states that it offers forms of assistance to prepayment customers that exceed the requirements of the Code, including provision of emergency credit up to \$30 and temporary moratoriums on disconnection for the entire community during extreme weather, medical-related restrictions and certain public holidays.<sup>8</sup>

These supports are commendable, yet they are not codified – at best they represent well intentioned, discretionary supports for an anomalous situation, which ultimately can be changed by the retailer at any time.

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<sup>4</sup> As above, p. 34.

<sup>5</sup> Kimberley Community Legal Services, 2022, ‘Stuck in the Heat: Lived Experiences of Public Housing Tenants in the Kimberley’, available online at <https://static1.squarespace.com/static/56aae0e04d088e4dfa68396f/t/6385f2f85f679917d0fb7b2e/1669722882386/Stuck+in+the+Heat+2022.pdf>.

<sup>6</sup> Draft report, p. 37.

<sup>7</sup> See Horizon Power and Synergy’s approved hardship policies dated 2 Feb 2016 and 6 July 2023 (respectively) available at <<https://www.erawa.com.au/electricity/electricity-licensing/financial-hardship-policies>>.

<sup>8</sup> Horizon Power, Prepaid power assistance website, available at <<https://www.horizonpower.com.au/for-home/home-electricity-solutions/prepaid-power/prepaid-power-assistance>>.

This contrasts with the comprehensive suite of protections provided to post-payment customers and for whom disconnection is rightly considered to only ever be a measure of last resort.

In the draft report, the ECCC states that:

*Disconnection for non-payment [of a bill] is a last resort for retailers. In addition to the minimum standards required by the Code, retailers undertake a range of activities to encourage customers to make payment and remain connected.*

*Under the Code, a retailer is required to provide the customer with a reminder notice and a disconnection notice before disconnecting a customer for failing to pay a bill. A residential customer cannot be disconnected if the amount outstanding is less than \$300 and the customer agrees to pay this amount. Exemptions from disconnection also exist for vulnerable customers (clause 92) and LSE customers (clause 52(b)).*

Additional safeguards are also being considered exclusively for the benefit of post-paying customers in this review, including protections from disconnection for non-payment of a bill during extreme weather and mandated door knocks for residential customers prior to residential disconnection.<sup>9</sup> We acknowledge both the existing and contemplated suite of protections for post-payment customers as necessary.

If the requirement for the retailer to use best endeavours to provide information to prepayment customers in the circumstances contemplated by clause 66(2) is removed, it leaves relatively limited formal obligations upon the retailer to assist those prepayment customers who are experiencing payment difficulties.

A retailer would be required to comply with clause 66(5) and “give reasonable consideration to a request by the customer, or a relevant consumer representative for the customer, for a reduction of the customer’s fees, charges or debt” and extend any supports available in its hardship policy under clause 46.

We recommend:

- Codified requirements for retailer hardship policies to provide minimum supports for prepayment customers who self-identify as experiencing payment difficulties or who are identified by the retailer as experiencing hardship
- The minimum supports available to prepayment customers should go beyond information provision and include financial supports designed to prevent the occurrence of disconnection, such as a subsidised tariff and/or daily credit inputs to the meter at times of known risk of disconnection.

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<sup>9</sup> Draft report, clause 5.2 (door knock prior to disconnection) and clause 5.3 (disconnection moratorium during a heat wave or extreme fire danger).

## Proposal for a disconnection moratorium in extreme heatwave or fire danger

### Background

In the draft report, the ECCC observes that:

*Extreme fire danger days and heatwaves are becoming more common. They pose significant risks to public health and safety, particularly for vulnerable customers. Ensuring continuous access to electricity during such events is crucial for maintaining essential services, including air conditioning, refrigeration and medical equipment. Introducing a prohibition in the Code would align with similar provisions in other jurisdictions.*<sup>10</sup>

On that basis, the ECCC seeks “stakeholder feedback on prohibiting disconnections for the non-payment of a bill, if the property is in an area forecast on that day as a heatwave or extreme fire danger.”

Further, it asks if there is “a need to amend the Code or can the benefits of a moratorium for disconnecting customers in a heatwave or extreme fire danger be better realised in other ways”.<sup>11</sup>

### Submissions

We support:

1. The codification of protections from disconnection for non-payment of a bill during extreme weather
2. Clear definitions for the extreme weather conditions which would enliven the protections, including but not limited to heat waves and extreme fire risk
3. The extension of equivalent protections and/or alternative forms of assistance for prepayment meter customers at such times.

Our view is that protections from disconnection during extreme weather represent an increasingly important part of responsible policymaking in the provision of consumer protections for electricity customers that will only come under increasing scrutiny.

Under projected climate change scenarios households will be increasingly reliant on electricity for thermal comfort when it is very hot (or very cold) – with the result that energy costs may be greater due to increased consumption.

Increased energy costs contribute to amplified household energy burdens and the need for appropriate protections from disconnection will only become more acute. In Western Australia, extreme heat poses significant risks for human health and wellbeing requiring a comprehensive policy response.

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<sup>10</sup> Draft report, p. 40.

<sup>11</sup> As above.

Ensuring that household access to essential electricity services is maintained at recognised times of risk must be a part of the response. In 2022, Kimberley Community Legal Services (**KCLS**) observed in its report entitled 'Stuck in the Heat' that systemic factors including poverty, standards of public housing and energy access mediate the impacts of extreme heat for residents of public housing in the Kimberley.<sup>12</sup>

Regarding household energy use during heat extremes, the KCLS report found that:

*Seventy eight percent of survey respondents said they found it hard to pay their power bills when they use air conditioners. Power bills amounting to \$2000.00 or more were not uncommon, with many noticing the tendency for bills to go up during the 'build up' and 'wet season.' A hardship officer at Horizon Power told us Kimberley customers' power bills can triple in price during the 'build up', from about \$300 to \$400 dollars every two-month bill period to \$1200 to \$1800 per bill period.'*

*If tenants do not pay their electricity bills, their power accounts may be disconnected. Having the power disconnected in extreme heat places stress on families and poses a health risk particularly to children, the elderly and unwell householders. Support services reported they were frequently overwhelmed by tenants requiring emergency relief and help negotiating a reconnection. Unless there is a plan to address energy poverty, tenants will continue to be vulnerable to disconnections as temperatures increase.*<sup>13</sup>

Considering these factors, KCLS proposed subsidising the costs of electricity to reduce the known risks of disconnection during extreme heat alongside a broader suite of reforms including improved thermal performance of housing, access to energy efficient appliances, reducing overcrowding, access to solar energy and energy education and support for tenants.<sup>14</sup>

We support the comprehensive reforms recommended by KCLS and recognise that a disconnection moratorium could serve an additional, supportive role to safeguard households during extreme heat.

As the ECCC notes, there is a precedent for codified protections from disconnection during extreme weather events contained in the National Energy Customer Framework (**NECF**), which applies in those states and territories participating in the National Energy Market. In this context, National Energy Retail Rule (**NERR**) 116(1)(h) offers a protection from disconnection for non-payment of a bill during an 'extreme weather event'. The protection is not automatic and must be enlivened by local regulations defining the meaning of 'extreme weather event'.

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<sup>12</sup> Kimberley Community Legal Services, 2022, 'Stuck in the Heat: Lived Experiences of Public Housing Tenants in the Kimberley', available at <https://static1.squarespace.com/static/56aae0e04d088e4dfa68396f/t/6385f2f85f679917d0fb7b2e/1669722882386/Stuck+in+the+Heat+2022.pdf>.

<sup>13</sup> As above, p. 21.

<sup>14</sup> As above, pp. 30-34.

Currently, the rule applies in South Australia where households and small business customers in interconnected parts of the state receive safeguards from disconnection for non-payment of a bill during heat wave conditions i.e.,

*any day where the forecast for the Adelaide Metropolitan area issued by the Bureau of Meteorology at 4 p.m. CST indicates that the following day is the third day in a sequence of 3 days (which may occur on a rolling basis) where the average of the minimum and maximum temperature for each day equals or exceeds 28° Celsius.*<sup>15</sup>

Another codified example of extreme weather protections is contained in the Small-scale Electricity Networks Code (**SSENC**), which applies in off-grid South Australia providing similar protections from disconnection to those made available to on-grid contexts. Clause 5.3.3 of the SSENC provides that:

*When determining whether to disconnect a residential customer (on any particular day) in accordance with clause 5.2.2 the licensee must consider any extreme weather conditions impacting the residential customer's supply address and whether disconnecting supply would in any way immediately endanger the health or safety of any person residing at the residential customer's supply address.*<sup>16</sup>

We note that the term 'extreme weather conditions' is not defined in the SSENC, meaning there is the scope for the relevant licensee to consider factors other than heat wave conditions in the exercise of their discretion. This might include, for example, very cold days, high fire risk days and other weather extremes.

While we support the addition of protections from disconnection during extreme weather events, we observe that the ECCC's proposal focuses on non-payment of a bill and as such it is a protection directed towards post-payment customers. The extreme weather protections would foreseeably not apply to prepayment customers because they do not receive a bill. In the interests of consistency, equivalent protections or alternative financial supports should be extended to prepayment customers who face known risks of disconnection when it is very hot or very cold.<sup>17</sup> This could be achieved by:

- Codifying existing (informal) moratoriums on disconnection for prepayment customers made available by the retailer Horizon Power, which currently apply during weather events such as cyclones, floods and fires.<sup>18</sup> Our view is that these circumstances should be broadened to include extreme heat days

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<sup>15</sup> National Energy Retail Law (Local Provisions) Regulations 2013 (SA), reg. 8.

<sup>16</sup> Essential Services Commission of South Australia, Small-scale Electricity Networks Code, available at <https://www.escosa.sa.gov.au/ArticleDocuments/21959/20230623-Energy-Small-scaleElectricityNetworksCode.pdf.aspx?Embed=Y>.

<sup>17</sup> Longden, T., Quilty, S., Riley, B. et al. Energy insecurity during temperature extremes in remote Australia. *Nat Energy* 7, 43–54 (2022). <https://doi.org/10.1038/s41560-021-00942-2>

<sup>18</sup> Horizon Power, Prepaid power assistance website, under the 'Moratoriums' tab, available at <<https://www.horizonpower.com.au/for-home/home-electricity-solutions/prepaid-power/prepaid-power-assistance>>.

- Alternatively, through the implementation of a subsidised tariff and/or daily credit inputs to the household prepayment meter on days when extreme weather (extreme heat, cyclone, flood, extreme fire risk) is predicted by the Bureau of Meteorology.

The use of moratoriums increases the attendant risk of unsustainable household energy debt and likely only defers the risk of disconnection, whereas targeted policy providing subsidies and/or direct meter credit on account of extreme weather could proactively help households to maintain electricity access at times of known risk of disconnection associated with increased household energy needs.

## Proposal for door knock prior to disconnection program

### Background

Another proposal that the ECCC has put forward for feedback is a ‘door knock prior to disconnection’ program. This would involve introducing a requirement for retailers or distributors to engage with a customer through face-to-face contact when they are at risk of disconnection due to non-payment of a bill. The aim of direct contact is to offer alternatives and supports to customers, to avoid household disconnections where-ever possible.

The ECCC asks:

- Could the benefits of the ‘Knock to stay connected’ initiative being trialled in other jurisdictions be replicated in Western Australia?*
- What operational challenges and concerns do you have with this initiative?*

### Submissions

We support the introduction of a ‘Knock to stay connected’ program in the Western Australian context, noting both the observed benefits of programs in other states<sup>19</sup> and the trend for increasing numbers of household disconnections for non-payment in Western Australia.

In the Annual Data Report 2022/23 – Energy retailers, it was reported that 11,488 households were disconnected for non-payment of a bill i.e., 1.05% of the total number of residential customers who post-pay for electricity. The ERA WA observed that:

*In 2022/23, the percentage of residential and business electricity disconnections continued to increase after the State Government’s moratorium on disconnections ended in mid-2021. Despite an increase in overall disconnection numbers, the percentage of residential electricity disconnections remains below pre-pandemic levels.<sup>20</sup>*

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<sup>19</sup> See for example, Justice and Equity Centre, ‘Consumer groups welcome Knock to Stay Connected customer code for energy companies’, media statement dated 15 June 2023, available online at <<https://jec.org.au/energy-and-water/consumer-groups-welcome-knock-to-stay-connected-customer-code-for-energy-companies/>>.

<sup>20</sup> Economic Regulation Authority, Annual Data Report 2022/23 – Energy retailers, p. 31, available online at <<https://www.erawa.com.au/cproot/23827/2/Final-for-publication-Retailers-Annual-data-report-202223.pdf>>.



We support the introduction of this initiative as an important protection to keep households connected to essential electricity services particularly when they are experiencing financial stress. To ensure that this type of program works successfully in the Western Australian context, our view is that policymakers should consider:

- Consulting with Aboriginal community organisations on the initiative, so that the needs of Aboriginal households can be identified and prioritised in the program design and delivery. This might include, for example, through the development of a tailored educational campaign;
- Requirements for cultural safety and awareness training for staff involved in delivering the program, so that the needs and priorities of Aboriginal households can be served;
- Broader supports for prepayment households, noting that this type of program aims to reduce disconnections for households which post-pay for electricity but overlooks the circumstances of prepayment households who do not receive a bill and automatically disconnect when there is an inability to pay.

We would be pleased to discuss any aspect of our submission.