



Our ref: 36228281
Contact: Rebecca Cant

20 January 2025

Sara O'Connor
Chair
Gas Marketing Code of Consultative Committee

Dear Sara

ERA Draft Decision: Amendments to the Gas Marketing Code of Conduct

Synergy welcomes the opportunity to provide feedback to the Economic Regulation Authority (**ERA**) in relation to the above draft decision for amending the Gas Marketing Code of Conduct 2022 (**Code**).

The Code regulates and controls the conduct of gas trading licensees and gas marketing agents, with the objective of protecting customers from undesirable marketing conduct and defining standards of conduct in the marketing of gas to customers.

The ERA proposes to amend the Code and released its draft decision¹ on proposed Code amendments on 9 December 2024 for public comment following review and recommendation by the Gas Marketing Code Consultative Committee (**GMCCC**)².

Synergy's response to the ERA's draft decision is provided below for the GMCCC's consideration.

Recommendation 1 – alignment with the electricity code

Synergy supports the alignment of the Code with the Code of Conduct for the Supply of Electricity to Small Use Customers 2022 (**electricity code**) by amending clauses 3, 6(2), 6(3)(e), 8(1), 8(2)(a)(iii), 8(2)(b)(ii), 8(2)(b)(vi) and 8(3) of the Code with equivalent provisions in the electricity code on the basis the amendments will provide consistency in the marketing of electricity and gas to customers in Western Australia (**WA**).

¹ [ERA - draft decision amendments to the code of conduct for gas marketing December 2024.](#)

² [Gas Marketing Code of Conduct 2024 review- Publication of final GMCCC report.](#)

Recommendation 2 – marketing requirements

Synergy supports the simplification of marketing identification requirements.

Recommendation 3 – comparative gas marketing claims

Not supported in the proposed form of drafting.

Clause 49(1)(b) of the Compendium of Gas Customer Licence Obligations³ (**Compendium**) requires that a licensed gas retailer must publish on its website the following energy efficiency information:

- (i) cost-effective and efficient ways to utilise gas; and
- (ii) the typical running costs of major domestic gas appliances.

Recommendation 3 has substantially increased the complexity of the Compendium and Code with respect to the provision of energy efficiency advice by a retailer to a prospective or existing customer given the very prescriptive provisions proposed under Division 3 of the Code.

Synergy supports good regulatory practice to include new Code provisions requiring retailers or marketing agents to provide the basis for any claims of lower efficiencies or lower emissions between fuels (as proposed in the ECCC Draft review report⁴) on request. Synergy does not support the prescriptive regulation as proposed in the draft decision as it will be extremely challenging for a retailer to communicate and administer such detailed and technical requirements to front line staff and customers on such proposed requirements as:

- “coefficient of performance”
- “average efficiency”
- “direct combustion products”
- “heat pump water heater” (refer definition).
- “carbon dioxide equivalence”.

Synergy considers the level of regulation proposed in the drafting of Division 3, clauses 6A-6E is inconsistent with best practice regulatory design principles⁵. These principles are explicit in the need to ensure regulation is not excessively prescriptive. Synergy notes that there has been no evidence of market failure provided to the GMCCC that warrants such a detailed regulatory response.

Synergy expects the cost to comply, monitor, audit and enforce the new requirements will not be insignificant. Synergy considers the prescriptive regulation proposed under recommendation 3 will result in unintended complexity of energy efficiency information to customers and cost pass through consequences for WA gas customers.

The current proposed drafting of clause 6C (4) may also have the unintended consequence of misinforming customers in the use of comparative appliance running costs depending on a WA gas customer’s location.

³ Refer [Compendium of Gas Customer Licence Obligations](#)

⁴ [Draft review report - Gas Marketing Code of Conduct - 2024 Review](#) page 7

⁵ For example refer Better Regulation Program – Agency Information Paper Principle 1, Support policy objectives and deliver maximum net benefits to the community, page 10

The draft Code will require the estimated cost for:

- (a) a gas appliance - to be calculated using the rate specified for the first usage component in the Table in the *Energy Coordination (Gas Tariffs) Regulations 2000* Schedule 1 clause 1; and
- (b) an electrical appliance - to be calculated using the rate specified in the *Energy Operators (Electricity Generation and Retail Corporation) (Charges) By-laws 2006* Schedule 1 clause 6(2)(b).

The potential for misinformed comparative appliance running costs is due to the electricity comparator applying to a much larger geographic area (south-west interconnected system) whereas the gas comparator is limited to the mid-west/south-west area. Synergy notes residential gas tariffs in the Albany and Kalgoorlie areas are different to those in the mid-west/south-west area.

Synergy considers customer protection against misleading or incorrect gas appliance comparative claims can be delivered more effectively and efficiently than currently proposed by the draft Code amendments via outcome based regulation. Synergy advocates the Code specifying the required customer outcomes with respect to gas appliance marketing claims. For example, gas appliance comparative claims should be accurate, factual and evidenced and should not result in outcomes which mislead or deceive gas customers.

If outcome based regulation was adopted but the required outcome was not delivered then there can be no retailer objection to more prescriptive regulation being imposed on the industry. However, Synergy does not consider there has been sufficient market failure that warrants a prescriptive regulatory response at this juncture. The effectiveness of outcome based regulation could be assessed in two years at the next Code review.

Recommendation 4 – Require retailers to provide customers with a standardised basic plan information document (BPID)

Not supported.

Synergy supports retailers being required to provide customers with standard information to assist with customer choice regarding their gas supply as currently provided under the existing Code. Synergy also notes that gas retailers who supply gas to small use customers (i.e. those who consume less than 1Tj of gas per year; typically residential and small business customers) must develop a standard form contract which requires the ERA's approval.

Standard form contracts specify the terms and conditions upon which a retailer will supply gas to its customers. These terms and conditions form a "safety net" for small use gas customers. A retailer and small use customer may also negotiate terms and conditions different from the retailer's gas standard form contract ("non-standard contract"). Whilst a non-standard contract does not require the ERA's approval, it must still comply with relevant legislation.⁶

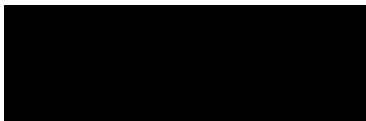
Standard form contracts are published on the ERA's website and all retailers must make information available in relation to their standard and non-standard form contracts specifically, explaining the difference between the two forms of contract before a customer enters into a non-standard contract. There is no evidence in the draft decision report that these requirements are not being complied with by WA gas retailers.

⁶ Refer [Compendium](#), [Energy Coordination \(Customer Contracts\) Regulations 2004](#) and [Competition and Consumer Act 2010](#).

Synergy also notes the WA gas supply contract framework is not the same regulatory framework as the National Energy Customer Framework (**NECF**)⁷ and considers that it may not in the best interests of WA customers to introduce regulatory requirements that have been implemented to address eastern state market failures that have not eventuated in WA, as the cost is ultimately borne by customers. The requirement to review the Code every two years (or sooner if required) provides ample opportunity to revisit existing Code customer protections should circumstances change to the detriment to customers.

Please contact Rebecca Cant, Networks Regulation and Compliance Manager on 6282 7216 should you have any queries in relation to this submission.

Yours sincerely



SIMON THACKRAY
HEAD OF REGULATION & COMPLIANCE

⁷ [Contract terms | AEMC](#)