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Economic Regulation Authority of Western Australia

By Email: eccc@erawa.com.au

Dear Executive Officer

Submission on the Draft Decision to Amendments to the Code of Conduct for the Supply of Electricity to Small Use Customers 2022

The Economic Abuse Reference Group of Western Australia (**EARGWA**) welcomes the opportunity to provide feedback on the Economic Regulation Authority's (**ERA**) Draft Decision to Amendments to the Code of Conduct for the Supply of Electricity to Small Use Customers 2022 (**Code**).

This feedback has been written by **EARGWA** with input and endorsement from the following community representative organisations:

- Consumer Credit Legal Service WA
- Western Australian Council of Social Service
- Financial Counsellors Association of Western Australia
- Aboriginal Family Legal Services

EARGWA is an informal group of West Australian community organisations that contribute expertise to government and industry responses to the financial impact of domestic and family violence. Our members include domestic and family violence (**DFV**) services, community legal services and financial counselling services.

We commend the ERA for its efforts to enhance protections for vulnerable customers, particularly those experiencing economic abuse. Our feedback is structured around key recommendations with an emphasis on trauma-informed and inclusive practices.

Key Recommendations and Feedback

Recommendation One - Clause 32A - Prohibit paper billing charges to customers receiving concessions, experiencing financial hardship or family violence *(Amending Code clause 6)*

EARGWA strongly supports the prohibition of paper billing fees for concession holders, customers experiencing financial hardship, and those affected by DFV. This amendment is a critical step toward ensuring equitable access to essential services.

Charging for paper bills disproportionately impacts vulnerable customers—particularly those who may not have reliable access to digital devices, internet services, or safe online environments. For many victim-survivors of DFV, paper bills may be the only secure or private way to access account information, maintain documentation for legal proceedings, or manage finances independently.

Concerns

- Victim-survivors may be digitally excluded due to financial control, surveillance, or lack of access to safe technology.
- Paper bills can serve as critical evidence in legal or financial matters and may be safer to store or access than digital records in some circumstances.
- Imposing fees for paper bills can undermine a customer's autonomy and penalise them for needing a safer or more accessible billing method.

EARGWA Recommendations

- Prohibit paper billing fees for all customers receiving concessions, experiencing financial hardship, or identified as at risk of or experiencing DFV.
- Ensure that customers are not required to disclose sensitive personal information to avoid the fee—eligibility should be based on existing hardship or DFV indicators.
- Encourage retailers to adopt a trauma-informed approach to billing communications, offering paper billing as a standard, no-cost option for vulnerable customers.

Recommendation two - Clause 69 – Advising Customers of Available Tariff Options and Products *(Amending Code Clause 10)*

EARGWA supports the proposed amendment requiring retailers to advise non-contestable customers annually of the availability of alternative tariff plans. This is a positive step toward improving transparency and empowering customers to make informed decisions about their energy usage and costs.

While distributing material about alternative tariffs is good, it would be more helpful—where it is safe and appropriate to do so—to provide an annual individualised tariff comparison based on the customer’s twelve-month rolling consumption data. This can support informed decision-making, particularly for customers experiencing financial abuse, who may have limited visibility or control over household energy arrangements.

However, it is essential that this communication is designed with the safety and privacy of vulnerable customers in mind—particularly those experiencing DFV. Notifications must be:

- Clear and accessible, using plain language and multiple formats (e.g. paper, email, or secure online portals).
- Discreet and non-alerting, ensuring that the content or delivery method does not inadvertently signal to a perpetrator that account details or management have changed.
- Trauma-informed, recognising that some customers may be in unsafe living situations where any unexpected communication could trigger risk.

Concerns

- If a perpetrator sees a notification suggesting a change in account management or tariff, it could raise suspicion or lead to confrontation.
- Victim-survivors may not have full control over how or where they receive communications. Retailers should offer flexible options for how notifications are delivered.
- Customers should be able to opt out of receiving tariff notifications if they believe it could compromise their safety, with this choice recorded and respected.

EARGWA Recommendations

- Require retailers to consult with DFV specialists when designing notification templates and delivery methods.
- Include a requirement that tariff notifications be safe, discreet, and customisable to the customer’s communication preferences.
- Ensure that customers can opt out of receiving these notifications where safety concerns exist, without penalty or disadvantage.
- Provide annual individualised tariff comparisons based on twelve-month consumption data, where safe and appropriate.

Recommendation Three - Clause 28 – Energy Data Checking *(Amending Code Clause 5)*

Allow customers to choose a bill credit rather than a refund for any charges paid, where the meter is tested and found defective.

EARGWA supports the intent of ensuring customers are appropriately compensated when a meter is found to be defective. However, the option to receive a bill credit instead of a direct refund must be implemented with caution, particularly for customers experiencing financial hardship or DFV.

Customers should be empowered to make an informed choice between a refund and a bill credit. In many cases—especially where immediate access to funds is critical—a refund may be the more appropriate and supportive option. This is particularly true for victim-survivors of economic abuse, who may be working to regain financial independence and stability.

It is essential that retailers take reasonable steps to verify the identity of the correct account holder and ensure that any refund is directed to the appropriate and authorised bank account. In DFV contexts, misdirected payments could inadvertently expose a victim-survivor to further harm or financial control.

Concerns

- In joint account situations, there is a risk that a perpetrator may coerce the victim-survivor into accepting a bill credit instead of a refund, which may limit their access to urgently needed funds.
- Bill credits may not offer the same level of financial flexibility as refunds, particularly if the customer is trying to separate finances from an abusive partner.
- If a refund is issued to a shared or monitored account, it could alert a perpetrator that the victim-survivor has engaged with the retailer, potentially escalating the risk of harm.
- Without clear communication and consent protocols, customers may not fully understand the implications of choosing a bill credit over a refund, especially in high-stress or unsafe environments.

EARGWA Recommendations

- Ensure customers are clearly informed of their right to choose between a refund and a bill credit, with this choice documented.
- Require retailers to confirm that the refund is being issued to the correct and authorised recipient, especially in joint account scenarios or where DFV is known or suspected.
- Include safeguards to prevent coercion or defaulting to bill credits without the customer's informed and voluntary consent.

- Encourage retailers to consult with DFV specialists when developing policies and procedures related to refunds and credits.

Recommendation Five - Clause 43 - Including future bills in a payment plan *(Amending Code clause 7)*

Allow a customer with a payment plan to nominate up to three future bills (i.e. over six months) to be incorporated in their payment plan.

EARGWA supports the proposed amendment to allow customers to incorporate up to three future bills into their payment plans. This change is particularly important for customers experiencing financial hardship or DFV, where follow-up phone calls can be distressing, intrusive, or even unsafe—especially in situations where a perpetrator may be monitoring communications or controlling access to devices.

For victim-survivors of economic abuse, financial flexibility is essential. Many are navigating irregular or restricted access to income and may be rebuilding financial independence after leaving abusive situations. The ability to proactively include future bills in a payment plan provides greater predictability and reduces the risk of disconnection due to missed payments.

This measure aligns with trauma-informed practice by reducing the need for repeated contact and enabling customers to manage their accounts with greater autonomy and foresight.

Concerns

- In joint account scenarios, there is a risk that one party—often the perpetrator—may coerce the other into entering a payment plan that does not reflect their financial capacity or consent.
- Automatically enrolling customers into future billing arrangements without clear, informed consent may undermine their financial autonomy.
- Without proper checks, this provision could be misused in situations where financial control is part of a broader pattern of abuse.

EARGWA Recommendations

- Ensure customers are not automatically enrolled in future billing arrangements. Participation should be voluntary and based on informed consent.
- Require retailers to take reasonable steps to confirm that all parties to a joint account are consenting freely and are not subject to coercion.
- Ensure that any discussions or offers related to future billing plans are conducted in a way that is sensitive to the customer's circumstances and safety.

- Allow customers to specify their preferences for how future bills are managed and ensure these are recorded and respected.

Recommendation 9a - Clause 92 Respecting vulnerable customer's choices *(Amending Code clause 18)*

and

Recommendation 9b - Clause 91 Respecting vulnerable customer's choices *(Amending Code clause 17)*

EARGWA supports the proposed amendments to strengthen DFV protections, particularly the emphasis on informed consent and proactive identification. These align with best practices in preventing economic abuse by ensuring that critical protections are not inadvertently waived, and that support is provided in a timely and appropriate manner.

The requirement for verifiable and informed consent before a customer can decline the nine-month disconnection protection is a positive step. It acknowledges the importance of autonomy while safeguarding against coercion or misunderstanding—both of which are common in abusive dynamics.

Similarly, the obligation for retailers to use reasonable endeavours to confirm a customer's family violence status reflects a deeper understanding of the complexities of abuse. It encourages sensitive engagement and reinforces the need for trauma-informed practices.

Concerns

- There are potential risks associated with third-party disclosures. For example, if a retailer contacts a customer to inform them that a third party has reported family violence, this could be distressing or even dangerous—particularly if the perpetrator is present or monitoring communications. Such contact must be handled with extreme care to avoid unintended harm.
- The example provided—where a contractor witnesses family violence during a home visit—raises further concerns. In such cases, it may be more appropriate for the contractor to report the incident directly to police or a relevant authority, rather than to the retailer. Law enforcement is better equipped to assess and respond to immediate safety risks. If the situation is substantiated, police could then liaise with the retailer as appropriate. However, it is unclear whether police would be willing or able to take on this role, and further consultation with law enforcement agencies may be necessary.

EARGWA Recommendations

- Clearly define the term within legislation or accompanying guidance to ensure consistent interpretation and application across all retailers and provide reassurance to customers that their safety, privacy, and autonomy are being prioritised.
- Require retailers to implement trauma-informed protocols for contacting customers when family violence is suspected or disclosed, with a focus on minimising risk and distress.
- Clarify that third-party disclosures (e.g. from contractors) should not automatically trigger direct contact with the customer. Instead, require internal risk assessment or referral to a specialist team before any outreach.
- Where family violence is witnessed by a third party, encourage reporting to the police or a relevant support service rather than to the retailer, unless there is an immediate safety concern.
- Engage with WA Police and family violence services to establish appropriate referral pathways and clarify roles and responsibilities in responding to third-party disclosures.
- Require that any opt-out of disconnection protection is based on verifiable, informed, and voluntary consent, with safeguards against coercion or misunderstanding.
- Mandate comprehensive training for retailer staff on identifying and responding to family violence, including how to handle third-party reports sensitively and lawfully.
- Allow customers to nominate safe and preferred contact methods, and ensure these preferences are respected in all communications related to family violence protections.
- Require retailers to report on how they are implementing these provisions, including data on opt-outs, contact attempts, and outcomes, to support transparency and continuous improvement.

Recommendation 12 -Clause 66 Streamlining information for frequent pre-payment meter disconnections (Amending Code clause 9)

EARGWA raises strong concerns about the proposal to remove the requirement for retailers to proactively provide information about financial assistance to customers who frequently disconnect. This change risks weakening a critical safety net for some of the most vulnerable energy consumers.

Frequent disconnections are often a red flag for underlying issues such as DFV, including economic abuse and coercive control. These patterns of disconnection may be the only visible indicator that a customer is experiencing hardship or abuse. Removing

proactive outreach could significantly reduce opportunities to identify and support these customers before their situation worsens.

Concerns

- Without proactive contact, retailers may miss early warning signs of economic abuse or coercive control, delaying support until the customer reaches crisis point.
- Victim-survivors of DFV may already be isolated and unable to seek help. Removing a routine point of contact further reduces their visibility to support systems.
- Customers using pre-payment meters are more likely to be on low incomes or experiencing financial instability. This change could disproportionately affect those already facing systemic disadvantage.
- The proposed deletion undermines trauma-informed approaches by removing a low-barrier, non-intrusive method of offering assistance.

EARGWA Recommendations

- Retain Clause 66(1)(b), as a proactive safeguard for identifying hardship and potential abuse.
- Strengthen the provision by requiring that contact be made using trauma-informed, customer-centred communication methods.
- Include frequent disconnections as a formal indicator of potential DFV or economic abuse in retailer hardship and family violence policies.
- Ensure retailer staff are trained to recognise disconnection patterns as potential signs of abuse and respond appropriately.
- Require retailers to report on the frequency of disconnections and the outcomes of proactive contacts, to support transparency and continuous improvement.

Abuse of Business Structures and Energy Accounts

EARGWA encourages the ERA to consider broader and emerging forms of economic abuse that intersect with energy account management—particularly the misuse of company directorships and business structures to entrap victim-survivors in financial liability and control.

Advocates have observed a growing pattern of victim-survivors being fraudulently or coercively appointed as directors of companies or family businesses by abusive partners. In many cases, the victim-survivor has had no involvement in the business and is unaware of the financial liabilities incurred in their name. This form of abuse can result in significant personal debt, including director penalty notices, unpaid loans, and regulatory fines.

These harms are compounded when energy accounts, particularly business or joint accounts are opened or managed without the victim-survivor's knowledge or consent. In such cases, the perpetrator may retain control of the business and its financial benefits, while the victim-survivor is left legally responsible for debts and disconnections.

These scenarios fall through the cracks of current consumer protections and highlight the need for a more nuanced and intersectional approach to addressing economic abuse within the Code and energy retailers' policies and procedures.

Concerns

- Victim-survivors may be listed as energy account holders for business premises or joint accounts without their knowledge or consent, exposing them to debt and disconnection risk.
- Business-classified accounts may not be eligible for residential customer protections under the Code, even when the account holder is a victim-survivor of family violence.
- Victims may be held liable for energy debts or disconnections related to businesses they do not manage or benefit from.
- There are limited mechanisms for victim-survivors to dispute or exit energy accounts linked to abusive business arrangements.
- These arrangements can prolong financial dependence and control, undermining recovery and safety.

EARGWA Recommendations

- Ensure that victim-survivors listed on business or joint accounts are eligible for disconnection protections and hardship supports under the Code.
- Create clear, accessible processes for victim-survivors to dispute or exit energy accounts created or managed under coercion or fraud.
- Require retailers to implement stronger verification processes when assigning account authority or directorships, particularly for business accounts.
- Ensure energy retailer staff are trained to identify and respond to economic abuse involving business structures and directorships.
- Encourage collaboration between energy regulators, ASIC, and the ATO, to address the misuse of business structures as a tool of economic abuse.

Conclusion

Research such as [Designed to Disrupt: Safety by Design for Essential Services](#)¹ (Flequity Ventures, 2025) and the Essential Services Commission Victoria's [guidance on responding to family violence](#)², emphasise the need for energy retailers to adopt proactive, trauma-informed, and safety-focused practices. These studies demonstrate that financial abuse is not only widespread but often facilitated by systemic gaps in service design, account management, and communication protocols.

We encourage the ERA to consider both the recommendations outlined in this submission and the findings of the Safety by Design for Essential Services report. Adopting safety-by-design principles into the Code will help ensure that all customers—particularly those experiencing financial abuse—are protected, empowered, and supported in accessing essential services safely and equitably.

Thank you for the opportunity to provide feedback, EARGWA appreciates the ERA's commitment to improving protections for vulnerable customers in Western Australia.

EARGWA welcome the opportunity to discuss our feedback in further detail. If you have any questions or concerns regarding this submission, please do not hesitate to contact Sarah Holman on [REDACTED]

¹ Catherine Fitzpatrick, *Designed to Disrupt: Safety by Design for Essential Services* (Report, 19 May 2025) https://flequity.au/wp-content/uploads/2025/05/D2D-essential-services_19052025.pdf.

² Essential Services Commission, *Better Practice in Responding to Family Violence: Introduction* (6 August 2019) <https://www.esc.vic.gov.au/better-practice-responding-family-violence>.