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Western Australian
Council of Social Service Inc.
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Dear Mr Kelly

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RE: DRAFT GAS CUSTOMER CODE

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WACOSS welcomes the opportunity to respond to the recent release of the Economic Regulation Authority (ERA) Draft Gas Customer Code. The development of a Gas Customer Code is an important step towards improved consumer protection for gas customers in Western Australia.

This submission is intended to represent the views of the Western Australian Council of Social Service (WACOSS) in relation to the Draft Gas Customer Code provided by the ERA. Omission of comment in relation to any part of the Guidelines is not intended to imply endorsement of the statements contained within the Guidelines.

The Essentiality of Gas

Gas retailers provide services that are essential to the maintenance of acceptable standards of living in the community. In many cases, the continued, uninterrupted provision of these services is necessary for the maintenance of life itself. That is why gas is often said to be an essential service, or essential utility.

It is vital that consumers are able to access a reliable, safe, affordable supply of gas. An appropriate regulatory environment is important to creating consumer confidence and ensuring integrity in an essential service market and it is essential that regulation such as the Gas Customer Code of Conduct be developed on principles of best practice consumer protection.

WACOSS welcomes the opportunity to respond to the ERA Draft Gas Customer Code. For more information please contact Rebekah Garwood on 9420 7222 or Rebekah@wacoss.org.au.

Yours Sincerely

Lyn Levy
A/Executive Director

Ways to make a difference

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INTRODUCTION

The Western Australian Council of Social Service Incorporated (WACOSS) is the peak body of the community service sector across Western Australia. Since 1956, WACOSS has been developing and strengthening the non-government community services sector's capacity to assist all Western Australians. With over 298 members, WACOSS has strong relationships with the social services sector and seeks to represent their interests, and those of the disadvantaged individuals and families they assist at a service level. Given this relationship, WACOSS is in a unique position to comment on issues in our society that socially impact upon members of the community experiencing disadvantage.

WACOSS is respected within both government and non-government arenas as being an authoritative voice for consumers with regard to energy market reform in Western Australia. WACOSS has developed a strong network with utility policy workers across Australia, which provides us with information and expert opinion on these issues.

In January 2005, WACOSS commenced the Consumer Utilities Project. Building upon the utility policy work WACOSS had undertaken over the previous four years the Consumer Utilities Project works with consumers and representative organisations to achieve better outcomes in the provision of essential services.

WACOSS has direct access to the issues of disadvantaged consumers who are living on low incomes through our Consumer Reference Group, which includes representatives from the Emergency Relief sector, Unions, Financial Counsellors and Community Legal Centres. These agencies provide us with policy information and direction in relation to our work and look to us to represent the interests of their clients with regard to utility issues. We have taken on this role due to the level and severity of the utility issues being raised by community agencies and the absence of any other resourced body in Western Australia representing these issues.

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EXECUTIVE SUMMARY

The development of a Gas Customer Code is an important step towards improved consumer protection for gas customers in Western Australia. Legislated codes are an effective regulatory tool essential for protecting the rights of West Australian energy consumers. The proposed Gas Customer Code is intended to define standards of conduct, customer protection and appropriate service levels in regards to marketing, billing, provision of information, complaints and dispute resolution, payment difficulties and financial hardship.

The proposed Gas Code also provides for the collection, monitoring and publishing of important data concerning the welfare of essential service consumers. Collection, reporting and publication of data provides a necessary means of assessing the performance of energy providers and consumer access to an essential service. It also aids in the formation of essential service policy and contributes to effective regulation and consumer protection.

WACOSS welcomes this opportunity to provide input into the proposed Gas Customer Code. As a participating member of the Gas Marketing Code Consultative Committee (GMCCC) and the Gas Customer Code Reference Group, WACOSS has been actively involved in the review of the Gas Marketing Code and the development of the Draft Gas Customer Code.

We have consistently advocated for improved consumer protection measures for gas customers, comparable to those of electricity consumers and view this submission as an opportunity to publicly state our support for consumer protection in essential service markets, in addition to our views on the proposed Gas Customer Code.

Absence of comment on any section of the Draft Gas Customer Code should not be taken as support for or opposition to any proposed clause.

IMPORTANCE OF THE CODE FOR PROTECTING CONSUMERS

Gas is an essential domestic service and disconnection from it can have severe social and economic ramifications on individuals, families and communities. There is an abundance of research, both domestically and internationally, that demonstrates the importance and essentiality of access to affordable energy supplies. Gas, along with electricity, supports access to fundamental human needs including food; the maintenance hygiene and adequate shelter.

Appropriate levels of access to energy services – including gas - also support social inclusion and family life. This has been demonstrated in the observed impacts of effective exclusion from essential services such as gas, water and. In its 2005 report *Cut Off: The Impact of Utility Disconnections*, the Public Interest Advocacy Centre found that people experiencing disconnection from essential services experienced impacts including:

- Emotional or psychological impacts
- Health and physical impacts
- Financial and economic impacts

The above impacts may include incapacity to access education or employment because of poor hygiene or health (resulting from lack of access to hot water or space heating). This in turn may have flow-on financial effects such as loss of wages and employment opportunities. Factors such as these serve to effectively exclude households from the social and economic life of the community.

Fundamental to ensuring access to a reliable, safe, affordable supply of gas is effective regulation developed on principles of best practice consumer protection. An appropriate regulatory environment is vital to creating consumer confidence and ensuring and monitoring the integrity of retailers in essential service markets.

Legislated codes are an appropriate way of delivering consumer protection in an essential service market where the conduct of licensees has a direct impact on people's well being. They operate as a means of articulating the relationship and conduct between industry and consumers and safeguard the interests of consumers

EXEMPTION FROM THE CODE

WACOSS have consistently maintained that the provision of gas to households is an essential service, especially for tenants and low-income households reliant on gas as their major energy source. In many cases people on low incomes, or those residing in tenancies, may not easily, or cheaply, be able to substitute gas for another form of energy.

For those reliant on gas as a major source of energy, being without it, even for a short period of time, can have severe social and economic ramifications on communities, families and individuals. For many consumers gas is essential to ensuring basic human rights in the form of adequate standards of living and social participation. These rights

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are recognised in international Human Rights standards accepted by Australian governments and must be upheld¹.

The stated purpose of the Gas Code is to regulate and control the conduct of gas marketing agents, retailers and distributors. In doing this, minimum standards of conduct and consumer protection must be well-defined. The capacity of the regulator to enforce compliance and impose penalties for Code breaches is vital for consumer protection, consumer confidence and consumer participation.

WACOSS does not consider it appropriate for any retailer, small or otherwise, to be given an exemption from the Gas Code.

A customer of a small retailer is as vulnerable to poor standards of conduct as is a customer of a larger retailer. Because of this, customers of smaller retailers must be entitled to the same level of consumer protection enjoyed by customers of larger, dominant retailers.

PAYMENT DIFFICULTIES AND FINANCIAL HARDSHIP

WACOSS supports the inclusion of **Clause 6.10 Obligation to develop hardship policy**. Despite this, however, we believe that the obligation on the retailer to develop a Hardship Policy is insufficient to ensure consumer welfare. In our previous submission to the ECCC's Review of the Electricity Code of Conduct WACOSS recommended that the Code should also stipulate that the Hardship Policy must be submitted to the Authority (or other independent organisation) for approval. This recommendation was consistent with Victorian best practice. In Victoria it is a requirement of the Code that Hardship Policies are submitted to Victoria's Essential Services Commission for approval² and we believe it should apply to both gas retailers and electricity retailers.³

WACOSS also considers it important for consumers and consumer representatives to be given copies of an approved hardship policy (rather than details of the policy) on request at no charge. As WACOSS previously stated in its submission to the ECCC's Review of the Electricity Code of Conduct 'The Committee for Melbourne's paper *Supporting Utility Customers Experiencing Financial Hardship Guiding Principles* articulates the need for information provision to be transparent and accessible. We concur with the statement that the "policy should be readily available to customers on request"⁴ and believe that the development and application of Hardship Policies must be made more transparent'

PART 9 OF THE ELECTRICITY CODE – FUTURE INCLUSION

WACOSS acknowledges that Part 9 of the Electricity Code may not currently be relevant for inclusion into the proposed Gas Customer Code. This acknowledgement takes place in the context of the current absence of Pre-Payment Meters (PPMs) for natural gas services in Western Australia and the Authority's understanding that there is currently no stated interest by market participants in installing them.

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² Essential Services Commission, Victoria, Draft Decision Energy Retailers' Financial Hardship Policies, March 2007

³ WACOSS Submission to the ECCC Review of the Electricity Code of Conduct. 2007

⁴ Committee for Melbourne Debt Spiral Prevention Program *Supporting Utility Customers Experiencing Financial Hardship Guiding Principles*. Version 1 June 2006.

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PPMs have previously been proposed as an appropriate response to essential service consumers experiencing financial hardship. WACOSS continues to possess significant concerns regarding the use of PPMs in Western Australia and asserts that the technology remains an inappropriate tool for mitigating utility hardship. WACOSS currently possesses concerns regarding the use of pre-payment meters (PPMs) on the basis that:

- PPMs remove the capacity of people without money to access essential utilities on a credit basis;
- PPMs effectively render current, maturing regulated consumer protections redundant;
- PPM technology currently in use does not record or report the incidence of disconnection from the essential service. This reduces the accountability of retailers and limits the capacity for government and services to advocate on the behalf of consumer welfare;
- PPMs may potentially increase the incidence of disconnection from essential services for vulnerable consumers^{5,6} and
- While PPMs have previously been promoted as a 'budgeting tool' for consumers, they are primarily a credit management tool for retailers⁷.

PPMs shift credit management responsibilities from essential service retailers onto individual customers, many of whom may be vulnerable or experiencing social and financial disadvantage. This shift occurs at the same time as the capacity to arrange deferred payment of debt or repayment arrangements is effectively withdrawn through the installation of PPM technology.

Although WACOSS recognises that there may be advantages to using pre-payment meters for some consumers, all of the potential consumer benefits of PPMs may be delivered through alternative mechanisms such as Budget Cards, Centrepay and direct debit arrangements. WACOSS believes that the advantages, which can also be achieved through alternative mechanisms, do not outweigh the disadvantages such as potentially reducing the public visibility of essential service hardship, the present absence of a consumer safety net for PPM users, the potential risk of PPMs being aggressively marketed towards vulnerable consumers when faced with disconnection and the potential for increased-levels of consumer confusion about pre-payment meter use, increased service costs and increased rates of disconnection⁸.

In the event that Pre-Payment Meters are considered for the supply of natural gas to small-use consumers in Western Australia, WACOSS recommends that further regulation be developed to protect such consumers. Such regulation should be informed by adequate, appropriate consultation with relevant stakeholders and based firmly upon independent research findings. Such research should also be appropriate to the locality where Pre-Payment Meters are intended to be sited, involve consumers that may be affected by their introduction and be transparent in its design and findings.

⁵ Essential Services Commission of South Australia (2004) *Consumer Issues with Pre-Payment Meters: Final Report*, p. 65

⁶ Young, U. K. (2006) *Pre-Payment Meters in Tasmania: Consumer Views and Issues*, p. 35

⁷ Victorian Council of Social Service (2005) Submission to the Committee of Inquiry Into Financial Hardship of Energy Consumers, p. 15

⁸ Sharman (2003) *Second Class Customers: Pre-Payment Meters, the Fuel Poor and Discrimination*

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RECORD KEEPING

WACOSS supports the inclusion of all of Part 13 of the Electricity Code of Conduct, dealing with record keeping, into the Gas Code believing that it is a necessary mechanism to assess the effectiveness of regulation.

All Western Australians are entitled to access a safe, reliable, affordable gas supply, regardless of their capacity to pay. Because of this WACOSS considers that it is vital for the Authority to access, acquire, monitor, report on and publish all record keeping data relevant to the proposed Code.

The collection of record keeping data is an essential means of monitoring gas retailer's compliance with the proposed Code. Such monitoring serves to assess the effectiveness of regulation in protecting consumers and informs future policy development in the area of essential service provision.

PART 14

WACOSS considers Service Standard Payments to be an integral component of the Electricity Code and believes that they should also be included in the Gas Code.

As stated in our submission to the ECCC's *Electricity Code Review* Victoria's Wrongful Disconnection Payment was introduced on 8 December 2004 specifically for cases of disconnection in breach of the Energy Retail Code. Although the rationale for its development was to provide retailers with an incentive to avoid wrongful instances of disconnection, such payments also provide compensation for affected customers. In Victoria, the Wrongful Disconnection Payment amounts to \$250 per day (pro rata for parts of a day).⁹

Following the introduction of the Wrongful Disconnection Payment, the Energy and Water Ombudsman Victoria (EWOV) reported a substantial drop in disconnection-related cases during 2005. This reduced rate of disconnection was maintained through the first half of 2006. By June 2006 electricity disconnection cases (dealt with by the Ombudsman) had reduced by 76%, with a 68% reduction in disconnections from gas services from the second half of 2004¹⁰.

Inclusion of Part 14 into the Gas Code promotes an increased level of consistency with the Electricity Code. Given that consistency has previously been provided as a guiding principle of the development of the Gas Code, and is line with best-practice regulation, WACOSS strongly recommends its inclusion.

⁹ WACOSS Submission to the ECCC Review of the Electricity Code of Conduct. 2007

¹⁰ The Energy and Water Ombudsman (Victoria) (EWOV) <http://www.ewov.com.au>

CONCLUSION

The WACOSS Consumer Utility Project advocates for and represents the interests of consumers in essential service markets such as gas, electricity and water.

As a consumer representative our aim has been to represent and advocate the interests of consumers in essential energy and water markets. It is in this capacity that WACOSS has provided this submission to the ERA.

It is vital that consumers are able to access a reliable, safe, affordable supply of gas. An appropriate regulatory environment is important to creating consumer confidence and ensuring integrity in an essential service market and it is essential that regulation such as the Gas Customer Code of Conduct be developed on principles of best practice consumer protection.

WACOSS commends the Economic Regulation's commitment to the development of a Gas Customer Code and its commitment to delivering meaningful protection to gas consumers

For further information regarding this submission please contact Rebekah Garwood at rebekah@wacoss.org.au or 94207217.