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

Level 4, Albert Facey House

469 Wellington Street, Perth WA 6000

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

National Relay Service TTY: 13 36 77

Contents

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.

For further information please contact:

General Enquiries

Caroline Coutts-Kleijer
Ph: 08 6557 7962
info@erawa.com.au

Media Enquiries

Natalie Warnock
Ph: 08 6557 7933 | Mob: 0428 859 826
media@erawa.com.au

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

Other issues

Draft recommendation 2

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~~; and[32]

(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.

Other issues

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.

Other issues

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); and[40]

(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); and[41]

(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; and[43]

(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 fist 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); and[51]

(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 subclause~~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]

NECF

Draft recommendation 13

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]

~~(ii)~~(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

~~(iii)~~(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]

NECF

Draft recommendation 14

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 customer**[67]

[**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.

Other issues

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 like[72]

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; and[77]

(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]

NECF

Draft recommendation 20

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 4.3~~[88] ~~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 change[93]

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 like[95]

~~**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 like[102]

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]

NECF

Draft recommendation 28

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

Other issues

Draft recommendation 30

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 like[110]

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 like[111]

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 like[112]

~~**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; and[113]

(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]

NECF

Draft recommendation 36

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 Code[115] 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

NECF

Draft recommendation 37

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 like[127]

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]

Other issues

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*.

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]

NECF

Draft recommendation 41

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.[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]

Other issues

Draft recommendation 44

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'.

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 period[145]
- options for making payments at different intervals[146]
- 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]

Other issues

Question 5

Should the Code be amended to require retailers to offer a payment extension and an instalment plan[149] 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.

NECF

an instalment plan[153] 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

Other issues

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

Other issues

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 like[154]

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

Other issues

Draft recommendation 49[155]

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]

Other issues

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; and[158]

(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

Question 8

a) Should retailers continue to be able to amend a customer's instalment plan without the customer's consent?

or

b) Should clauses 6.4(2) and (3) of the Code be amended to clarify that a retailer cannot amend an instalment plan without:

(i) consulting the customer?

or

(ii) obtaining the customer's consent?

10.5.4 In writing

[Clause 6.4(3) of the Code]

Other issues

Draft recommendation 52

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.

b) Delete the requirement that information must be provided 'in writing or by electronic means' from clause 6.4(3)(b) of the Code.

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—

(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—[161]

(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

[**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.]

(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.[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.

Other issues

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—

(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.

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.

Other issues

Question 10

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?

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

NECF

Draft recommendation 58

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 like[173]

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

NECF

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, insect, 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 like[175]

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)~~(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;

~~(ii)~~(B) requesting access to the meter at the supply address for the purpose of the scheduled meter reading; and

~~(iii)~~(C) advising the customer of the retailer's ability to arrange for disconnection if the customer fails to provide access to the meter;

~~(c)~~(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

~~(f)~~(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]

NECF

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

NECF

Draft recommendation 63

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

Other issues

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:

- 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

Other issues

Draft recommendation 68

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

- 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 like[189]

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 ~~sub~~clauses 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:
  - 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 the 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

[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 means—[196]

(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]

NECF

Draft recommendation 70

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]

Other issues

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.

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:
  - 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.]

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 customers[210] 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

NECF

Draft recommendation 75

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 like[217]

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 like[224]

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]

NECF

Draft recommendation 81

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 like[233]

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

NECF

Draft recommendation 87

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 like[241]

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 process[243] 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 complaints[247]

(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 comply[249] 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

Other issues

Draft recommendation 99

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 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?