

Gas Marketing Code of Conduct Amendment Code 2024

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Gas Marketing Code of Conduct Amendment Code 2024

Approved by the Economic Regulation Authority.

1. Citation

This code is the *Gas Marketing Code of Conduct Amendment Code 2024*.

2. Commencement

This code comes into operation as follows —

- (a) clauses 1 and 2 — on the day on which this code is published on the WA legislation website;
- (b) the rest of the code — on 1 July 2025.

3. Code amended

This code amends the *Gas Marketing Code of Conduct 2022*.

4. Clause 3 amended

- (1) In clause 3 delete the definition of *distributor*.
- (2) In clause 3 insert in alphabetical order:

basic plan information document has the meaning given in clause 9A(4);

distributor means —

- (a) in relation to a small use customer who has entered into a contract — the person who holds the distribution licence for the system through

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which gas is supplied to the customer under the contract; or

- (b) otherwise — a person who holds a distribution licence;

gas plan has the meaning given in clause 9A(1);

generally available plan has the meaning given in clause 9A(2);

Housing Authority means the Housing Authority referred to in the *Housing Act 1980* section 6(4);

induction cooktop means a device that —

- (a) uses metal coils to induce an electric field that heats the base of a cooking vessel; and
- (b) is not designed to produce heat —
 - (i) using the electric resistance of those coils; or
 - (ii) by directly combusting solid, liquid or gaseous fuels;

- (3) In clause 3 in the definition of **contact** delete paragraph (c) and insert:

- (c) by post; or

- (4) In clause 3 in the definition of **gas marketing agent** paragraph (c) delete “representative;” and insert:

representative or the Housing Authority;

- (5) In clause 3 in the definition of *retailer* delete “licence under Part 2A of the Act;” and insert:

licence;

5. Clause 6 amended

- (1) In clause 6(2):

- (a) delete the passage that begins with “entering” and ends with “customer, a” and insert:

a retailer enters into a non-standard contract with a small use customer, the

- (b) in paragraph (b) before “the difference” insert:

details of

- (2) In clause 6(3)(e) delete “network operator’s” and insert:

distributor’s

6. Clauses 6A to 6E inserted

At the beginning of Part 2 Division 3 insert:

6A. Term used: comparative marketing claim

- (1) In this Division —

comparative marketing claim means a marketing claim that —

- (a) compares gas and electricity or implies a comparison between gas and electricity; and

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- (b) refers, or impliedly refers, to —
 - (i) cost effectiveness; or
 - (ii) energy efficiency; or
 - (iii) environmental health; or
 - (iv) environmental sustainability; or
 - (v) greenhouse gas emissions.
- (2) For the purposes of paragraph (a) of the definition of comparative marketing claim in subclause (1), a marketing claim impliedly makes a comparison between gas and electricity if the claim uses 1 or more words that a small use customer is reasonably likely to interpret as making a comparison between gas and electricity.

Examples of words for this subclause: 'benefits', 'better', 'cheaper', 'cleaner', 'efficient', 'faster' and 'less'.

Examples of marketing claims for this subclause:

1. Gas is better for cooking because you can control it instantly.
2. Gas is an efficient way to heat.

6B. Standards of conduct for comparative marketing claims

A retailer or gas marketing agent who makes a comparative marketing claim must ensure that the claim complies with clauses 6C to 6E.

6C. Comparative marketing claims that refer to cooking, space heating or water heating appliances

- (1) In this clause —

Coefficient of Performance, of an appliance, means the ratio of the output heat of the appliance at full capacity (in watts) to the energy input to the appliance as stated by the manufacturer (in watts).

-
- (2) This clause applies if a comparative marketing claim refers to —
- (a) a cooking appliance; or
 - (b) a space heating appliance; or
 - (c) a water heating appliance.
- (3) For each appliance referred to in the comparative marketing claim, the claim must specify —
- (a) the Coefficient of Performance of the appliance, displayed as —
 - (i) “Average efficiency” or an abbreviation of those words; and
 - (ii) a percentage;

Examples for this paragraph:

- 1. A Coefficient of Performance of an appliance that is 0.7 is specified as “Average efficiency 70%”.
- 2. A Coefficient of Performance of an appliance that is 2 is specified as “Avg efficiency 200%”.

and

- (b) the estimated cost of use of the appliance; and
- (c) the model name or model number of the appliance; and
- (d) the type of appliance.

Examples for this paragraph:

- 1. An induction cooktop is a type of cooking appliance.
- 2. An electric heat pump is a type of water heating appliance.

- (4) For the purposes of subclause (3)(b), the estimated cost of use of an appliance must be —
- (a) for a gas appliance — calculated using the rate specified for the first usage component in the Table in the *Energy Coordination (Gas Tariffs) Regulations 2000* Schedule 1 clause 1; and

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- (b) for an electrical appliance — calculated using the rate specified in the *Energy Operators (Electricity Generation and Retail Corporation) (Charges) By-laws 2006* Schedule 1 clause 6(2)(b); and
- (c) specified as cents per kilowatt hour of output heat.

6D. Comparative marketing claims that refer to cooking, space heating or water heating

- (1) A comparative marketing claim that refers to cooking must —
 - (a) include a comparison between a gas cooktop and an induction cooktop; and
 - (b) specify direct combustion products reasonably likely to be present during and immediately after the use of a gas cooktop and an induction cooktop.
- (2) A comparative marketing claim that refers to space heating must include a comparison between a gas heater and an air conditioner.
- (3) In subclause (2) —
air conditioner has the meaning given in the *Greenhouse and Energy Minimum Standards (Air Conditioners up to 65kW) Determination 2019* (Commonwealth) section 5.
- (4) A comparative marketing claim that refers to water heating must include a comparison between a gas water heater and a heat pump water heater.
- (5) In subclause (4) —
heat pump water heater (also known as a vapour compression type water heater) means a water heater with a mechanical device, which uses cyclic adiabatic

compression of a vapour, followed by expansion, to force phase changes, which result in heating of the water through a heat exchange process.

6E. Comparative marketing claims that refer to environmental sustainability or greenhouse gas emissions

- (1) This clause applies if a comparative marketing claim refers, or impliedly refers, to environmental sustainability or greenhouse gas emissions.
- (2) The comparative marketing claim —
 - (a) may only specify information about greenhouse gas emissions in relation to customers' use of cooking appliances, space heating appliances or water heating appliances; and
 - (b) must specify the carbon dioxide equivalence of an amount of greenhouse gas as kilograms per kilowatt hour of heat output; and
 - (c) must not claim or imply a benefit from the use of gas only by reference to the *National Greenhouse and Energy Reporting (Measurement) Determination 2008* (Commonwealth).
- (3) In subclause (2) —
carbon dioxide equivalence, of an amount of greenhouse gas, has the meaning given in the *National Greenhouse and Energy Reporting Act 2007* (Commonwealth) section 7.

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7. Clause 8 replaced

Delete clause 8 and insert:

8. Contact for purposes of marketing

- (1) A retailer or gas marketing agent who contacts a small use customer for the purposes of marketing must —
- (a) provide to the customer —
 - (i) the name of the retailer on whose behalf the contact is being made; and
 - (ii) if the contact is face to face — the first name and a photograph of the person who is contacting the customer; and
 - (iii) if the contact is face to face by a gas marketing agent — the agent's marketing identification number;and
 - (b) on request by the customer, provide the following information to the customer —
 - (i) the complaints telephone number of the retailer on whose behalf the contact is being made;
 - (ii) the business address and Australian Business Number or Australian Company Number of the retailer on whose behalf the contact is being made;
 - (iii) a link to, or a paper copy of, a basic plan information document about any of the retailer's generally available plans;
 - (iv) the contact details of the gas industry ombudsman;

- (v) if the contact is other than face to face by a gas marketing agent — the agent's marketing identification number.
- (2) A retailer or gas marketing agent who meets with a small use customer face to face for the purposes of marketing is taken to have met the requirements of subclause (1)(a) if the retailer or agent displays a clearly visible and legible identity card that shows the information referred to in that subclause.
- (3) If a small use customer requests information referred to in subclause (1)(b) in writing, the retailer or gas marketing agent must comply with the request as soon as practicable after it is made.

8. Part 2 Division 3A inserted

After Part 2 Division 3 insert:

Division 3A — Basic plan information documents

Subdivision 1 — Contents of basic plan information documents

9A. Meaning of gas plan, generally available plan, restricted plan and basic plan information document

- (1) A *gas plan* is a plan by a retailer to supply gas to small use customers under a contract.
- (2) A *generally available plan* is a gas plan that is —
 - (a) generally made available to any small use customer in 1 or more supply areas or 1 or more parts of a supply area; and
 - (b) not a restricted plan.

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- (3) A *restricted plan* is a gas plan that is only available to —
- (a) a small use customer to meet specific needs of the customer following negotiation between the retailer and the customer; or
 - (b) a small use customer who meets criteria set by the retailer that are not within the customer's control.

Examples for this subclause:

- 1. A gas plan available to a small use customer who is an employee of the retailer or a business with whom the retailer has a commercial relationship.
 - 2. A gas plan available to a small use customer who negotiates the plan with the retailer based on the retailer supplying gas to multiple locations for the customer.
 - 3. A gas plan available to a small use customer for the purpose of on-selling gas to others, such as the operator of a commercial building or apartment complex on-selling gas to individual tenants or occupants.
 - 4. A gas plan available to a small use customer as part of a pilot program for the supply of gas by the retailer.
 - 5. A gas plan available to a customer who indicates to the retailer that they intend to switch from another retailer to the retailer.
 - 6. A gas plan available to a customer who was formerly receiving gas from the retailer and who the retailer wishes to persuade to return to receiving gas from the retailer.
- (4) A *basic plan information document* is a document that provides basic information about a generally available plan in compliance with this Subdivision.

9B. Contents of basic plan information documents

A basic plan information document must include the information specified in Schedule 1 about the plan to which it relates.

9C. Display requirements

- (1) A basic plan information document must be in Portable Document Format (PDF).
- (2) The words in a basic plan information document must appear in black on a white or lightly coloured background.
- (3) The information included in a basic plan information document under clause 9B must appear in the same order in which it is set out in Schedule 1.
- (4) Despite subclause (3) —
 - (a) information may be displayed left to right, rather than top to bottom, on a page; and
 - (b) information about discounts may be displayed beside information about charges.

9D. Language requirements

A basic plan information document —

- (a) must not include a term specified in column 1 of the Table in Schedule 2; and
- (b) must instead use a term specified in column 2 of the Table opposite the term in column 1 of the Table in Schedule 2.

9E. Allowed inclusions

Clauses 9B to 9D do not prevent —

- (a) the inclusion in a basic plan information document of —
 - (i) an item, such as a logo, to associate the document with the retailer; or
 - (ii) a link to the retailer's website or social media account;

or

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- (b) the use of a colour in the document other than that specified in clause 9C(2) for —
 - (i) information other than information required to be included under clause 9B; or
 - (ii) table lines or decorative marks.

9F. Dual fuel plans

- (1) This clause applies if a retailer's generally available plan is part of a plan (a *dual fuel plan*) that also provides for the supply and sale of electricity.
- (2) The basic plan information document about the generally available plan —
 - (a) may also include information about the supply and sale of electricity; and
 - (b) must clearly specify whether the information in the document is about the sale and supply of gas or electricity or both gas and electricity.
- (3) The retailer's obligations under Subdivision 2 in relation to a basic plan information document about the generally available plan apply regardless of whether the plan forms part of a dual fuel plan.

Subdivision 2 — Obligations on retailers

9G. Retailers must make basic plan information documents available to small use customers

A retailer must make available to small use customers a basic plan information document about each of the retailer's generally available plans within 5 days after —

- (a) the plan becomes available; or

- (b) if the plan is already available — any of the information included in the plan under clause 9B changes.

9H. Retailers must provide link to basic plan information documents on retailers' websites

If a retailer publishes information on its website about a generally available plan, the retailer must provide a link to a basic plan information document about the plan that is —

- (a) clearly and prominently displayed on the website; and
- (b) immediately proximate to any link on the website that allows a small use customer to sign up to the plan under a contract.

9I. Retailers must ensure third party websites provide link to basic plan information documents

- (1) This clause applies if information about a retailer's generally available plan is published on a third party price comparison website.
- (2) The retailer must provide, or cause to be provided, a link to a basic plan information document about the generally available plan that is —
 - (a) clearly and prominently displayed on the website; and
 - (b) immediately proximate to any link on the website that —
 - (i) allows a small use customer to sign up to the plan under a contract; or
 - (ii) redirects a small use customer to the retailer's website.

9J. Retailers advertising generally available plans must provide link to basic plan information documents

- (1) In this clause —

advertise includes publish or display, or cause to be published or displayed, by television, radio broadcast, a website, social media, a billboard, a newspaper or a magazine;

website means a website other than a website referred to in clause 9H or 9I.

- (2) If a retailer advertises a generally available plan, the retailer must include, or cause to be included, as part of the advertisement, in a clear and legible way, the following statement —

A basic plan information document about this plan is available at [*insert details of a link on the retailer's website to a basic plan information document for the generally available plan*].

- (3) If a retailer advertises, in 1 advertisement, 2 or more generally available plans, the retailer must include, or cause to be included, as part of the advertisement, in a clear and legible way, the following statement —

Basic plan information documents about these plans are available at [*insert details of a link on the retailer's website to basic plan information documents for the generally available plans*].

9. Schedules 1 and 2 inserted

After clause 14 insert:

Schedule 1 — Contents of basic plan information documents

[cl. 9B]

1. Introductory statement

- (1) The name of the generally available plan.
- (2) The date of publication of the basic plan information document.

2. Eligibility criteria

- (1) Whether the generally available plan is for —
 - (a) residential customers; or
 - (b) small use customers other than residential customers.
- (2) The name of the distributor for the distribution system through which a small use customer must receive gas under the generally available plan.
- (3) Any requirement about metering for a small use customer to be eligible for the generally available plan, including, for example, if a small use customer is required to have a particular meter.
- (4) Any requirement that a small use customer is required to purchase additional products or services to be eligible for the generally available plan, including, for example, a combined gas and telecommunication plan.
- (5) Any requirement that, to be eligible for the generally available plan, a small use customer must hold or be eligible to hold —
 - (a) a Pensioner Concession Card or Commonwealth Seniors Health Card issued by Services Australia or

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the Commonwealth Department of Veterans' Affairs; or

(b) a Veteran Gold Card issued by the Commonwealth Department of Veterans' Affairs.

(6) If the generally available plan is only available for the supply of both gas and electricity — that fact.

3. General plan information

(1) The cooling off period for the generally available plan.

(2) Either —

(a) the period for which the contract for the generally available plan has effect; or

(b) if there is no period for which the contract for the plan has effect — that fact.

(3) If the retailer will automatically place the small use customer onto a new generally available plan after the end of a benefit period or the term of the contract for the generally available plan — that fact.

(4) If the retailer may change charges under the generally available plan —

(a) that fact; and

(b) how and when the retailer will notify the small use customer of the change.

(5) The nominal billing period for the generally available plan.

(6) If an alternative billing period to the nominal billing period is available under the generally available plan — that fact.

(7) Payment methods for the generally available plan.

(8) How and where a small use customer can access the full terms and conditions of the generally available plan.

(9) The retailer's telephone number and website address.

4. Charges

- (1) In this clause —
GST has the meaning given in the *A New Tax System (Goods and Services Tax) Act 1999* (Commonwealth) section 195-1.
- (2) The charge for gas supplied under the generally available plan, specified —
- (a) in cents per unit for the usage component; and
 - (b) in cents per day for the fixed component; and
 - (c) including any levied GST.

5. Discounts and incentives

- (1) In this clause —
conditional discount means a discount that requires a small use customer to take, show or meet particular actions, behaviours, criteria or conditions to receive the discount;
GST has the meaning given in clause 4(1);
guaranteed discount means a discount other than a conditional discount.
- (2) If a discount applies under the generally available plan —
- (a) the discount percentage; and
 - (b) the charges under the plan to which the discount applies; and
 - (c) whether the discount is applied before or after GST is levied; and
 - (d) whether the discount is a guaranteed discount or a conditional discount.
- (3) If a conditional discount applies under the generally available plan, in addition to the information specified in subclause (2) —
- (a) the actions, behaviours, criteria or conditions a small use customer must take, show or meet to receive the discount; and

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- (b) if the discount will be disappplied if a small use customer ceases to take, show or meet those actions, behaviours, criteria or conditions — that fact.
- (4) If an incentive, other than a discount, is available for entering into a contract for the generally available plan, including, for example, a one-off benefit —
 - (a) that fact; and
 - (b) whether the incentive is applied before or after GST is levied; and
 - (c) the monetary value of any incentive, other than an incentive that relates to charges under the plan; and
 - (d) if a small use customer will be required to pay the retailer the monetary value of the incentive if the customer terminates the contract before it expires — that fact.

6. Fees not part of plan charges

- (1) The fee, if any, for account establishment, specified in dollars.
- (2) The fee, if any, for account keeping or servicing, specified in cents per day.
- (3) For a small use customer other than a residential customer — the fee, if any, for account administration, specified in dollars per day per meter.
- (4) The fee, if any, specified in dollars, for —
 - (a) non-payment of a bill; or
 - (b) dishonouring of a cheque; or
 - (c) the issue of a written notice for an overdue bill.
- (5) The interest, if any, charged in relation to an overdue bill, specified as —
 - (a) a percentage of the amount overdue under the bill; or

- (b) a percentage of the amount overdue under the bill and the Australian Stock Exchange Bank Bill Swap Rate (BBSW).
- (6) The fee, if any, for paying a bill at a physical outlet, including, for example, Australia Post (as defined in the *Australian Postal Corporation Act 1989* (Commonwealth) section 3), specified in dollars per payment.
- (7) The fee, if any, specified in dollars per copy for —
 - (a) a paper copy of a bill; or
 - (b) a subsequent paper copy of a bill.
- (8) The fee, if any, for processing of a payment, specified as a percentage of the amount paid.
- (9) The fee, if any, for a service by a distributor that is in addition to a fee charged by the distributor to the retailer.

Schedule 2 — Terms permitted and not permitted in basic plan information documents

[cl. 9D]

Table

Column 1 Terms not permitted	Column 2 Terms permitted
unconditional discount non-conditional discount base discount	guaranteed discount
termination fee early termination fee	exit fee
consumption charge	usage charge
standing charge	supply charge

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Column 1 Terms not permitted	Column 2 Terms permitted
fixed charge	
evergreen	ongoing contract with limited benefit period
fixed benefit period	ongoing contract with [<i>insert number of months</i>] benefit period

Note: The heading to clause 7 is to read:

Other standards of conduct

Economic Regulation Authority