



Level 2, 35 Spring St  
Melbourne 3000, Australia  
Telephone +61 3 9651 0222  
              +61 1300 664 969  
Facsimile +61 3 9651 3688

# REGULATORY REVIEW – SMART METERS

FINAL DECISION

SEPTEMBER 2010

**An appropriate citation for this paper is:**

Essential Services Commission 2010, *Regulatory Review – Smart Meters*,  
September

# CONTENTS

<b>Contents</b> .....	<b>III</b>
<b>Chairperson's Overview</b> .....	<b>V</b>
<b>Glossary</b> .....	<b>VII</b>
<b>1 Introduction</b> .....	<b>1</b>
<b>1.1 What are smart meters?</b>	<b>1</b>
<b>1.2 Regulatory powers of the Commission</b>	<b>1</b>
<b>1.3 Guiding principles for the review</b>	<b>2</b>
<b>1.4 Review scope</b>	<b>2</b>
<b>1.5 Consultation</b>	<b>3</b>
<b>1.6 National framework</b>	<b>4</b>
<b>1.7 Making submissions on the regulatory amendments</b>	<b>4</b>
<b>2 Final Decisions and further regulatory review</b> .....	<b>5</b>
<b>2.1 Final decisions</b>	<b>5</b>
<b>2.2 Further review</b>	<b>9</b>
<b>3 Assisting vulnerable customers</b> .....	<b>11</b>
<b>3.1 Overview</b>	<b>11</b>
<b>4 Providing information and informed consent</b> .....	<b>16</b>
<b>4.1 Overview</b>	<b>16</b>
<b>4.2 Reviewing the bill</b>	<b>17</b>
4.2.1 Verifying the accuracy of the bill.....	17
4.2.2 Estimated and substituted data on bills.....	21
<b>4.3 Managing consumption and costs</b>	<b>26</b>
4.3.1 Graphical information on the bill.....	26
4.3.2 Unbundling tariffs and charges on the bills .....	29
4.3.3 Notification to customers of variations to tariffs.....	31
<b>4.4 Shopping around for a better offer</b>	<b>37</b>
<b>5 Enabling access to billing and metering data</b> .....	<b>39</b>
<b>5.1 Access to data</b>	<b>39</b>

5.1.1	Access to historical billing data.....	39
5.1.2	Access to metering data .....	39
5.2	<b>Analysis and final decision</b>	<b>43</b>
6	<b>Remote connection, disconnection and reconnection.....</b>	<b>45</b>
6.1	<b>Prompt connection, disconnection and reconnection service</b>	<b>45</b>
6.2	<b>Customer protection under disconnection</b>	<b>49</b>
6.3	<b>Information to new customers after remote disconnection</b>	<b>52</b>
6.4	<b>Safety considerations</b>	<b>54</b>
7	<b>Frequency of network billing of retailers by distributors .....</b>	<b>55</b>
Appendix A	<b>draft regulatory amendments .....</b>	<b>58</b>
Appendix B	<b>Examples of graphs and bills .....</b>	<b>77</b>

## CHAIRPERSON'S OVERVIEW

The Victorian Government requires the electricity distribution businesses to install smart meters in all customers' premises over the period 2009 – 2013. By 30 June 2011, 25 per cent of customers are to have a smart meter installed, progressively increasing to 100 per cent by 31 December 2013.<sup>1</sup>

The Essential Services Commission (the Commission) has reviewed the energy regulation for which it is responsible to ensure it continues to promote the interests of customers and provides clear obligations for distributors and retailers when dealing with electricity customers with smart meters.

The Commission currently oversees regulations that ensure information is provided to customers for a range of uses – to help them understand the nature of their bill, how much power they are consuming, how they can confirm their bill is accurate, and how to make choice of retailer in the competitive market.

Currently meter readings are manually collected on a quarterly basis for most small customers in Victoria and then used as the basis for calculating customer bills.

With smart meters, however, customers' bills will not be based on the manual meter reads every quarter, but on electricity usage measured and recorded every half hour. The information will be collected remotely by two way communications and pricing signals will be enabled through time-of-use tariffs. New technologies will also be available in the home to help customers understand their electricity usage more directly.

The implementation of the smart meters program has raised a number of issues for customers, some of which can be addressed by the Commission and some of which are the policy responsibility of the Victorian Government. Against this background, the Government has introduced into the Victorian Parliament the *Energy and Resources Legislation Amendment Bill* which proposes new heads of power for the Governor in Council to make orders in relation the transition of customers to time of use pricing structures.<sup>2</sup>

The Commission's key objectives in undertaking this review were to ensure that customers are provided with consumption and pricing information that is transparent, timely and useful and that all customers, particularly vulnerable and low income customers, continue to be protected to maintain access to supply.

---

<sup>1</sup> Victorian Government Gazette, No S 314, Tuesday 25 November 2008

<sup>2</sup> Minister for Energy and Resources, Second reading speech, Energy and Resources Legislation Amendment Bill, Hansard, 24 June 2010

The Commission has undertaken extensive consultation in reaching these final decisions. We released an Issues Paper in April 2010 and a Draft Decision in July 2010.

We conducted a public forum on 13 May and two workshops in March and June and received 20 submissions to the Draft Decision. All matters raised during these consultations have been taken into account in these final decisions.

We note that there is considerable consultation being undertaken by the Department of Primary Industries (DPI) with industry and consumer representatives on transitioning customers to smart meter tariffs. We therefore believe it is premature to propose amendments to some regulation until these matters are clarified, particularly on whether and how customers should be transitioned to monthly billing arrangements.<sup>3</sup>

The Commission has decided in this final decision to prohibit the use of supply capacity products, which enable momentary disconnection of customers' premises, for credit management purposes until 31 December 2013. This is because the implications for customers are not sufficiently clear.

However, we are uncertain as to the extent of regulation required for load control products and whether supply capacity control products should be offered to customers for other than credit management purposes. We have therefore decided to undertake further reviews immediately to address these issues, and to address some other outstanding matters which require immediate consideration. Among these is the request made by the Minister for Energy and Resources, that the Commission require the total accumulated consumption read corresponding to the start of the billing period to be shown on customers' bills. The Commission supports this in principle and it will be the subject of a further review. These issues are set out in chapter 2 of the final decision.

The draft regulatory amendments supporting the final decisions are in Appendix A. I invite interested parties to make submissions on proposed amendments to the Commission by 8 October 2010. These regulatory amendments will be finalised by 31 October 2010.

**Dr Ron Ben-David**  
Chairperson

---

<sup>3</sup> These provisions relate specifically to deemed and standing offer customers to a monthly billing cycle.

## GLOSSARY

AEMC	Australian Energy Market Commission
AEMO	Australian Energy Market Operator
AER	Australian Energy Regulator
AMI	Advanced Metering Infrastructure
CALC	Consumer Action Law Centre
CAV	Consumer Affairs Victoria
CPP	Critical Peak Pricing
CUAC	Consumer Utilities Advocacy Centre
DB	Electricity Distribution Business
DHS	Department of Human Services
DPI	Department of Primary Industries
DNSSP	Distribution Network Service Provider
DTF	Department of Treasury and Finance
EDC	Electricity Distribution Code
EI Act	Electricity Industry Act 2000
ERAA	Energy Retailers' Association of Australia Ltd
ERC	Energy Retail Code
ESC	Essential Services Commission
ESC Act	Essential Services Commission Act 2001 (Victoria)
ESV	Energy Safe Victoria
EWOV	Energy and Water Ombudsman (Victoria)
FCRC	Financial and Consumer Rights Council Inc
FRMP	Financially Responsible Market Participant
IHD	In Home Displays
IMRO	Interval meter roll out
MCE	Ministerial Council on Energy
NECF	National Energy Customer Framework
NEM	National Electricity Market
NER	National Electricity Rules
SCO	Standing Committee of Officials
SSN	SilverSpring Networks

TOU	Time of use
UoSA	Use of System Agreement
VCOSS	Victorian Council of Social Service



## 1.1 What are smart meters?

Smart meters use digital technology to allow some new features to be associated with the metering of electricity. Smart meters measure and record the customer's electricity usage each half hour and this information is collected remotely by two way communications. This information, as well as new technologies such as in-home displays, can assist customers to better determine how and when to consume power in order to manage their bills.

New features of the meters that are not available with the existing accumulation meters include the ability to remotely connect and disconnect power when moving house. This means that a technician will not always be required to visit the premises and will assist customers to be more quickly connected or disconnected on request and at lower cost.

Smart meters also allow the distribution company to locate outages and restore power more quickly.<sup>4</sup>

## 1.2 Regulatory powers of the Commission

The structure of the National Electricity Market (the NEM), which includes Victoria, is complex, with a number of regulatory bodies responsible for different aspects of the market. This complexity will increase for a period as the energy regulation further transitions from state based regulation to nationally based regulation.<sup>5</sup>

From 1 January 2009, the Australian Energy Regulator (AER) assumed responsibility for economic regulation of the electricity distribution businesses, including setting the distribution prices and charges. This includes setting the metering charges to take account of the smart meter implementation for the period 2009-2011.<sup>6</sup>

---

<sup>4</sup> More information about smart metering, its capability and the rollout can be obtained from the Department of Primary Energy (DPI) website at [www.dpi.vic.gov.au/smartmeters](http://www.dpi.vic.gov.au/smartmeters) or the national smart meter project website at [http://www.ret.gov.au/Documents/mce/emr/smart\\_meters/default.html](http://www.ret.gov.au/Documents/mce/emr/smart_meters/default.html).

<sup>5</sup> When the national arrangements are complete the Australian Energy Market Commission (AEMC) will be the rule maker and the Australian Energy Regulator (AER) will be the regulator for distribution and retail functions.

<sup>6</sup> See Final Determination: Advanced Metering Implementation at <http://www.aer.gov.au/content/index.phtml?itemId=726410>. The AER will review the distributors' submissions for the 2012-2014 metering charges in 2011.

Relevant to this review, the Commission's remaining powers under the *Essential Services Commission Act, 2001* (ESC Act) are:

- Rule making for the Victorian distribution businesses, but not the enforcement of the rules or the economic regulation of the distribution businesses,<sup>7</sup> and
- Rule making and rule enforcement for the Victoria electricity retail sector including the licences, codes and guidelines made by the Commission.

### 1.3 Guiding principles for the review

The Commission's principal objective is to promote the long term interests of Victorian consumers. Further, in performing its functions and exercising its powers, the Commission must have regard to the price, quality and reliability of essential services.

The Commission must also have regard to the benefits and costs of regulation for customers and the regulated entities, and to ensure there is consistency in regulation between States and on a national basis.<sup>8</sup>

From these objectives, the following principles will also guide the review:

- the regulatory amendments will not limit or constrain the innovation that is available from smart meters and will continue to facilitate competition in the Victorian energy retail market
- the regulatory framework will assist in the delivery of the benefits of smart meter technology to customers
- customers will be provided with timely, transparent, useful and accurate information
- customers, particularly vulnerable customers, will continue to be protected by the regulatory framework
- the financial costs of supporting new systems and processes will be properly allocated between retailers and distributors, where appropriate.<sup>9</sup>

### 1.4 Review scope

The review concentrated on those regulatory obligations which directly impact on the relationships between distributors and their customers, retailers and their customers and distributors and retailers.

---

<sup>7</sup> From 1 January 2009, the Australian Energy Regulatory has responsibility for distribution economic regulation, including the regulation of AMI metering charges.

<sup>8</sup> *Essential Services Commission Act, 2001*, section 8.

<sup>9</sup> Some industry submissions were that the Commission should take into account the costs and benefits of the regulation and have regard to efficient costs across the industry. These are broad objectives under the ESC Act, which the Commission already must take account of in its regulatory decisions.

The regulations in the following instruments were reviewed:

- Distribution and Retail Licences;
- Use of System Agreement;
- Electricity Customer Metering Code;
- Electricity Customer Transfer Code;
- Electricity Distribution Code; and
- Energy Retail Code;
- Code of Conduct for Marketing Retail Energy in Victoria; and
- Guideline No 19: Energy Industry – Energy Price and Product Disclosure – offer summary requirements

The review also considered approaches in other jurisdictions, specifically regulatory frameworks in Texas, Ontario and California and took account of the outcomes of the customer trials implemented by EnergyAustralia in New South Wales. The review also considered a report by the St Vincent de Paul Society.<sup>10</sup>

## 1.5 Consultation

Consistent with our *Charter of Consultation and Regulatory Practice*, the Commission has undertaken a wide ranging consultation process in this review.

We published an Open Letter in early February 2010, asking for views from interested parties on what issues should be addressed.

Based on these submissions, and information gleaned from other sources, an Issues Paper was published in late April 2010. Thirty five submissions were received and all substantive matters were taken into account in the draft decision published in mid July 2010.<sup>11</sup> A public forum and two workshops were held between March and July to provide information to a wider audience and address key issues arising from the review.

Twenty submissions were received to the draft decision and are published on the Commission's website.<sup>12</sup> A summary of the themes arising from the submissions is attached in the Final Decision: Background Paper No 1 – Summary of Submissions.

The regulatory amendments arising from this final decision are attached in Appendix A for further consultation.

---

<sup>10</sup> St Vincent de Paul Society, February 2010: A National Report on Customer Protections.

<sup>11</sup> A summary of the themes arising from the submissions is attached in Draft Decision: Background Paper No 1 – Summary of Submissions

<sup>12</sup> See submissions at <http://www.esc.vic.gov.au/NR/exeres/73BC5D94-88A2-4910-93EE-E47E83A10385.htm>

## 1.6 National framework

In preparing the Issues Paper and Draft Decision, the Commission reviewed the Ministerial Council on Energy Standing Committee of Officials (SCO), *Smart Meter Customer Protection and Safety Review – Draft Policy Paper One* released in August 2009. The Commission has also reviewed the National Energy Customer Framework (NECF) Second Exposure Draft released in November 2009.

The Commission considers that its final decisions are consistent with the draft policy positions outlined by the SCO in its initial paper.<sup>13</sup> At this time, the NECF does not address regulatory matters specifically related to the implementation of smart metering technology in customers' homes.

## 1.7 Making submissions on the regulatory amendments

Submissions to the regulatory amendments proposed in Appendix A are preferred in electronic format and should be provided to the Commission by 8 October 2010:

By email to:

andrew.monaghan@esc.vic.gov.au

Or mailed to:

Regulatory Review – Smart Meters  
Essential Services Commission  
Level 2, 35 Spring Street  
MELBOURNE VIC 3000

Or sent by a facsimile to;

03 9651 3688

Submissions will be made available on the Commission's website in accordance with its website policy. Any material that is confidential should be clearly marked as such. Publication is subject to the privacy policy available on the website ([www.esc.vic.gov.au](http://www.esc.vic.gov.au)).

---

<sup>13</sup> Paper can be found at  
[http://www.ret.gov.au/Documents/mce/emr/smart\\_meters/default.html](http://www.ret.gov.au/Documents/mce/emr/smart_meters/default.html)

## 2 | FINAL DECISIONS AND FURTHER REGULATORY REVIEW

In reaching these final decisions, the Commission took account of all policy developments since the release of the Issues Paper and Draft Decision. We also considered the views expressed at the public forum and workshops and the substantive matters in the submissions to the Draft Decision,

This section briefly summarises the Commission's final decisions on all key regulatory matters set out in the Draft Decision. Each section referenced provides a brief overview of the draft decision, the submissions received and the reasoning for the final decision.

The draft regulatory amendments are set out in Appendix A.

This section also highlights those matters which could not be decided now and about which the Commission will consult further. This review process is set out in section 2.2. below.

Unless otherwise stated in the relevant final decision, all regulatory amendments will take effect from 1 April 2011. This timeframe is to enable the businesses to make the necessary systems and process changes.

The Commission notes the submissions on the timing of the new obligations. These additional requirements will only be required as customers are transitioned to smart meter tariffs. We recognise that this timing is dependent on the discussions which are currently occurring between the Government and the relevant parties.

Retailers who have substantial reasons for not being able to comply from 1 April 2011 should make appropriate submissions to the Commission for consideration of a later date for compliance, in accordance with normal regulatory practice.

### 2.1 Final decisions

#### 1. Assisting vulnerable customers (section 3)

Guideline No 21: Energy Industry – Energy Retailers' Financial Hardship Policies will be amended so that retailers will be required to:

- Recommend to participants the most appropriate tariff for their circumstances, based on a number of factors including cost-effectiveness of the tariff
- Monitor participants' behaviour and consumption during the program to ensure that they continue on the most cost-effective tariff and facilitate a change if necessary

Supply capacity control products temporarily disconnect customers, for example, for exceeding a usage limit. The Energy Retail Code will be amended to require retailers to not offer the supply capacity control product for credit management purposes<sup>14</sup> until 31 December 2013.<sup>15</sup>

The amendments will take effect from 1 January 2011 as they involve minimal process and system changes.

The Commission will defer the decision on the regulation of the supply capacity product for other than credit management purposes, and load control products<sup>16</sup>, subject to further review. This review will consider the processes, protocols and safety issues, and whether any specific regulation is required to protect customers. The review will commence immediately.

## **2. Verifying the accuracy of the bill (section 4.2.1)**

Clause 4 of the Energy Retail Code will be changed so that customers' bills derived from interval data collected remotely from smart meters must show:

- the total accumulated consumption read<sup>17</sup> corresponding to the end of the billing period commencing from;
  - 1 April 2011 where the distributor provides the total accumulated consumption read for a customer's smart meter on or after that date; and
  - 1 January 2012 for all customers.
- the consumption by tariff segment, price for each tariff segment and the total consumption for the period.

Retailers can determine their own format for this information, but it must be clear, understandable and not confuse customers.

The Commission has been requested by the Minister for Energy and Resources to consider requiring that bills derived from interval data collected remotely from smart meters also show the total accumulated consumption read corresponding to the start of the billing period. This is the subject of further review (see section 2.2).

The Commission will also review whether distributors should be required to provide the final accumulation meter read for customers when they change over the basic meter to a smart meter (see section 2.2).

---

<sup>14</sup> Whether the Commission should permit the offering of supply capacity control products for purposes other than credit management will be considered in a separate review to be commenced in September 2010: see section 2.2

<sup>15</sup> This date may be amended if a review of, and amendment to, the Code occurs before that date.

<sup>16</sup> Load control products turn individual appliances on and off.

<sup>17</sup> This shows total energy recorded by the meter since installation (or last re-set)

### **3. Estimated and substituted data on bills (section 4.2.2)**

Clause 5 of the Energy Retail Code will be amended so that retailers must indicate that, for bills derived from smart meters where interval data is collected remotely, the bill is estimated when the interval metering data for a total of 48 hours during a billing period used to determine the billed energy consumption are not actual readings.<sup>18</sup>

The Commission will recommend to the Australian Energy Regulator (AER) that the extent to which the distributors provide interval data from smart meters to the retailers that contains estimated and substituted data is monitored. The Commission's energy retail performance monitoring will include both estimated and substituted data.

Currently retailers are allowed to recover between 9-12 months of undercharging. When smart meters are more fully operational and monthly billing of customers more prevalent, the Commission will review clause 6.2 of the Energy Retail Code to determine if a shorter period should be introduced

### **4. Graphical information on the bill (section 4.3.1)**

Clause 4.4 of the Energy Retail Code will be amended to include the requirement that, for customers with smart meter tariffs, retailers:

- graphically show the customer's consumption for each tariff component and each monthly period over the past 12 months; and
- the average daily cost for each smart meter tariff over the billing period on the bill

### **5. Unbundling charges and tariffs on the bill (section 4.3.2)**

Clause 4.2(i) of the Energy Retail Code will be clarified to make clear the obligation that, if the retailer directly passes through a network charge to the customer or chooses to show the separate amount of the network charge on the bill, this amount must be shown clearly on the bill and must replicate the regulated charge.

### **6. Notification of tariff variations (section 4.3.3)**

Clause 26.4(b) of the Energy Retail Code will be amended to require retailers to notify customer on market contracts of any variation to the retailer's tariffs at least 20 business days prior to the date of effect. This notification must be separate to the customer's bill. The notification will apply to new smart meter tariffs.

---

<sup>18</sup> This is data which has been assigned metering data quality flag S (substitutes that may be replaced by actual data) or F (final substitutes that will not be replaced) in accordance with clause 1.7.1 of the Metrology Procedure: Part B.

Clause 9.8 of the default Use of System Agreement will be redrafted to ensure that the distributors provide the retailers with 30 business days' notification of the smart meter tariff reassignments which will apply to individual customers.

#### **7. Shopping around for a better offer (section 4.4)**

The Commission will commence a review of Guideline No 19: Energy Price and Product Disclosure in January 2011, taking into account the smart meter tariffs that are likely to be offered to customers and the work being undertaken by the AER.

#### **8. Enabling access to billing and metering data (section 5)**

The provision of historical billing data will continue to be regulated under clause 27 of the Energy Retail Code.<sup>19</sup>

Clause 27 will be amended in the Energy Retail Code to enable customers to access their metering data as follows:

- if requested by a customer with a smart meter, retailers will be required to provide the interval data electronically, or by some other form, in a way which makes the information understandable and accessible to the customer.
- retain and provide this information to existing and former customers with the same obligations as under clause 27.2.

In connection with In Home Displays (IHDs), the Commission will incorporate new provisions in the relevant regulations to require:

- both retailers and distributors to establish a set of privacy principles for the dissemination of consumption information through IHDs, before they are utilised;
- retailers, in providing IHDs to their customers, to provide information to the customers setting out how the consumption and cost information displayed on the IHD compares to the consumption and cost details on the customer's bill.

The Commission will wait the outcome of the DPI review of other mechanisms for providing metering data prior to considering further regulation in this regard.

#### **9. Facilitating prompt connection, disconnection and reconnection (section 6.1)**

The relevant clauses in the Energy Retail Code and Electricity Distribution Code will be amended to require that where a remote connection, disconnection or reconnection is not for a scheduled time, the distributor must use its best endeavours to perform the service within two hours of a request from a retailer or customer being validated<sup>20</sup>, and to be carried out:

---

<sup>19</sup> The terms used for 'historical billing data' will be clarified in the drafting of this clause.

<sup>20</sup> These timeframes will most appropriately be applied to customer requests. The regulation will be properly drafted to ensure that obligations on retailers to follow proper disconnection and reconnection timeframes for credit management purposes will be adhered to.



- in accordance with clause 12 of the EDC and clauses 13, 14 and 15 of the ERC; and
- only where it is safe to do so.

#### **10. Customer protection under disconnection (section 6.2)**

Clause 13.1 of the Energy Retail Code will be amended to require retailers to state on all disconnection warnings that the disconnection could occur remotely.

Clause 13.2 of Energy Retail Code will be amended so that, when customers covered by this clause are to be disconnected remotely, retailers must contact the customer in person or by telephone, or in extenuating circumstances, by mail, SMS or email.<sup>21</sup> This communication must set out all the options for the customer.

#### **11. Information to new customers after remote disconnection (section 6.3)**

Clause 9.1.13 of the Electricity Distribution Code will be amended to require distributors to include a sticker on all smart meters installed in customers' premises from 1 January 2011. This sticker must include the relevant distributor's call centre number.

The distributor must ensure that its call centre provides customers with information on their options for entering into a contract for the sale of electricity with a retailer if the premises are disconnected.

The Commission will work with the AER and the distributors to facilitate an appropriate message in these circumstances.

The Commission will recommend that the AER monitors with the distributors the extent of use of this service in December 2011 to determine if a different regulatory response is required.

#### **12. Frequency of network billing of retailers by distributors (section 7)**

The default Use of System Agreement (UoSA) will be amended to enable the distributors to issue monthly bills to the retailers, but retain the payment terms associated with the customers' current billing cycles.

The amendments to the default Use of System Agreement will take effect from 1 October 2010, to support the distributors' commercial arrangements with the retailers.

## **2.2 Further review**

The Commission will immediately commence further reviews into the following matters:

---

<sup>21</sup> Extenuating circumstances will be defined to mean that a written communication can be sent after a retailer has attempted unsuccessfully to contact the customer after making one visit or two telephone calls to the property.

- Whether regulation is required for load control products and supply capacity product for other than credit management purposes taking into consideration the processes, protocols and safety issues.
- Showing the total accumulated consumption read corresponding to the start of the billing period on customers' bills
- Whether the distributors should be required to provide the final accumulation meter read for customers when they changeover the basic meter to a smart meter.

A review of Guideline No 19 – Energy Price and Product Disclosure will commence in January 2011.

## 3 ASSISTING VULNERABLE CUSTOMERS

### 3.1 Overview

Retailers are required under regulation to assist customers with financial difficulties to pay their bills and avoid disconnection of supply. The Energy Retail Code places a number of obligations on retailers, including assessing customers' capacity to pay and placing them on instalment plans to help them to manage their existing and on-going energy bills.

For those customers who require more specialist assistance, retailers are required under legislation and regulation to implement financial hardship programs to ensure that customers:

- who demonstrate they are having significant financial difficulty in paying their energy bills can be assisted in the programs;
- receive assistance that is suitable and appropriate in managing their debt once on the program (taking into account on-going energy consumption); and
- can remain on the program as long as they meet the relevant criteria.<sup>22</sup>

The legislation and regulations combined ensure that low income and vulnerable customers have an energy safety net, ensuring that disconnection from supply is a last resort. These protections will be maintained with the implementation of smart meters.

#### Draft decision

Retailers, consumer groups and EWOV supported the Commission's view that the current regulatory framework protects low income and vulnerable customers to remain connected to supply. However, there were concerns that new tariffs or products arising from the smart metering technology could be detrimental for these customers if their implementation was not carefully managed.

These concerns related to the potential bill increases which may be experienced by some customers on time-of-use tariffs in peak pricing periods.<sup>23</sup> There were also concerns about tariffs or products being offered to customers to voluntarily restrict their supply at peak periods or for specific appliances to reduce their electricity

---

<sup>22</sup> Section 43 of the Electricity Industry Act 2000 and Section 48G of the Gas Industry Act 2001 require the retailers to develop and implement financial hardship policies in accordance with any guidelines set by the Commission. Guideline No 21: Energy Retailers' Financial Hardship Policies sets out the regulation governing these policies.

<sup>23</sup> The Commission noted that the Victorian Government has stated its intention to address this issue in part by considering whether customers should be offered both smart meter flat and time-of-use tariffs, at least for the short-to-medium term.

consumption and costs, without these customers being sufficiently equipped to make the best decision for their circumstances.

Low income customers may benefit from these tariffs or products, but the Commission agreed that there was insufficient detail of how they may be offered to customers to understand the extent of regulation that may be required. At the least, however, the obligations on retailers should be sufficiently robust to ensure that customers were able to give their explicit informed consent to contracts with these offerings. All retailers also should assist those customers in their hardship programs to understand fully the most cost-effective tariff for their circumstances.

The Victorian Government is consulting with both the distributors and the retailers to determine how and when tariffs applicable to smart meters may be made available to customers. Against this background, the Commission considered it prudent to place additional regulatory obligations on retailers now with respect to customers in their hardship programs.

**Views were sought on the draft decision.**

For customers on a smart meter tariff in retailers' hardship programs, retailers will be required to:

- Agree with participants the most cost-effective tariff based on their behaviour and circumstances known at the time of entry to the program
- Monitor participants' behaviour and consumption during the program to ensure that they continue on the most cost-effective tariff and facilitate a change if necessary
- Not offer supply capacity control products until 31 December 2013.<sup>24</sup>

These obligations will be included in Guideline No 21: Energy Industry – Energy Retailers' Financial Hardship Policies.

The amendments will take effect from 1 January 2011 as they involve minimal process and system changes.

**Submissions**

All submissions supported the principles underpinning the draft decision, that is, that customers in hardship should be assisted to benefit from smart meter tariffs to the extent possible. There was also general support for customers not to be confused by new tariffs or products, but concerns that some customers may be disadvantaged if the regulation was too prescriptive.

Many respondents pointed out that there was a need to clarify the functions of the different tariffs and products that may be available, specifically supply capacity control and load control products. Consumer groups strongly advocated against the former. In their view, supply capacity control products, which could operate to disconnect customers if they exceed their contractual consumption limits, should

---

<sup>24</sup> This date may be amended if a review of, and amendment to, the Guideline occurs before that date.

not be offered to any customers at all. It is not appropriate that products should be used to momentarily disconnect customers from supply as a credit management tool.<sup>25</sup>

Respondents, however, were divided on the potential application of load control products, with some retailers and consumer groups recognising the benefits of these products. However, consumer groups were concerned that there should be adequate regulatory controls on these products and retailers noted that third parties may also be able to offer these products to customers thus bypassing the retailers.

In principle, the DPI supported prohibiting the use of supply capacity control products and tariffs as a credit management tool. The department was concerned not to restrict the positive benefits of such products, however, and proposed:

*“ a transitional prohibition, during which time the potential structure and operation of such products is closely examined and the adequacy of responding consumer protections tested, ....(Further) ... it may be appropriate for the ESC to establish a transitional prohibition on the access by third parties to the direct load control functionalities enabled by smart meters”<sup>26</sup>*

Retailers were also concerned about the requirements under the hardship programs for customers to be offered the most cost-effective smart meter tariff. In their view, cost-effective might be subjective and not necessarily the cheapest tariff for customers. They also considered that the requirement for monitoring so that these customers continued to be on the most cost-effective tariff in the program was limiting and unrealistic.

One distributor wanted confirmation that the draft decision would not impact distribution regulation.

## Analysis and final decision

The Commission acknowledges that there is confusion regarding the products and tariffs which may be offered to customers with smart metering technology to assist their consumption patterns. These products are:

- **Supply Capacity Control (SCC)** – operates by switching all the power supply off when the customer’s load reaches a certain limit. The power would resume after a set short period. The system will continue to assess the load and, if above the limit, the power will again be disconnected.

---

<sup>25</sup> See the submissions from consumer advocates which outline a number of concerns arising from the application of these products and tariffs at <http://www.esc.vic.gov.au/NR/exeres/73BC5D94-88A2-4910-93EE-E47E83A10385.htm>.

<sup>26</sup> See DPI submission at [http://www.esc.vic.gov.au/public/Energy/Consultations/Smart%20meters%20regulatory%20review/Submissions.htm?docName=Draft Decision - Background Paper 1](http://www.esc.vic.gov.au/public/Energy/Consultations/Smart%20meters%20regulatory%20review/Submissions.htm?docName=Draft%20Decision%20-%20Background%20Paper%201)

The SCC could be used by the distributors in emergencies to help ration power and avoid power outages. It could also be used by the retailers to offer capacity limited tariffs, again to ration power and possibly avoid disconnection.

- Load Control<sup>27</sup> - is a feature of the smart meters that allows the use of the Home Area Network (HAN) based in the meter to turn individual appliances on and off. Load control does not disconnect the premises.

This feature might be offered to customers by retailers for use when the cost of power is very high and by distributors when a segment of the network is near capacity. An example of load control is to cycle an air conditioner on and off, which could reduce the loading on a network on a very hot summer's day. The customer would be offered a saving on their bill for accepting such a load control and the cycling of the air conditioner would be designed so that the customer's comfort was not materially affected.

The draft decision was that supply capacity control product must not be offered to customers in hardship programs until at least 31 December 2013.

The Commission notes the significant concerns expressed by consumer advocates about the use of supply capacity control product for all customers. They believe that customers experiencing financial difficulties may agree to these products and tariffs inappropriately without being assisted in other ways to avoid disconnection by the retailers, for example, in hardship programs.

We also note the DPI's view that, while it supports a prohibition on the products for credit management purposes, further consideration of this product and tariffs may be required prior to enabling their widespread use by retailers.

Consequently, we have decided to prohibit the use of the supply capacity supply product for all customers until 31 December 2013, with the qualification that its use for other than credit management purposes will be subject to review.

The Commission acknowledges that load control provides a key benefit of smart meters for customers and we do not want to prevent the development of this innovation in the market place.

However, there is a need to resolve the risks these products might present to customers and whether there are any restrictions that should be placed on load control that might have health and safety implications, in particular for customers on life support. There are also questions as to the role of third parties in providing these products.

Therefore, the Commission will defer the decision to place any regulation on load control products, subject to further review. This review will take account of relevant developments in the national framework.

---

<sup>27</sup> This discussion is about the "other load control" in the Minimum AMI Functional Specification (see DPI website) and is not about the use of the meter to control loads such as off peak water heating that have been traditionally controlled by the meter and time switch. These functions are referred to as "controlled load management".

We note the concerns raised by retailers about the difficulties in identifying and monitoring cost-effective tariffs for customers in hardship programs. We did not intend that this process would be any more onerous than is currently required under the regulation.

Under the Energy Retail Code, retailers must monitor all customers on instalment plans and adjust those plans as necessary to address any payment difficulties the customers are experiencing. Guideline No 19 places similar obligations for those customers in the hardship programs. The Commission simply requires retailers to carefully consider, for those customers in their hardship programs, the best tariff for their circumstances and monitor their consumption appropriately.

Retailers are invited to consider the drafting of the new obligations which takes account of the issues raised in the submissions.

### **Final Decision**

Guideline No 21: Energy Industry – Energy Retailers’ Financial Hardship Policies will be amended so that retailers will be required to:

- Recommend to participants the most appropriate tariff for their circumstances, based on a number of factors including cost-effectiveness of the tariff
- Monitor participants’ behaviour and consumption during the program to ensure that they continue on the most appropriate tariff and facilitate a change if necessary

Part 3 of the Energy Retail Code will be amended to require retailers to not offer the supply capacity control product for credit management purposes until 31 December 2013.<sup>28</sup>

The amendments will take effect from 1 January 2011 as they involve minimal process and system changes.

The Commission will defer the decision on the regulation of load control products, and the supply capacity product for other than credit management purposes, subject to further review. This review will consider the processes, protocols and safety issues, and whether any specific regulation is required to protect customers. The review will commence immediately.

---

<sup>28</sup> This date may be amended if a review of, and amendment to, the Code occurs before that date.

## 4 PROVIDING INFORMATION AND INFORMED CONSENT

### 4.1 Overview

Currently billing information is manually collected on a quarterly basis for most small customers in Victoria. Quarterly meter reads are then used as the basis for calculating customer bills.

With smart meters, new tariffs will be developed. These tariffs may be based on consumption or demand in preset daily or seasonal time periods (time-of-use pricing) or dynamically set according to network congestion or wholesale energy prices (dynamic pricing).

The Government announced that the distributors have agreed to a 'moratorium' on the assignment of customers to a time-of-use tariff until at least the end of 2010.<sup>29</sup> The distributors and the retailers also may be required to provide small customers a choice of either a time-of-use or a flat tariff when smart meters are operational.<sup>30</sup>

In July 2010, the Government introduced into the Victorian Parliament the *Energy and Resources Legislation Amendment Bill* which proposed new heads of power for the Governor in Council to make orders in relation the transition of customers to time of use pricing structures.<sup>31</sup>

The following issues are addressed against this policy background.

The regulations currently require information to be provided to customers for a range of uses – to understand how much power they are consuming, how they can confirm if their bill is accurate, and how to make a choice of retailer in the competitive market.

Customers will require the same information whether their bills are based on TOU or flat tariffs using information obtained from their smart meter. Their information requirements will vary depending on whether they are:

- **Reviewing the bill** – Customers will need to know that their bills are reliable and accurate and that they are able to reconcile their usage with the charges on their bills.

---

<sup>29</sup> Media Release dated 22 March 2010 from the Minister for Energy and Resources at <http://www.premier.vic.gov.au/component/content/article/9853.html>.

<sup>30</sup> Announcement on the ABC 'Stateline' Program on Friday, 11 June 2010.

<sup>31</sup> Energy and Resources Legislation Amendment Bill, Hansard, 29 July 2010 and 13 August 2010



- **Managing consumption and costs** – Customers on TOU tariffs will need to know how the price of their electricity changes over the day, and ideally, how much they are using over each period. All customers will need to know what components influence their price and behaviour and have ready access to information which is timely and useful. They will want to know if and when their tariffs will vary through the life of their contract.
- **Shopping around for a better offer** – Customers will need to know whether a given offer would make them better or worse off and how to compare the benefits of the offers between retailers.

## 4.2 Reviewing the bill

### 4.2.1 Verifying the accuracy of the bill

The regulation requires that the bill shows the electricity consumption in each period that a tariff applies and if the meter is an accumulation meter, the previous and current meter readings.<sup>32</sup> This regulation currently is not applied to bills based on readings from a manually read interval meter.

Customers sometimes check their meter upon receiving their bill to confirm that the meter reading for which they are billed roughly corresponds to their current meter reading. They may also review their previous bill to check that the last reading corresponds to the first reading of their current bill, thus providing some evidence that the billing quantities are correct.

We considered it is important that customers are able to verify their usage against their bill when they have a smart meter. There are two means by which this objective could be achieved.

#### i. Consumption by individual tariffs

To enable customers to reconcile their charges against their consumption, bills for smart meters should show the consumption for each tariff segment, the tariffs, and the total consumption for the current period.

#### ii. Total accumulated consumption

With TOU tariffs customers are likely to be just as interested in consumption in tariff periods as the total consumption. Additionally, the total accumulated consumption reading<sup>33</sup> could be included on customers' bills to provide benefits to customers.

### Draft decision

The Commission noted the universal support for showing the consumption by tariff segment, the tariffs, and the total consumption for the current period on the bill.

---

<sup>32</sup> ERC clause 4.2(g)

<sup>33</sup> This is referred by the industry as the 'index' read. For regulatory purposes, we will refer to it as the total accumulated consumption reading.

However, there was divided opinion on whether requiring the total accumulated consumption on the bill would be of value to customers. Some respondents, including distributors, consumer groups and the policy departments, considered the information may be useful to customers.

Retailers did not support the proposal. In their view, the total accumulation consumption reading on the meter might become increasingly remote from the figure used for billing purposes because of the effects of estimations and substitutions. These effects would confuse, not enlighten, customers.

Taking all the views into consideration, the Commission nevertheless concluded that disclosing the total accumulated consumption reading on the bill would be of value to customers. This reading might enable customers to confirm their usage for the current period with the period for their last bill, much as customers do today. That the figure on the bill would not agree precisely with what the customers read from the meter once they receive their bill is no different from what happens today. A customer might receive a bill a few days after their meter has been read and the figure on the meter would not agree with the last reading on their bill.

We understood that there may be some divergence between the two figures because of the effect of substitutions. Most parties however considered that, in practice, this divergence would be minimal.

No information was provided to substantiate significant cost implications of disclosing the total accumulation consumption reading on the bill.

We also noted that the smart meters service levels specification requires that the total accumulated consumption be routinely collected and provided to the retailer daily from 1 January 2012.<sup>34</sup> However, from the information provided to this review, it appeared that the accumulated consumption data would be made available by the distributors to the retailers in many cases prior to this date.

---

<sup>34</sup> Advanced Metering Infrastructure – Minimum AMI Service Levels Specification (Victoria), Sept 2008, page 6. Available on DPI website.

**Views were sought on the draft decision.**

The following must be shown on all customers' bills derived from interval data:

- the total accumulated consumption read corresponding to the end of the billing period
- the consumption by tariff segment, price for each tariff segment and the total consumption for the period.

Retailers can determine their own format for this information, but it must be clear, understandable and not confuse customers.

Retailers will be required explain the new bill formats based on interval data from smart meters to customers, including but not limited to, the change from beginning and end reads to total accumulated consumption and the consumption by tariff segment, total consumption for the period and tariffs.

**Submissions**

There was general agreement with the proposal for inclusion of consumption by tariff segment, price or tariff per segment and the total billed consumption for the bill period. CALC in their submission said that the times of day a tariff segment applies should also be included.

Again, there was not general agreement about including the total accumulated consumption on the customer's bill. The Commission notes however that no new substantive information has been presented in the submissions.

Retailers still did not support the proposal, citing concerns about the reliability and accuracy of the information on the bill, the need to develop processes to enable the information to be added to the bill and that the information may just confuse customers. A number of retailers agreed that information and customer education on new bill formats would be required.

Retailers also submitted that the proposed date for the new regulation to apply, that is, 1 April 2011, is a misalignment with the date that distributors are required to provide the relevant data to the retailers, that is 1 January 2012. They believed that they should not be required to implement an obligation when they could not ensure that the data is available.

However, the proposal was strongly supported by all customer groups and the DPI. The DPI further proposed that customers may want to monitor their consumption and verify their first bill after their meter has been changed over to a smart meter. This could be achieved by requiring the relevant distribution business to leave a final accumulation meter read statement at the premises or remind the customer in the distributor's letter that installation is imminent and the customer should take the opportunity to note the current reading.

On 25 August, the Minister for Energy and Resources made a further submission to the review, supporting the Commission's draft decision that retailers show the total accumulated consumption read corresponding to the end of the billing period on the bill. The Minister requested that further consideration be given to extending the regulation to also include the read corresponding to the start of the billing period. This would maintain the existing practice for Victorian customers.<sup>35</sup>

Distributors confirmed that the relevant information will be available, in some cases, before the mandatory date of 1 January 2012 when it must be supplied daily to retailers.

### **Analysis and final decision**

As supported in the submissions to the draft decision, the Commission confirms that it will require the bill to include the consumption by tariffs segment the tariff and the total billed consumption on customers' bills.

The Commission notes the retailers' submissions against the proposal to include the total accumulation read corresponding to the end of the billing period on the bill. However, no new substantive information was presented in the submissions to the draft decision.

We retain the view that this information will be an important method for customers to continue to be able to verify their bill and that it will be overall beneficial for customers. It continues the current arrangements for customers whose bills are based on meter readings from accumulation meters.<sup>36</sup>

This new requirement will only extend to customers with a smart meter derived from interval data that is collected remotely.

We note that the distributors have confirmed that they are able to, and in some cases, are providing the information to retailers voluntarily now. Therefore, we believe it is not necessary for retailers or customers to wait for this information until 2012 in all cases and it would be unfortunate not to use this information where it is being provided. Hence we will require the information on the bill commencing 1 April 2011 where it is available.

We also note the strong support of the Minister for Energy and Resources to include the total accumulated consumption read corresponding to the start of the billing period on the bill.

We concur that requiring the total accumulation consumption reads corresponding to the start and the end of the billing period continues the current arrangements for customers and will enable them easy access to the information. The Commission supports this proposal in principle, but recognises that we have not provided the opportunity for submissions on this matter.

---

<sup>35</sup> Submission from the Minister for Energy and Resources, 25 August 2010.

<sup>36</sup> For avoidance of doubt, customers with accumulation meters must continue to receive the beginning and end accumulated data on their bills.

Therefore, we will defer this decision and include it in further reviews. The proposal raised in the DPI letter that the distributor may leave this information at the time of the meter changeover will also be reviewed in these consultations.

#### **FINAL DECISION**

The following must be shown on all customers' bills derived from interval data collected remotely from smart meters:

- the total accumulated consumption read corresponding to the end of the billing period commencing from;
  - 1 April 2011 where the distributor provides the total accumulated consumption read for a customer's smart meter on or after that date; and
  - 1 January 2012 for all customers.
- the consumption by tariff segment, price for each tariff segment and the total consumption for the period.

Retailers can determine their own format for this information, but it must be clear, understandable and not confuse customers.

Further consultation will be undertaken on:

- inclusion of the total accumulated consumption read corresponding to the start of the billing period on customers' bills
- whether the distributors should be required to leave customers the final accumulation meter read when they changeover the basic meter to a smart meter.

#### **4.2.2 Estimated and substituted data on bills**

The Energy Retail Code requires retailers to indicate whether the bill is based on a reading or is an estimated bill or whether it is based on any substituted data.<sup>37</sup>

##### **i. Estimates**

Currently, retailers are only required to show that a bill is estimated when it is *wholly* based on an estimate.

Historically, the main purpose for showing whether a bill was estimated was to alert customers that the meter has not been read and therefore the bill might be higher or lower than expected. It also reminded customers of their obligation to provide access to the meter, if this was the reason for the estimated bill.

The likelihood of estimated bills with smart meters should be minimal when the remote reading feature of these meters is fully employed.

---

<sup>37</sup> ERC clauses 4.2(e) and (f)

## ii. Substitutes

Currently the Energy Retail Code requires retailers to indicate when *any* substituted data has been used for billing purposes.

The incidence of substituted data being used for customer billing with smart meters should be very small as substitutions are only required when the data collected cannot be used or cannot be collected due to major meter failure. The final substituted data generally cannot be replaced at a later time in an adjusted bill.

### Draft decision

The operation of smart meters should largely eliminate missed meter reads, particularly as remote communications will no longer require customers to provide physical access to their meters.

However, estimated bills will still be required where storm damage has caused a communications outage or when systems are down. In these circumstances all or part of customers' bills will be estimated and the next bill will reconcile the charge once the actual data is obtained.

In the draft decision, we proposed a 5 per cent threshold for estimated bills - for a quarterly bill this corresponded to 4.5 days of estimates and for a monthly bill, approximately 1.5 days.<sup>38</sup>

However, it is possible that a momentary fault could cause loss of data for just a few intervals without a meter failure and that it might not be of value to indicate this to the customer on the bill. Retailers submitted that the costs of informing customers of any substituted data on their bills, particularly in call centre enquiries, far outweighed the financial implications for the customers. This suggested that a threshold for a substituted bill also may be warranted.

We also considered whether there might be a case for treating substitutes differently to estimates because substituted data is generally not replaced. For this reason, we proposed that retailers could have the option of not indicating the bill was substituted if they chose not to charge for the substituted intervals.

The Commission decided not to proceed with the proposal to apply a default tariff to an estimated bill in light of the Government's legislative and policy approaches to smart meter tariffs generally.

However, we noted the consumer groups' submissions that the current regulation did not place sufficient incentive on the retailers to avoid estimated accounts.

We considered it too early to consider amendments to the regulation at this time. Nevertheless, we noted that the issues raised by the consumer groups deserved consideration when the smart meters were operational and monthly billing was more prevalent. This regulation will be revisited at that time for review.

---

<sup>38</sup> This proposal is for 5% of the number of trading intervals in the bill that are substituted not 5% of the consumption. In a 90 day bill 5% of trading intervals is 216 trading intervals or 4.5 days.

We also considered that the incidence of substituted data used for billing purposes should be monitored by the relevant regulators.

**Views were sought on the draft decision.**

Clause 5 of the ERC will be amended so that:

- retailers must indicate that the bill is estimated when more than 5 per cent of the interval metering data that is used to determine the billed energy consumption are not actual readings from the smart meter
- when any interval metering data from a smart meter is required to be substituted to determine the energy consumption in the bill, the retailer must either:
  - (a) indicate on the bill that the bill is substituted and the extent of the substitutes; or
  - (b) not charge in the bill for energy consumption for each interval that is substituted.<sup>39</sup>

The Commission currently collects data on the number and proportion of estimated bills issued by retailers. The performance indicators will be expanded to include the number and proportion of bills issued with substituted data.<sup>40</sup>

The Commission will recommend to the Australian Energy Regulator (AER) that the extent to which the distributors substitute data in the interval data provided to the retailers is also monitored.

Currently retailers are allowed to recover between 9-12 months of undercharging. When smart meters are more fully operational and monthly billing of customers more prevalent, the Commission will review clause 6.2 of the Energy Retail Code to determine if a shorter period should be introduced.

## Submissions

A range of views were presented about how the regulation of billing should deal with estimated and substituted data.

Most retailers supported the Commission's concept of an estimated consumption threshold. However, many said that it would be premature to implement new regulatory obligations without fully understanding in what instances estimates and substitutes were being used, the extent of data received and the customers' reactions to billing changes with the installation of smart meters.

---

<sup>39</sup> The validation and substitution of metering data for this purpose will be in accordance with Clause 3.4 of the Metrology Procedure: Part A, National Electricity Market, July 2009, overseen by the Australian Energy Market Operator (AEMO).

<sup>40</sup> This requirement will be incorporated in the Information Specification (Service Performance) for Victorian Energy Retailers issued by the Commission.

Customers groups were generally supportive of a threshold for estimated billing, but considered that proposed 5 per cent materiality threshold was too high and would increase the risk of reconciliation error. In their view, this level would not incentivise industry to ensure that estimates in billing were kept to a minimum.

Retailers again submitted that the inclusion of substituted data information on a customer's bill and a lack of understanding by consumers would only give rise to further confusion and complaints. Consumer groups acknowledged these concerns, but understood that the instances of substitution should be rare and therefore the burden on retailers will not be too high.

Retailers did not agree that they could choose to not advise customers of the substituted data, and therefore not bill them for that period to avoid call centre costs. They did not consider it an appropriate solution, as they would still end up bearing the risk and cost that were out of their control.

The industry participants also pointed out that the definitions for substituted data were not consistent with those used in the national market. That is, the industry procedures allowed for a "final" read still to be reconciled if the actual data became available at a later date.<sup>41</sup>

There were views that the complex correlation between the time of the substitution and the customers tariffs, and the fact that there did not appear to be a public benefit in informing customers about the use of substitutions, should lead the Commission to not regulate in this area.

One distributor considered that that the industry should be held to account if the level of estimates and substitutes are unsatisfactorily high after smart meters are installed. The draft decision was interpreted as inappropriately notifying customers of substituted data on the bill as a tactic to achieve industry compliance with the rules.

Distributors also submitted that further monitoring of the extent of substituted data by the AER was not required as they and AEMO already monitored the daily level of substituted data. CUAC supported the draft decision to monitor the incidence of substituted billing by both the distributors and the retailers.

## **Analysis and final decision**

The Commission agrees with respondents that there are uncertainties as to the extent of estimates and substitutes as it is not certain how the new smart meters and the associated systems will perform. It is encouraged however that most industry participants believe that the occurrence of estimated and substituted data should be very small.

---

<sup>41</sup> The Metrology Procedure allows for substitutes and final substitutes. In the draft decision, the Commission was referring only to final substitutes. However, the Metrology Procedure also allows for final substitutes to be reconciled with an actual meter read at a later date, which was not the intention of the draft decision.



Nevertheless, the Commission believes that it is appropriate to continue the practice of notifying customers on their bills that estimates and substitutions have been used.

In our view, customers do have the right to know that part of their bill is not based on a direct measurement from the meter even if the financial implications may not be material for them. The provision of information increases transparency of the systems and processes used by industry places some incentive on industry to seek to minimise the need for estimated and substituted bills and allows customers to influence the efficiency of the processes where possible.

We noted that the parties do not agree as to how the information should be shown on the bill. Specifically, there was disagreement as to what threshold for estimates and substitutes should form the basis for disclosure on the bill and whether customers should be advised that any, or part, of their bill was based on substituted data at all.

It is possible that a momentary fault could cause loss of data for just a few intervals without a meter failure and that it may not be of value to indicate this to the customer on the bill. Most retailers considered that advising customers of these incidents was not at all beneficial and would just increase retailers' costs and customers' frustration. Retailers however did not support the proposal to allow them some flexibility in indicating whether there are substitutes, with the trade-off of not charging for substituted energy.

In the draft decision, we assumed a "final" substitute provided to a retailer meant that the data was lost permanently. Industry participants subsequently clarified that this is not the case. It appears that, in some cases, "final" substituted data could be in fact be replaced by another "final" substitute if better information or the meter reading is later be recovered and provided to the retailer. The difficulty is that the retailer does not know whether the data is permanently, or temporarily, lost at the time they prepare a customer's bill.

We have noted that the industry processes are not straightforward. Consequently, the Commission has decided on a simpler approach to be applied at this time, based on our knowledge of the performance of smart meters and the associated systems. We will not distinguish between estimated and substituted data for the purposes of customer billing. That is, bills will be required to indicate that they are "estimated" whether the data is estimated or substituted.

We have also decided to require retailers to indicate that the bill is estimated where there are 2 days or more of intervals for either estimated or substituted data. This decision is based on the number of intervals and provides more simply for both estimated and substituted data for different billing periods. Customers will be able to get an adjusted bill whenever the actual data becomes available.<sup>42</sup>

---

<sup>42</sup> For the avoidance of doubt where the retailer is not required to indicate that a bill is estimated it does not mean that the adjustments should not be applied when they become available and where an adjusted bill is required.

The Commission notes the distributors' submissions on the current industry and AEMO arrangements for monitoring the extent of substituted data. The Commission will draw this to the attention of the AER in advising on its final decision. The Commission will ensure that its performance monitoring of retailers captures both estimated and substituted data included in customers' bills.

#### **FINAL DECISION**

Clause 5 of the ERC will be amended so that:

Retailers must indicate that, for bills derived from smart meters where interval data is collected remotely, the bill is estimated when the interval metering data for 2 days or more (a total of 96 intervals or more wherever they occur in the billing period) used to determine the billed energy consumption are not actual readings.<sup>43</sup>

The Commission will recommend to the Australian Energy Regulator (AER) that the extent to which the distributors provide interval data from smart meters to the retailers that contains estimated and substituted data (as described above) is monitored. The Commission's energy retail performance monitoring will include both estimated and substituted data.

Currently retailers are allowed to recover between 9-12 months of undercharging. When smart meters are more fully operational and monthly billing of customers more prevalent, the Commission will review clause 6.2 of the Energy Retail Code to determine if a shorter period should be introduced.

### **4.3 Managing consumption and costs**

#### **4.3.1 Graphical information on the bill**

The current regulation assists customers to understand their consumption quite simply. That is, retailers are required to provide customers with graphs of the last 12 months of consumption by billing period, and a year-on-year comparison of current billing period consumption.<sup>44</sup>

TOU tariffs will mean that this simple consumption graph is unlikely to be adequate given the wide range of potential tariff structures that may emerge over the next few years. For example, the graphical needs of customers on a TOU tariff may be very different to customers on dynamic tariffs. Most graphs also show consumption on a quarterly basis only, which does not provide timely information to customers.

---

<sup>43</sup> This is data which has been assigned metering data quality flag S (substitutes that may be replaced by actual data) or F (final substitutes that will not be replaced) in accordance with clause 1.7.1 of the Metrology Procedure: Part B.

<sup>44</sup> ERC clause 4.4 - the periods to be graphed are either quarterly or monthly, depending on the billing cycle

## Draft decision

The Commission noted that there were many uncertainties as to when, and which tariffs, may be offered to customers under smart meters. Nevertheless, the indications were that most retailers who offer TOU tariffs to customers in the medium term would offer a three part tariff structure. Requiring the retailers to show this consumption on a customer's bill required no change to the existing regulations.

However, there would be a change required in relation to billing periods. If customers were on monthly billing cycles, the existing regulation required retailers to provide the consumption information on the bill on a monthly basis. If, however, customers were on a quarterly billing cycle, we considered that it was necessary that customers on smart meter tariffs also would be able to monitor their consumption behaviour on a monthly basis.

We also considered that customers should be provided with basic information of their daily costs on the different smart meter tariffs over a monthly period. This was particularly important if customers were to compare their costs on a flat tariff with a TOU tariff.

### Views were sought on the draft decision.

Clause 4.4 will be amended to include the requirement that retailers show on the consumption graph:

- the customer's consumption for each monthly period over the past 12 months; and
- the average daily cost for each smart meter tariff over the billing period.

## Submissions

All parties supported the principle underpinning the Commission's decision to ensure that customers were provided with more graphical information when smart meter tariffs are introduced.<sup>45</sup> Some retailers expressed a view that the presentation and format of the information should be left to the retailers' discretion, rather than mandated through regulation.

---

<sup>45</sup> Note that 'smart meter' tariffs are defined apply where a customer has a tariff based on interval data collected remotely from a smart meter. These could be flat or time of use tariffs.

There were other common themes in the submissions as outlined below.

- **Timeframe** for the implementation of the new obligations was emphasised by ERAA. Origin and AGL both considered that the systems changes will require at least 12 months to implement. Country Energy indicated that it would not want to implement systems changes during the current NSW energy reform and sales process.
- **Billing or monthly data.** Some retailers and distributors believed that the graph should be based on billing frequencies rather than monthly data. The timing of the meter readings might mean that showing the data on a monthly basis would be difficult if the meter reading was mid-month or if the customer's billing frequency was quarterly. The information on the graph would be misaligned with the customer's actual bill.
- **Clarification of requirements.** Retailers queried how they should treat service to property charges in complying with the obligation and whether the tariffs to be displayed were the retailers' or the distributors' tariffs. CUAC was also concerned to ensure that the obligation was properly drafted so that the tariff components for each month were displayed, not just the total consumption for the period.

Red Energy also commented that *"twelve months historical consumption is not always available to a Retailer illustrating how the bill space could be more usefully used by a Retailer on a new customer's first bill if flexibility is offered within the regulations"*.<sup>46</sup>

Both CUAC and Origin agreed that the average daily cost for each smart meter tariff over the billing period should be shown on the bill rather than being on the consumption graph. CUAC particularly thought this would be less confusing for customers.

## Analysis and final decision

The Commission notes the general support for the draft decision. We acknowledge some retailers' view that greater flexibility should be provided in enabling them to innovate in providing information on smart meter tariffs to customers. The regulatory framework already allows for this flexibility for market contracts, as retailers can agree with their market contract customers how this information could be shown on their bills. This regulatory approach will be maintained when customers are assigned to smart meter tariffs.<sup>47</sup>

This means that the information must be provided to customers on standing offer contracts as regulated, and alternative approaches can be offered to customers on market contracts.

Retailers will have the flexibility to show the average daily cost for each smart meter tariff over the billing period for both standing offer and market offer contracts.

---

<sup>46</sup> Submission from Red Energy, 13 August 2010

<sup>47</sup> Clause 4.4 in the Energy Retail Code is able to be varied by agreement with the customer.

The regulation currently states that retailers do not have to provide the information to customers in their first bills. This also will apply to the new regulation applying to customers with smart meter tariffs.

We note the comments that providing monthly information will be difficult if the billing cycle is mid-month and that it is not clear how the service to property charges will be treated. These issues apply already to the current regulatory requirements. Not all customers' bills fit neatly within the beginning and end of a month or quarter, and the current regulation clearly requires the graph to show the customer's consumption only. The Commission sees no purpose in fixed charges such as the service to property charges being graphically displayed on a monthly basis.

The Commission confirms that the minimal expectations required are as displayed in Figure 1 in Appendix B.

The Commission notes the submissions on the timing of the new obligations. These additional requirements will only be required as customers are transitioned to smart meter tariffs. We recognise that this timing is dependent on the discussions which are currently occurring between the Government and the relevant parties. Retailers who have substantial reasons for not being able to comply from 1 April 2011 should make appropriate submissions to the Commission for consideration of a later date for compliance, in accordance with normal regulatory practice.

#### **FINAL DECISION**

Clause 4.4 of the Energy Retail Code will be amended to include the requirement that, for customers with smart meter tariffs, retailers:

- graphically show the customer's consumption for each tariff component and each monthly period over the past 12 months; and
- the average daily cost for each smart meter tariff over the billing period on the bill

#### **4.3.2 Unbundling tariffs and charges on the bills**

Customers can request details of their network charges, retail charges and other charges,<sup>48</sup> but most electricity charges are provided to small customers on an aggregated basis, by fixed and variable components. Retailers however must separate the amount of the network charge on the bill if they directly pass that charge through to customers.<sup>49</sup>

---

<sup>48</sup> ERC clause 4.3

<sup>49</sup> ERC clause 4.2(i)

## Draft decision

Some retailers have begun identifying metering charges separately on customer bills (that is, two fixed components), presumably to provide customers with more information regarding the drivers of bill increases.<sup>50</sup>

Greater transparency through information to customers is a prerequisite for customers to benefit from the introduction of smart metering and unbundling could deliver part of this information.

The Commission considered that unbundling might provide a mechanism where the information from smart meters could assist customers to more easily modify their behaviour by the disclosure of charges that customers can influence.

The Commission nevertheless agreed that if the network and retail tariff structures were not aligned, the unbundling of charges would be complex for the retailers and probably not useful to customers. Where the structures were aligned, an unbundled bill could be more understandable by customers. However, this may not necessarily be the driving force for behavioural change for customers.

The Commission also agreed that requiring unbundling would add costs for retailers, with uncertain benefits. A requirement to fully unbundle charges also could result in retailers adopting the distributor's tariff structure, meaning a shift away from retailer led innovation.

### Views were sought on the draft decision.

The current requirement will be retained. That is, under clause 4.2(i), if the retailer directly passes through a network charge to the customer, the separate amount of the network charge must be shown on the bill. This charge must replicate the regulated charge.

## Submissions

Most submissions supported the draft decision, although CUAC recommended that the decision be deferred until the Government's deliberations on the transition to smart meter tariffs were finalised.

CALC strongly disagreed with the draft decision, considering that disclosing the network tariff on the bill will enable customers to compare costs across distribution areas and enable competition by comparison.

---

<sup>50</sup> The Commission has recently examined Origin Energy's delineation of metering charges and supply charges on customers' bills – see reference at <http://www.esc.vic.gov.au/public/Energy/Regulation+and+Compliance/Reports+and+Investigations/Origin+energy+metering+charges/Origin+Energy+Metering+Charges.htm>

SP AusNet submitted that, even if the retailers did not directly pass through the network charge to the customer, they still could decide to show some components of the network charge on the bill “possibly as a mechanism to provide customers with details of costs which are out of the retailer’s control.”<sup>51</sup> SP AusNet was concerned that these charges could be shown inaccurately.

### **Analysis and final decision**

The Commission acknowledges SP AusNet’s concerns regarding the possibility of some retailers’ inaccurately stating the distributors’ charges on the bills and have taken this into account.<sup>52</sup>

We also acknowledge the consumer groups issues. CUAC is concerned that there is still some uncertainty regarding the transitional arrangements to smart meter tariffs. However, we agree that it is likely that there will need to be some customer experience with these tariffs prior to a clear decision being able to be made as to whether a more disaggregated bill, noting that the bill already will contain a significant amount of information, will be beneficial to customers. This experience will also assist in understanding whether CALC’s submission has merit.

The Commission therefore considers that this final decision is appropriate now, but this decision does not preclude the possibility of the regulation being revisited at a later time.

#### **FINAL DECISION**

Clause 4.2(i) will be clarified to make clear the obligation that, if the retailer directly passes through a network charge to the customer or chooses to show the separate amount of the network charge on the bill, this amount must be shown clearly on the bill and must replicate the regulated charge.

### **4.3.3 Notification to customers of variations to tariffs**

The regulations require that customers’ explicit informed consent must be given to a tariff change in a market contract. Customers’ agreement is not required for deemed and standing contract tariff changes.<sup>53</sup> The regulations do not allow changes to a tariff structure, for example from a flat tariff to a TOU tariff, without the explicit agreement of customers for both market and deemed or standing contracts.

---

<sup>51</sup> SP Ausnet Final Submission, 24 August 2010, p6

<sup>52</sup> The Commission has addressed this matter already with Origin Energy with respect to metering charges – see reference at <http://www.esc.vic.gov.au/public/Energy/Regulation+and+Compliance/Reports+and+Investigations/Origin+energy+metering+charges/Origin+Energy+Metering+Charges.htm>

<sup>53</sup> ERC s20.1 and 21.1(b)

Retailers are required to advise their customers of any tariff change at least by the next bill after tariff change takes effect.<sup>54</sup> This requirement is set out in EI Act for customers on deemed and standing contracts and the Energy Retail Code for customers on market contracts.

### Draft decision

The Commission considered that it was no longer appropriate for notice of variations to any tariffs to be provided “...as soon as practicable and in any event no later than the customer’s next bill.” Customers should not receive notification that their tariff has increased at the same time that the increase is applied to their bill.

In the Draft Decision, the Commission reviewed the regulation under Energy Retail Code clause 20 – variations requiring a customer’s agreement, and clause 26.4 – notification to customers of tariff variations.

Clause 20 allows for the variation of an energy market contract so long as the retailer obtains the customer’s explicit informed consent from the outset. CALC raised the possibility that this clause may not comply with the “unfair terms” provisions of the *Fair Trading Act* and the new *Australian Consumer Law*.

The energy-specific regulation requires that customers provide their *explicit informed consent* to any contractual variations. The Commission therefore assumed that there will be a high degree of transparency for the customer in providing this consent. It will be the responsibility of the retailer to comply with this regulation and the consumer law.<sup>55</sup>

Notwithstanding the fact that customers on market contracts must give their explicit consent to any tariff variations during their contract period, the Commission believed that that these customers also should be advised of variations, particularly upward variations, prior to those variations taking immediate effect. We believed adequate notice should be provided to both inform customers and to enable them to consider their options in the competitive market.

---

<sup>54</sup> Section 35Cb) of the EI Act and ERC clause 26.4(b)

<sup>55</sup> See submission from the Executive Director, Consumer Affairs at <http://www.esc.vic.gov.au/NR/exeres/73BC5D94-88A2-4910-93EE-E47E83A10385.htm>, where she states that the transparency of the contractual term will be a key factor in determining whether or not the term is considered fair under the law.



The *Energy and Resources Legislation Amendment Bill* (the Amendment Bill) inserts new heads of power for the Governor in Council to make orders in relation to the operations of smart meters. Orders might be made to require retailers to notify customers about smart meter tariffs and to meet certain requirements before offering such tariffs to customers. The DPI has signalled that consideration is being given to the current statutory notification requirements for TOU tariffs customers on deemed and standing offer contracts.<sup>56</sup>

The Commission also considered that the obligations on distributors to advise retailers of pending network tariff changes should be reviewed so that the retailers could meet any new regulatory obligations. Clause 9.8 of the default Use of System Agreement deals with this matter.

**Views were sought on the draft decision.**

Clause 26.4(b) of the ERC will be amended to require retailers to notify the customer of any variation to the retailer's tariffs at least one month prior to the date of effect. This notification must be separate to the customer's bill. The notification will apply to existing tariffs and any new smart meter tariffs.

Clause 9.8 of the default Use of System Agreement will be redrafted to ensure that the distributors advise the retailers of the network tariff changes in a timely manner, so that the retailers can meet their new obligations.

## Submissions

Most submissions expressed agreement in principle that customers be notified of variations to tariffs prior to the date of effect. Consumer groups and EWOV supported the draft decision.

There were, nevertheless, a number of issues raised about the scope and implications of the draft decision for the industry participants.

1. *Scope of the decision.* ERAA and some retailers considered that the draft decision should only apply to notification to customers on new smart meter tariffs. The DPI also indicated in its submission that it supported the draft decision *"to the extent it relates to customers who have been assigned to tariffs enabled by the smart meter roll-out"*.<sup>57</sup>

---

<sup>56</sup> See DPI submission to the Commission's Issues Paper: Regulatory Review – Smart Meters, April 2010 at <http://www.esc.vic.gov.au/NR/exeres/73BC5D94-88A2-4910-93EE-E47E83A10385.htm>

<sup>57</sup> See submission from the Department for Primary Industries, 17 August 2010, p2

2. *Capacity of the retailers to implement the decision.* ERAA and all retailers and distributors submitted that the network tariff approval process, and the consequent notification by the distributors to the retailers, meant that the retailers would not be able to comply with this notification timeframe.

This concern arises from the annual approval process. The distributors advise that it is common for them to receive regulatory approval of their proposed network tariffs, which prospectively are to apply from 1 January, in early to mid-December the preceding year. This means that the retailers who intend to apply the tariff increases from 1 January are not able to be provided with final advice prior to that date.

Consequently, the retailers submitted that it was not sufficient to require the distributors to provide the necessary information to retailers “in a timely fashion”. They differed in their expectations, however. Origin considered that the information should be provided “at least 10 business days” in advance of the date of effect, while Red Energy believed that there should be a “firm obligation on Distributors to notify Retailers of network tariff changes two months prior to their effective date”.<sup>58</sup>

3. *Timing of the notification.* Subject to the necessary co-ordination between the distributors and the retailers, some retailers supported the proposed requirement for customers to be provided with one months’ notification of tariff variations. Red Energy however considered that the obligations which apply in New South Wales should be adopted, that is, customers are advised in advance of the date that the tariff variation is to take effect, but no timeframe for that notification is stipulated.<sup>59</sup> ERAA suggested that notification be required in “a timely manner”.

TRUenergy recognised that timely tariff information should be provided to customers when smart meter tariffs are introduced to facilitate customer choice, but that the Commission should delay its decision subject to the policy deliberations being concluded.

4. *Timing of smart meter roll-out.* Some distributors considered that the link between the installation of the smart meters and the notification to retailers and consequently customers of tariff changes would inevitably lead to a delay in the timing of the smart meter roll-out program.
5. *Retailers’ system changes.* Some retailers argued that these changes must not be imposed without providing sufficient time for the industry to make the necessary systems changes.

---

<sup>58</sup> See submissions from Origin Energy and Red Energy at <http://www.esc.vic.gov.au/NR/exeres/73BC5D94-88A2-4910-93EE-E47E83A10385.htm>.

<sup>59</sup> The NSW regulation is clear that the tariff variations cannot apply retrospectively

## Analysis and final decision

The Commission does not consider that the current policy deliberations on what, and when, smart meter tariffs will be introduced impact the general principle that customers should be given timely notification of tariff variations.

However, we accept that there are some uncertainties for the retailers in making their decisions about tariffs and tariff variations. Therefore, the Commission agrees that it is appropriate for this final decision to simplify some matters and address only smart meter tariffs, that is, those tariffs which are based on interval data being collected remotely from the meter.

We acknowledge also that the final regulatory decision can only impact customers on market contracts as customers on standing contracts are subject to the legislative provisions.

We have therefore considered the submissions against this background and against the smart meter roll-out timetable, which extends from mid-2010 to 2013.

There are two distribution tariff processes which impact this decision:

1. the annual network tariff approval process
2. the decision by the distributor to reassign an individual customer to a smart meter tariff.

These processes currently impact customers differently depending on whether they are on a standing contract or a market contract.

Customers currently on standing contracts do not give their consent to tariff variations; they are gazetted and published by the retailers one month before they take effect.<sup>60</sup> Retailers cannot vary these tariffs more frequently than at six monthly intervals.

Distributors have historically increased their network tariffs from 1 January, leading to most retailers passing these increases to their customers on standing contracts on single rate, two-rate and 'non-smart meter' time of use tariffs. Customers on market contracts must give their explicit consent to a tariff variation and, theoretically, these tariffs can be varied at any time with consent.<sup>61</sup>

Once clarity is reached on the smart meter tariff structures that must be available for customers, the Commission understands that there may be a process whereby customers on standing contracts will be able to choose their smart meter tariff. Customers on market contracts may already have given their prior consent to this

---

<sup>60</sup> These standing offer prices must be published by the retailer in a newspaper generally circulating in Victoria on the day they are gazetted. They must be published by the retailer on its internet site and by the Commission on its Yourchoice website on the day they take effect.

<sup>61</sup> The Commission notes that retailers have increased their market contract prices at many different times during a year.

tariff structural change in entering the contract or this consent will need to be separately provided. The smart meter tariff could be a flat or time of use tariff.<sup>62</sup>

It is assumed that these tariffs will be published in accordance with the distributors' normal network tariff approval processes. However, they cannot be assigned to individual customers unless the customers have a smart meter where data is being collected remotely. It is assumed that the distributors will determine progressively until 2013 which customers will be reassigned to these new tariffs in accordance with their smart meter roll-out program.

The Commission notes that the distributors are publishing the suburbs subject to their roll-out program in Victoria.<sup>63</sup> We note that three months' notice of the meter installation is provided. Given this, it is assumed that the distributors will also plan systematically the reassignment of their smart meter tariffs to individual customers, in accordance with the agreement reached with the Government and other industry parties.

The Commission does not consider it unreasonable to expect that the distributors can provide sufficient notice to the retailers of this reassignment to enable adequate notification to be provided to customers. We understand that initially the advice from retailers to customers will have to address tariff structural changes in some instances, and just tariff variations in other cases. We do not underestimate the complexities involved in these processes.

Therefore, in order for the retailers to provide 20 business days' notification to customers, we expect that the distributors should provide the retailers with 30 business days' notification of the planned network tariff reassignment enabled by the operations of the smart meter. For customers on market contracts, we believe that this notification period is achievable.

We understand for retailers that the relationship between the distributors' annual network tariff approval process and the republication of standing offers is more closely linked. However, we note that retailers are required to publish their standing contract tariffs at least one month before they take effect. Presumably, therefore, it is not unreasonable for individual customers to be advised of potential tariff variations at the same time. We note that TRUenergy already provides 10 business days' notification to its customers.

The Commission believes it would be appropriate to review this regulation in 2013.<sup>64</sup>

---

<sup>62</sup> Note that this consent must be to a tariff structure change, for example, a customer agreeing to change from a single rate or two-rate tariff to a time of use tariff. It does not simply mean a customer giving consent to an existing single rate, two rate or time of use tariff being varied. The Energy Retail Code will be amended to make this absolutely clear.

<sup>63</sup> <http://new.dpi.vic.gov.au/energy/projects-research-and-development/smart-meters/smart-meter-rollout-locations>

<sup>64</sup> The Commission notes that the NECF may supersede this regulation, in any event.

#### **FINAL DECISION**

Clause 26.4(b) of the ERC will be amended to require retailers to notify customer on market contracts of any variation to the retailer's tariffs at least 20 business days prior to the date of effect. This notification must be separate to the customer's bill. The notification will apply to new smart meter tariffs.

Clause 9.8 of the default Use of System Agreement will be redrafted to ensure that the distributors provide the retailers with 30 business days' notification of the smart meter tariff reassignments which will apply to individual customers.

#### **4.4 Shopping around for a better offer**

The ability to choose between competing retailers offers customers one of the best opportunities for managing their electricity charges. The marketing of retail offers is currently regulated under the Retail Marketing Code of Conduct (the Marketing Code) and Guideline No 19: Price and Product Disclosure (Guideline No 19).

These instruments set out the key regulations governing marketing activity, including requiring retailers to provide details of all prices, charges and tariffs to be provided to customers before entering into a contract<sup>65</sup>. Guideline No 19 requires retailers to provide customers a written offer summary in a standard form so that they can use this to compare offers between retailers.

##### **Draft decision**

The Commission considered that it is already difficult for some customers to decide the best offer for them when they are comparing their relatively simple two-rate or single-rate structure against another retailer's offer. This was particularly the case when they are trying to make these decisions with door-to-door sales representatives or telemarketers.

We believed that these decisions will become more complex when smart meter tariffs are introduced and customers have to decide between different retailers. They may also have to decide between a flat rate tariff and a TOU tariff offer, factoring in the non-price benefits of each offer.

We therefore considered that Guideline No 19 required review and amendment. However, we were persuaded that it was too early to consider the best format and approach. Therefore, we proposed that the Commission will commence a review of Guideline No 19: Energy Price and Product Disclosure in January 2011, taking into account the smart meter tariffs that are likely to be offered to customers and the work being undertaken by the AER.

This draft decision was supported in all submissions.

---

<sup>65</sup> Marketing Code, section 6.3

**FINAL DECISION**

The Commission will commence a review of Guideline No 19: Energy Price and Product Disclosure in January 2011, taking into account the smart meter tariffs that are likely to be offered to customers and the work being undertaken by the AER.

## 5 | ENABLING ACCESS TO BILLING AND METERING DATA

### Overview

This section brings together a number of related issues concerned with providing information to customers about their power usage when they have a smart meter. We address the reasons why customers may want access to this information, specifically:

- historical billing data – this data is at billing level and would enable customers to replicate a missing bill
- metering data – this is the interval (half hourly) data that underpins the billing level data for customer with smart meters and which will be much more useful to customers for analysing usage patterns than data that just corresponds to the billing period.

We also address some issues associated with the provision of the metering data, that is:

- metering data provided through new technologies;
- the role of distributors in providing metering data to customers; and
- privacy and security concerns.

### 5.1 Access to data

#### 5.1.1 Access to historical billing data

The current regulations require that retailers provide customers (including former customers) with historical billing data held by the retailer. This right of access includes one free request per year for data within the last two years. Retailers are required to use best endeavours to provide the data within 10 business days.

#### 5.1.2 Access to metering data

Smart meters will record consumption information each half hour and for the data to be useful to customers, it must be:

- provided soon after the consumption was recorded; and
- supplied to customers in a form that enables easy analysis given the increased volume of data.

There is also newly developing technology to assist customers. In-home-displays (IHDs) accessing data directly from the meter via a wireless link means that information will be provided at relatively low cost and in near real-time that will enable customers to better understand and manage their electricity consumption. The use of the internet to provide metering data directly to customers however raises significant issues of privacy and data security. Metering data has always been regarded as confidential, but with interval data additional information such as when a customer's home is consuming power and when it might be occupied becomes available. This information must be kept private and secure.

Most overseas jurisdictions are providing customers with secure access to their smart metering information.<sup>66</sup> This information is often provided by the distributors.

### **Draft decision**

The draft decision was that the current regulation appeared to continue to satisfy customer's needs to reconstruct their bill even with new tariffs associated with a smart meter.

Further, the Electricity Customer Metering Code requires "metering data" and "energy data" to be made available to customers or their representatives by the retailer or distributor.<sup>67</sup> The regulation also sets out that there may be a charge for such data that relates to a period that is more than two years earlier.

Therefore, we concluded that the current regulation enabled access to the relevant metering data by the customer. However, the existing regulation does not deal with how the data is provided or how soon after the energy is consumed should the relevant consumption data be made available.

We considered that there could be a case for the distributors to provide this data directly to customers, but this would require a significant shift in the customer/distributor relationship. Therefore, at this time, we considered that retailers should generally provide metering data to customers.

New technologies, including IHDs, provide a new avenue of customers obtaining data. Eventually, customers should be able to purchase an IHD or have an IHD provided by their retailer as part of their contract offerings. The IHD will communicate wirelessly via the home area network (HAN) based in the meter so that near real-time usage and cost information can be displayed inside the premises.

It was the Commission's view that information provided in this way was not validated metering data and hence the provision of this information does not meet the regulatory requirements for the provision of metering data. Therefore, we needed to consider whether other regulation is required for this purpose.

---

<sup>66</sup> Draft Decision - Background Paper 2: Review of Other Jurisdictions – Regulations and Smart Meters

<sup>67</sup> Clauses 7.1(d) and (e)



As well, we needed to consider the security and the privacy of data. The Commission understood that the retailers, through the distributors, would be able to arrange for a customer's IHD to securely and uniquely be bound to the meter. This raised questions as to how the confidential nature of the data would be handled when customers' changed premises, as the data will be retained in the meter.

Energy businesses are regulated by the *Federal Privacy Act, 1988*, which incorporates the National Privacy Principles. These principles set clear restrictions on the use, disclosure and storage of personal information, and the Commission expected that both the distributors and the retailers will develop arrangements in accordance with these principles.<sup>68</sup>

We noted that there were concerns about the role of third parties in enabling customers to access their metering data. We considered that the provision of information to third parties is a matter for individual customers. That is, customers could choose to provide their consent so that their data is passed to third parties; in facilitating this access, the utilities must comply with the relevant privacy law.

#### **Views were sought on the draft decision**

The provision of historical billing data will continue to be regulated under clause 27 of the Energy Retail Code.<sup>69</sup>

Retailers should provide metering data to existing (and former) customers. Clause 27 will be amended in the Energy Retail Code to enable customers to access their metering data as follows:

- if requested by a customer with a smart meter, retailers will be required to provide the interval data electronically, or by some other form, in a way which makes the information understandable and accessible to the customer
- retain and provide this information to existing and former customers with the same obligations as under clause 27.2.

In connection with In Home Displays (IHDs), the Commission will incorporate new provisions in the relevant regulations to require:

- both retailers and distributors to establish a set of privacy principles for the dissemination of consumption information through IHDs, before they are utilised
- retailers, in providing IHDs to their customers, to provide information to the customers setting out how the consumption and cost information displayed on the IHD compares to the consumption and cost details on the customer's bill.

---

<sup>68</sup> The Commission notes that the issue of the security of data when being communicated between the meter and the distributor is a matter for the National Electricity Rules to prescribe.

<sup>69</sup> The terms used for 'historical billing data' will be clarified in the drafting of this clause.

## Submissions

Stakeholders were in general agreement with the principles embodied in the draft decision for the provision of historical billing data and metering data. There were diverse views about IHDs, the extent that regulation was required and how to ensure privacy of data.

Retailers generally agreed that all customers should be entitled to receive their more detailed metering data at least annually, but they should be entitled to charge a fee for the cost of this service.

Consumer groups were still concerned about customers without computer literacy or access. They believed that metering data must be made available to these households (35% of households) at a similar standard, level and frequency as would be made available to customers with access to the internet. They submitted that this could be through intermediaries or third parties, subject to specific privacy considerations being addressed.

Some submissions supported the draft decision for distributors and retailers to draft privacy statements, and advised of additional initiatives being undertaken. DPI foreshadowed that it intended to examine the necessary frameworks and protocols to ensure that all mechanisms for providing information to customers were properly addressed. CALC considered that the Commission should ensure that the regulation was extended to any electronic provision of data, for example through web portals, now.

The distributors pointed out that Victorian AMI Minimum Functional Specification already prescribed security features for the ZigBee based Home Area Network technology. This protects the data from those who should not have access.

Some retailers supported the draft decision to require industry parties to develop privacy statements, but asserted that attention must also be given to the non-utility providers of the data, through IHDs or other mechanisms. These IHDs can be viewed simply as an additional information appliance which can be purchased in isolation of the energy retailer. It therefore expected that a number of third party suppliers would be seeking to provide services to customers with smart meters, including the provision of IHD.

Nevertheless, retailers acknowledged their responsibility to ensure customers have the knowledge and support to effectively understand and use this data. Further, if privacy procedures were required, they must be extended to internet access, web portals, Google, I-phone application arrangements and other Home Area Network devices. ERAA considered matters around IHDs should not be regulated.

Other retailers considered that it was too soon to consider privacy matters and that in any event such consideration was beyond the Commission's regulatory mandate. These decisions should be delayed until the National Smart Metering Program, which is considering this issue, reached some position on the matter.

Consumer groups supported the draft decision for retailers and distributors to be required to establish a set of privacy principles for dissemination of information through in-home displays.

## 5.2 Analysis and final decision

The final decision must cover the information provision requirements to customers from the historical billing data, the new metering data available to customers from the smart meter, the possibility of new parties being involved and the related privacy considerations.

Most submissions support the draft decision that the regulation of historical billing information does not change under smart meters.

There was general agreement that retailers should provide metering data to customers, in whatever form, although consumer advocates noted that this function may progressively be provided through third parties.<sup>70</sup> The Commission also notes that the DPI is considering some further work in this area.

The Commission believes that the obligation to provide metering data should have the same regulatory controls as those that apply to the provision of billing data.<sup>71</sup>

The Commission notes the submissions, particularly from consumer groups, that third parties may facilitate customers accessing their metering data. We believe that this is a matter for customers to decide and that the National Privacy Principles, together with the arrangements that customers have with their agents, are the primary protections for customers.

Our view is that it is timely for the distributors and retailers to formulate and publish some basic privacy principles before IHDs are used by customers. Additionally, retailers who have supplied an IHD to their customers should provide them with information about how the information displayed by the IHD compares with information on their bill.

We note the concerns in a number of submissions that IHDs can be provided to customers directly, that is, by other than the retailers. However, only the distributor with its responsibility for the smart meter can securely bind the IHD device to the meter so that information can flow only to that device. This principle applies whether the device is supplied by the distributor, customer's retailer, by a third party or whether the customer themselves purchases such a device.

We note the submissions that the regulation should be extended to the use of other devices that use the HAN to communicate with the meter. We note that many aspects of the process and protocols involving the use, commissioning and privacy of devices are being developed in the National Smart Meter Project and that the DPI intends to undertake further review of these issues.

---

<sup>70</sup> The Commission has not extended the review to the role of third parties, other than to note that the obligations for privacy and confidentiality of data will apply to those entities under the privacy legislations.

<sup>71</sup> These obligations are embodied in clause 27 of the Energy Retail Code. This decision and obligation on retailers does not prevent a distributor providing metering data to the customer's IHD.

Consequently, the Commission will wait the outcome of that review prior to implementing further regulation in this regard.

#### **FINAL DECISION**

The provision of historical billing data will continue to be regulated under clause 27 of the Energy Retail Code.<sup>72</sup>

Retailers should provide metering data to existing (and former) customers. Clause 27 will be amended in the Energy Retail Code to enable customers to access their metering data as follows:

- if requested by a customer with a smart meter, retailers will be required to provide the interval data electronically, or by some other form, in a way which makes the information understandable and accessible to the customer.
- retain and provide this information to existing and former customers with the same obligations as under clause 27.2.

In connection with In Home Displays (IHDs), the Commission will incorporate new provisions in the relevant regulations to require:

- both retailers and distributors to establish a set of privacy principles for the dissemination of consumption information through IHDs, before they are utilised
- retailers, in providing IHDs to their customers, to provide information to the customers setting out how the consumption and cost information displayed on the IHD compares to the consumption and cost details on the customer's bill.

The Commission will wait the outcome of the DPI review of other mechanisms for providing metering data prior to considering further regulation in this regard.

---

<sup>72</sup> The terms used for 'historical billing data' will be clarified in the drafting of this clause.

## 6 REMOTE CONNECTION, DISCONNECTION AND RECONNECTION

### Overview

Smart meters allow new approaches to the connection, disconnection and reconnection of customers.<sup>73</sup> They will be able to perform these functions remotely using a facility that is built into the meter. This means that a visit to the premises will not be necessary; the service could be performed much quicker and simply and at lower cost.

Currently, these services are provided manually by the distributor on-site using the service fuse.

With smart meters, it may still be necessary for the premises to be visited to connect, disconnect and/or reconnect via the service fuse, but the majority of situations will involve remote functions via the smart meter.

### 6.1 Prompt connection, disconnection and reconnection service

There are a number of time periods in the current regulations for the manual connection, disconnection and reconnection of customers' electricity supply.

Retailers must request a connection within one business day<sup>74</sup> and the distributor must connect the premises to supply within 10 business days<sup>75</sup> or by one business day if only energisation is required.<sup>76</sup>

Both distributors and retailers must use their best endeavours to disconnect premises at the time of a customer's request.<sup>77</sup>

---

<sup>73</sup> Deenergisation and energisation are also terms used to describe making the power available to premises where the premises is already connected to the distributor's mains. A consistent approach is required across a number of codes for these definitions to take into account smart meter based services. For this paper, we will continue to use reconnection and disconnection interchangeably with energisation and de-energisation.

<sup>74</sup> ERC Clause 2

<sup>75</sup> EDC Clause 2.2

<sup>76</sup> EDC Clause 2.5

<sup>77</sup> EDC Clause 12.4 and ERC Clause 13.5

For reconnections, the relevant regulations require the retailers to energise customers' connections on the same day if the request is made before 3 pm or if the request is made after 3 pm, the next business day.<sup>78</sup> This reconnection is performed by the distributor for the retailer.

Regulation was not concerned about the method of the connection, disconnection and reconnection as a visit to the customer's premises was necessary to insert or remove the fuse (on the assumption that most premises were physically disconnected).

The smart meter functionality specification requires that the meter and communication systems can perform 99% of connections and disconnections in one hour.<sup>79</sup> Government however has not mandated a higher level of service in the corresponding service levels.<sup>80</sup>

### **Draft decision**

The Commission recognised that not all connections, disconnection and reconnections will be performed remotely and that a decision on how each will be carried out is matter for distributors and retailers, taking into account safety considerations.

Nevertheless, the draft decision assumed a high degree of remote connections, reconnections and disconnections at a point in time.

Where the distributor, based on a request from a retailer, decided it could safely use the remote facility to disconnect or reconnect the customer in energised premises, it was the Commission's view that the retailer and the customer would benefit from a shorter time period. A shorter period should not involve material costs, including after hours' services.

Connecting and energising premises involves more technical and administrative work and consequently the Commission did not propose to vary the time period to complete these activities (that is, 10 business days). However, we considered that this time frame should be subject to review as remote connections and energisations become more prevalent in the community.

---

<sup>78</sup> ERC Clause 15.2(a)

<sup>79</sup> [http://new.dpi.vic.gov.au/\\_\\_data/assets/pdf\\_file/0014/13109/Minimum-AMI-Functionality-Specification-Victoria.pdf](http://new.dpi.vic.gov.au/__data/assets/pdf_file/0014/13109/Minimum-AMI-Functionality-Specification-Victoria.pdf)

<sup>80</sup> Advanced Metering Infrastructure – Minimum AMI Service Levels Specification (Victoria), Sept 2008, page 6

**Views were sought on the draft decision.**

To amend the relevant clauses in the Energy Retail Code and Electricity Distribution Code to:

- require that where a remote connection, disconnection or reconnection is to be carried out, that the distributor uses its best endeavours to perform the service within two hours of a valid request from a retailer or customer<sup>81</sup>, and
- clarify the terms associated with connection and energisation taking into account smart meters to remove any ambiguity.

**Submissions**

Most retailers and consumer groups supported the draft decision, noting that improved service would be a consumer expectation once the knowledge of the benefits of smart meters was more widely appreciated.

Some retailers noted that the industry had agreed a process for specifying set times each day for premises to be reconnected to allow for any rectification of faults or for other reasons that may be identified by the remote processes.

Two retailers considered that there was no need to increase the service delivery timeframes because of the advent of smart meters and that any Victorian regulatory amendments should wait for the establishment of the national smart metering service levels for remote disconnection and reconnection.

This submission was supported by distributors who stated that their system design has been based on the Victorian AMI Services Level Specification, which currently does not provide for time based disconnection and reconnection service orders.

Nevertheless, some distributors supported the draft decision for reconnections only, subject to the condition that the service can be carried out safely. Others noted that the majority of these services are scheduled for a future date, usually at the request of the customer, meaning that the proposed regulation was unnecessary for most services.

The distributors also recommended that any changes in the obligations should only be effective from 1 January 2012 and should only apply after requests have been verified and properly processed.

Consumer advocates submitted that it is reasonable to expect faster remote connection, disconnection and reconnection times, subject to the existing regulation for disconnection for non-payment of accounts remaining.

---

<sup>81</sup> These timeframes will most appropriately be applied to customer requests. The regulation will be properly drafted to ensure that obligations on retailers to follow proper disconnection and reconnection timeframes for credit management purposes will be adhered to.

## **Analysis and final decision**

Submissions generally supported the principle of a prompt remotely based reconnection and disconnection services. Respondents generally agree that this has most value in the case of reconnections.

The Commission's view is that the remote reconnection and disconnection capability provides significant operational savings for the distributors, which ultimately get passed on to consumers. Therefore that this capability should be used as soon as processes and safeguards are developed which make this possible.

The Commission understands that some distributors have submitted charges for remote disconnection and reconnection services, as well as the corresponding manual services, to the AER for approval in its current distribution price review for the period 2011-2015. We note that Jemena in its regulatory proposal to the AER indicated that it would be in a position to provide these remote services to customers with AMI meters in May 2010.

The Commission agrees that it is paramount that the service must be able to be performed safely by remote means and that this is a criterion that the distributor must apply when making a decision how to perform the service. The Commission's draft decision for these service levels does not apply to scheduled or time based requests, but for requests that were to be carried out the same day or "as soon as possible" as might be encountered for a move-in where supply is not connected and can be safely reconnected remotely.

We are keen to see this service introduced for the benefit of customers, but recognise that it is necessary that business rules and industry processes to be developed so that retailer's and customer's requests can be appropriately received and processed. Hence we require a "best endeavours" approach to meet the obligation rather than making a prescriptive rule.



### **Final Decision**

To amend the relevant clauses in the Energy Retail Code and Electricity Distribution Code to:

- require that where a remote connection, disconnection or reconnection is not for a scheduled time, the distributor must use its best endeavours to perform the service within two hours of a request from a retailer or customer being validated<sup>82</sup>, and to be carried out:
  - in accordance with clause 12 of the EDC and clauses 13, 14 and 15 of the ERC; and
  - only where it is safe to do so.

## **6.2 Customer protection under disconnection**

When disconnection is performed manually, there is the opportunity for the technician to ascertain whether the premises are the correct premises and whether someone will be continuing to occupy the premises and under what circumstances. None of these checks will be possible if the premises are disconnected remotely.

The existing regulations require notification to customers prior to disconnection and, for customers experiencing financial difficulties, the retailers must take additional steps prior to initiating disconnections. The regulation does not mandate that retailers must make site visits.

### **Draft decision**

The Commission proposed to amend the regulations so that the retailer's disconnection warning to customers indicated that the disconnection might be performed remotely without a visit to the property. Some consumer advocates also believed that the regulation should be extended to require the retailers to make two attempts within a 24 hour period to contact *all* customers prior to the remote disconnection, not just customers experiencing financial difficulties

The Commission understood the consumer groups' concerns to be that the capacity to disconnect customers remotely would mean that computer errors were made and customers disconnected wrongly. We also understood their view that a site visit might mean that customers could avoid disconnection, although this does not appear to have been a common practice in recent years.

---

<sup>82</sup> These timeframes will most appropriately be applied to customer requests. The regulation will be properly drafted to ensure that obligations on retailers to follow proper disconnection and reconnection timeframes for credit management purposes will be adhered to.

The Commission noted that there were already obligations on the distributors with respect to disconnection of supply. We did not have evidence that these obligations had been systemically breached with manual disconnections to warrant additional regulation on the distributors at this time.<sup>83</sup>

The Commission noted that the wrongful disconnection legislative provisions provided a significant incentive on the retailers to avoid wrongful disconnections.<sup>84</sup> The Energy Retail Code requires retailers to take additional steps in respect to certain customers prior to disconnection, that is:

*“...a retailer must not disconnect a domestic customer if the failure to pay the retailer’s bill occurs through lack of sufficient income of the customer until the retailer has also complied with clause 11.2, using its best endeavours to contact the customer in person or by telephone...”*

We did not think that it was reasonable to expect the retailers to undertake two site visits to all customers’ premises prior to disconnection, as proposed by some consumer groups. However, we thought it reasonable to increase the regulation for customers experiencing financial difficulties. That is, to remove the best endeavours obligation and require the retailer to contact these customers in person or by telephone when the premises were being remotely disconnected.

**Views were sought on the draft decision.**

Clause 13.1 of the Energy Retail Code will be amended to require retailers to state on all disconnection warnings that the disconnection could occur remotely.

Clause 13.2 of Energy Retail Code will be amended so that, when customers covered by this clause are to be disconnected remotely, retailers must contact the customer in person or by telephone, or in extenuating circumstances, by mail.<sup>85</sup> This communication must set out all the options for the customer.

**Submissions**

All submissions supported the requirement for the retailer to state on the disconnection notice that the disconnection could be carried out remotely.

---

<sup>83</sup> The Commission nevertheless noted the consumer concerns in its Final Report: Review of Wrongful Disconnection Payment, January 2010 at <http://www.esc.vic.gov.au/NR/exeres/F6AFB516-7786-4013-989F-B094C7BE5571.htm>. Consideration could be given to extending the statutory wrongful disconnection provisions to the distributors.

<sup>84</sup> *ibid*

<sup>85</sup> Extenuating circumstances will be defined to mean that a letter can be sent after a retailer has attempted unsuccessfully to contact the customer after making one visit or two telephone calls to the property.

Parties were divided on whether additional steps should be taken to personally contact customers who were facing disconnection. Consumer submissions submitted that these efforts should be made for all customers in these circumstances, not just those experiencing financial difficulties.<sup>86</sup> Moreover, CUAC considered that it was not onerous for retailers to make personal visits prior to disconnection.

ERAA and retailers submitted that the ‘best endeavours’ obligation should not be replaced with more prescriptive requirements because the responsibility to avoid disconnection remained with the retailer; no onus was placed on the customer to make contact. AGL considered that the obligations on retailers to assess customers for hardship programs, and therefore avoid disconnection, were sufficient to protect customers in these circumstances.

Notwithstanding these objections, the form of the contact was considered too prescriptive, that is, it did not allow for SMS or email contacts. CALC urged the Commission to require the information to be sent ultimately by registered mail.

There was also a concern that the obligation may be extended to distributors or that the retailers would have to take additional steps with ‘unknown’ customers, that is, new customers who had not made contact at all with the retailers and did not pay their first account.

### **Analysis and final decision**

The overall support for the disconnection notices to state that the disconnection may be undertaken remotely is noted.

The Commission clarifies that the regulatory obligation embodied in clause 13.2 of the Energy Retail Code is designed to ensure that the retailer takes all the necessary steps prior to disconnecting a customer who they believe may be experiencing financial difficulties.

We do not see that the obligation should be extended to all customers just because the premises are being disconnected remotely. There are clear rules for providing sufficient notice to all customers prior to disconnection and the wrongful disconnection compensation provisions do provide an incentive on retailers to avoid non-compliance with this regulation.

The Commission accepts that some customers will not make contact with the retailer when disconnection action is threatened for a variety of reasons. However, for customers who have been assessed as experiencing financial difficulties, we do not consider the proposed requirements onerous.<sup>87</sup> We understand why notifying by registered mail may be considered desirable, but are concerned that the letter may just not be collected by the customer for whatever reason.

---

<sup>86</sup> In particular, see submissions from CUAC and Mr W Brazel at <http://www.esc.vic.gov.au/NR/exeres/73BC5D94-88A2-4910-93EE-E47E83A10385.htm>

<sup>87</sup> Origin’s suggestion that the last resort communication could be a letter, SMS or email is accepted and will be reflected in the final drafting.

The Commission clarifies that this obligation does not apply to the distributors and could not apply to new customers without the retailer having the opportunity to assess their capacity to pay and on-going consumption and offer affordable instalment plans.

#### **FINAL DECISION**

Clause 13.1 of the Energy Retail Code will be amended to require retailers to state on all disconnection warnings that the disconnection could occur remotely.

Clause 13.2 of Energy Retail Code will be amended so that, when customers covered by this clause are to be disconnected remotely, retailers must contact the customer in person or by telephone, or in extenuating circumstances, by mail, SMS or email.<sup>88</sup> This communication must set out all the options for the customer.

### **6.3 Information to new customers after remote disconnection**

Currently, if retailers request vacant premises to be disconnected, distributors are required to leave a document at the premises providing the following information:

- to whom the occupant must address any request to connect the supply address;
- what the occupant's options are for entering into a contract for the sale of electricity with a retailer; and
- a list of current retailers.<sup>89</sup>

#### **Draft decision**

Currently, the distributors are likely to leave the document under the door or in the meter box which increases the chance that it will be available for the next occupant. Under remote disconnection, the site will not be visited and therefore it is unclear how this information will be provided.

The Commission understood that the retailers usually require premises to be disconnected when customers vacated the premises. However, we did not know the extent to which customers take possession of premises which are disconnected and consequently do not know who to contact for energisation.

The Commission was concerned to ensure that customers were provided with some information if they entered de-energised premises. We also wanted to find a practical solution for distributors to continue to comply with their obligation to provide information for customers without imposing unreasonable costs.

---

<sup>88</sup> Extenuating circumstances will be defined to mean that a written communication can be sent after a retailer has attempted unsuccessfully to contact the customer after making one visit or two telephone calls to the property.

<sup>89</sup> Electricity Distribution Code clause 9.1.13

We did not think it onerous for a sticker to be placed in the meter, with the relevant distributor's call centre number, so that customers could access information as a last resort.

**Views were sought on the draft decision.**

Clause 9.1.13 of the Electricity Distribution Code will be amended to require distributors to include a sticker on all smart meters installed in customers' premises from 1 January 2011. This sticker must include the relevant distributor's call centre number advising customers to contact this number if their premises are disconnected.

## Submissions

Both the distributors and retailers expressed some concern about obligation being placed on the distributors to provide this information to customers. They considered that the information provided might distort the competitive market or that customers could be given incorrect information as to whom to contact for connection.

Most however supported the principle, but submitted that the Commission's Yourchoice website or contact centre details should be placed on a sticker on the smart meter.<sup>90</sup>

Some distributors advised that they already put a sticker on the smart meter with their fault line number. While not supporting the approach, they stated that this number could be used for customers who could be directed to an IVR message.

CUAC supported the recommendation and considered that it should be imposed immediately.

## Analysis and final decision

The Commission's objective in respect to this regulatory obligation is to ensure that there is a 'last resort' option for customers who might take possession of premises which are disconnected and do not know who to contact for connection services.

We recognise that the Victorian competitive energy market is mature and most customers appear to be able to gain connection to supply through a variety of mechanisms. However, it is noted that, while distributors continue to manually disconnect customers, they are required to provide written information to customers on how to facilitate connection through a choice of retailers. Therefore, we are unable to assess the impact on customers of not providing the information at this time.

---

<sup>90</sup> In particular, see submission from CitiPower/Powercor on this matter.

Some industry participants considered that the best option could be the Yourchoice website or call centre. However, given the pending transfer of energy retail functions to the AER, it is not considered appropriate for a reference that may become redundant to be made available in these circumstances.

There appears to be no other option other than to require the distributor's call centre number to be placed on the sticker to meet the distributor's existing regulatory obligation under the Distribution Code.<sup>91</sup>

We take note of the distributors' proposals regarding an IVR message if a customer rings the call centre and will work with the distributors and the AER to facilitate an appropriate message in these circumstances. We will also recommend to the AER that it monitors the extent of use of this service by customers to determine if a different regulatory response is required.

#### **FINAL DECISION**

Clause 9.1.13 of the Electricity Distribution Code will be amended to require distributors to include a sticker on all smart meters installed in customers' premises from 1 January 2011. This sticker must include the relevant distributor's call centre number.

The distributor must ensure that its call centre provides customers with information on their options for entering into a contract for the sale of electricity with a retailer if the premises are disconnected.

The Commission will work with the AER and the distributors to facilitate an appropriate message in these circumstances.

The Commission will recommend that the AER monitors with the distributors the extent of use of this service in December 2011 to determine if a different regulatory response is required.

#### **6.4 Safety considerations**

The Commission noted that ESV was developing protocols that will be regulated within the framework of the Electricity Safety Management Schemes to ensure that remote disconnections and reconnections are performed safely. These must be submitted by the distributors by December 2010 and then approved by ESV.

The Commission therefore would not consider the matter further in this review.

---

<sup>91</sup> We note UED's submission that the requirement is provided for under section 2.6 of the Electricity Customer Metering Code. However, this regulation does not appear to be specific in this regard. In any event, the Commission considers it necessary to amend the existing regulation in the Electricity Distribution Code.

## 7 | FREQUENCY OF NETWORK BILLING OF RETAILERS BY DISTRIBUTORS

A key issue for distributors and retailers is whether the default Use of System Agreements (UoSAs) or any regulatory instruments needed to be amended to address the issue of the frequency of network billing of retailers by distributors.

The issue arose because some distributors had built smart meter data handling and billing systems which assumed and require monthly network billing.<sup>92</sup>

Currently, network billing is effectively quarterly (approximately one third of customers are billed each month). At least some retailers were concerned about the prospect of monthly network billing beginning as early as July 2010 and are not agreeable to it. Some distributors claim that the costs of now not proceeding with monthly network billing will be significant, and will prevent them meeting their near-term smart meter roll-out obligations.

Distributors suggested that the Commission support the view that they are entitled to move to monthly network billing or, alternatively, that the Commission amend the default UoSA.

Retailers made representations that they will be required to meet the distributors' monthly billing requirements before any changes to the billing cycles for customers are decided. They claim that there will be an adverse cash flow impact because of the mismatch between receipts from customers and outgoings to distributors. As a result retailers' working capital requirements will be increased and the costs could be expected to be passed on to customers in the form of higher retail prices.

The Commission understands that some distributors are attempting to negotiate a commercial outcome with some retailers.

---

<sup>92</sup> The decision was apparently made in the context of the Victorian Government's policy (as part of its AMI roll-out policy announced in 2006 and reflected in the revised OIC under section 46D of the Act) that network billing for each AMI customer occurs monthly ("monthly network billing"). This policy was reflected in the work of the AMI ISC, particularly its "Victorian AMI Process Model".

We sought views on whether the Use of System Agreements should be amended to provide for monthly network billing of customers with smart meters, but in the period until 1 January 2012 (or some other agreed future date) the payment terms for such network bills be extended if the retailer is billing the customer quarterly. UoSAs currently provide that retailers must pay network bills within 14 days. This would be extended to a number of days that produced an equivalent outcome to their current level and pattern of payments.

## Submissions

The submissions generally supported the Commission's approach to this issue, focussing on the need to tighten the application of the extended payment period to only those cases where retailers' cash flow would be adversely affected by the move to monthly network billing arising from the installation of a smart meter.

Various drafting approaches were suggested and the Commission has redrafted proposed clause 7.8(a) in a manner which takes these submission into account as simply as possible.

The Commission notes the very detailed analysis provided in SPAusNet's submission, particularly its preferred option of different monthly extended payment periods over a 3 month cycle to avoid a "retailer working capital shock" when the extended terms come to an end. However, the Commission is concerned that the resultant provisions would be extremely complex and may involve assumptions which are not shared by all parties. SPAusNet notes that it "has not had the opportunity to discuss this approach with retailers, however ... is confident that it will provide retailers with the desired outcome of eliminating their adverse working capital issues" with an added advantage.<sup>93</sup>

In the circumstances, the Commission regards it as appropriate to adopt a simpler proposal which we believe is fair but which still allows for the negotiation between parties to a UoSA of an alternative approach.

Submissions did not establish a consensus number of business days ("#") for the payment period where it is to be extended and expressed as a consistent or average number. The Commission notes that submissions were either supportive (expressly or impliedly) of an average period of 30 business days. The Commission therefore is inclined to propose that the figure be 30.

Various Submissions suggested that the drafting of UoSAs will need to differ between different combinations of distributors and retailers because of differing circumstances and differing impacts of the changes to invoicing. The Commission's

---

<sup>93</sup> Submission from SPAusnet at <http://www.esc.vic.gov.au/NR/exeres/73BC5D94-88A2-4910-93EE-E47E83A10385.htm>



response is to propose a change to the default UoSA which implements its principles as simply as possible and to leave it to the parties to agree some variation if the circumstances warrant. The final decision deals with drafting of the relevant clause only.

### **Final Decision**

Replace clause 7.8(a) of the UoSA, with effect from 1 October 2010, with the following:

"Subject to clause 7.9, a party must pay the amount specified in each invoice rendered to it in accordance with this agreement to the other party within the following number of business days after the day on which the invoice is received (or deemed to be received) by the first party:

- To the extent that the invoice relates to Supply Points with a "smart meter" (as defined in the Energy Retail Code) for which the Customer has not agreed with the Retailer that billing should be more frequent than quarterly, and the billing period relates to a period before 1 January 2012 – within [30] Business Days;
- Otherwise – within 10 Business Days."

Appendix Item 3 (Frequency of meter reads) will be amended to read:

"For all Supply Points connect to the Distribution System and having a remotely read internal meter – monthly.

For all other Supply Points – once every 3 months or as otherwise reasonably determined by the Distributor".

A consequential amendment will be made to clause 7.9 of UoSAs (disputed invoices) so that the reference there to 10 Business Days becomes a reference to the number of business days in clause 7.8(a) of the UoSA according to the type of invoice in dispute (that is "[30]" or 10).

The amendments to the default Use of System Agreement will take effect from 1 October 2010, to support the distributors' commercial arrangements with the retailers.

# APPENDIX A | DRAFT REGULATORY AMENDMENTS

Appendix A sets out the Commission's draft regulatory amendments for further consultation. It shows the regulation which has been considered for amendment and finalises some issues on which stakeholder comments were sought in the Issues Paper and Draft Decision consultations.

ENERGY RETAIL CODE			
Clause	Summary of Obligation	Commentary	Draft Regulation

PART 2 - BILLS			
ISSUING BILLS			
<b>3.1 Billing cycles</b>	A retailer must issue a bill to customers on a standing contract: (a) in the case of an electricity contract, at least every three months; (b) in the case of a gas contract, at least every two months; and (c) in the case of a dual fuel contract, at least as often as the retailer and the customer have agreed, with the customer's explicit informed consent . Billing cycles can be negotiated in market contracts, with explicit informed consent.	Consideration of regulation deferred until the Victorian Parliament and the Government's policy position is clarified.	No change
<b>4.2 Information on a bill</b>	Information which must be on the bill, including'		No change
	(c) the period covered by the bill; (d) the relevant tariff or tariffs		No change
	(e) whether the bill is based on a meter reading or is wholly an estimated bill;		Replace clause 4.2(e) with the following: "(e) whether the bill is based on a meter reading or: <ul style="list-style-type: none"><li>• in the case of a meter other than a smart meter is wholly an estimated bill; or</li><li>• subject to clause 5.2(c), in the case of a smart meter, an accumulated total of at least 48 hours of trading intervals are not billed on the basis of smart meter interval data."</li></ul>
	(f) whether the bill is based on any substituted data	The substantive final decision on this matter is in section 4.2.2	Delete clause 4.2(f)
	(g) the total amount of electricity (in kWh) consumed in		The words " <i>estimates or substitutes</i> " in 4.2(g) will be

ENERGY RETAIL CODE			
Clause	Summary of Obligation	Commentary	Draft Regulation
	each period or class of period in respect of which a relevant tariff applies to the customer and, if a customer's meter measures and records consumption data only on an accumulation basis, the dates and total amounts of the immediately previous and current meter readings, estimates or substitutes.		replaced with "or estimates".
	(h) if the retailer elects to include meter readings or accumulated energy usage from an interval meter on the bill, the meter readings or accumulated energy usage based on quantities read or collected from the corresponding meter accumulation register(s);	The substantive final decision on this matter is in section 4.2.1	<p>Replace 4.2(h) with the following:</p> <p>(h) if a customer's bill is derived from smart meter interval data, the total accumulated energy usage reading at the end of the billing period and the energy usage by tariff segment, the actual tariffs and total energy usage for the period from:</p> <ul style="list-style-type: none"> <li>• 1 April 2011 or such later date from which the distributor provides the total accumulated consumption read for so long as the distributor continues to regularly provide the total accumulated consumption read; and</li> <li>• 1 January 2012 for all customers." <p>[Insert new definition in clause 34 of the Energy Retail Code as follows: "smart meter means an interval meter designed to transmit data to a remote locality that meets the functionality requirements for advanced metering infrastructure set out in any relevant Order made under section 46D of the Electricity Act.")</p> </li></ul>
	(i) if the retailer directly passes through a network charge to the customer, the separate amount of the network charge;	The substantive final decision on this matter is in section 4.3.2	Replace 4.2(i) with: (i) if the retailer directly passes through a regulated network charge to the customer, the separate amount of that charge;
	(n) if the customer is a domestic customer, details of the availability of concessions;		No change
<b>4,3 Bundled charges</b>	The requirement for retailers to provide customers with	The substantive final decision on this matter is	No change

ENERGY RETAIL CODE			
Clause	Summary of Obligation	Commentary	Draft Regulation
	reasonable information on network charges, retail charges and any other charges relating to the sale or supply of energy comprised in the amount payable under the customer's bill. This information only has to be provided on request.	in section 4.3.2	
<b>4.4 Graphs</b>	Information to be included on graphs, including consumption information for each billing period for last 12 months and comparison with same period of the current bill.	The substantive final decision on this matter is in section 4.3.1	Insert the following after "previous year" in clause 4.4(a); ; and in the case of customers with smart meters: <ul style="list-style-type: none"> <li>the customer's consumption for each monthly period over the past 12 months; and</li> <li>the average daily cost for each smart meter tariff component over the billing period.</li> </ul>
<b>4.7 In Home Display</b>	New clause	The substantive final decision on this matter is in section 5.1	<b>4.7 In Home Displays</b> If a retailer provides an In Home Display to a customer, the retailer must provide information to the customer setting out how the consumption and cost information displayed on the In Home Display compares to the consumption and cost information on the customer's bills.
<b>BASIS OF A BILL</b>			
<b>5.1 Bills based on meter readings</b>	Bills must be based on meter readings unless a customer gives explicit informed consent; and, in any event, retailers must use their best endeavours to ensure the customer's meter is read at least once in any 12 months.	The final decision is To clarify the requirement and remove reference to reading to the more general "collect" which applies equally to accumulation and smart meters.	Add clause 5.2(c) Despite clauses 5.1, 5.2(a) and 4.2(e), in the case of a smart meter, if a retailer is not able to reasonably or reliably base a bill on actual metering data collected from the customer's smart meter for each trading interval, the retailer may provide the customer with a bill that is either: <ul style="list-style-type: none"> <li>prepared using estimated and/or substituted metering data [or substituted metering data] in accordance with applicable regulatory instruments; or</li> <li>if estimated and/or substituted metering data is not available, prepared based on the customer's historical billing or metering data or, where the retailer does not have the customer's historical billing</li> </ul>

ENERGY RETAIL CODE			
Clause	Summary of Obligation	Commentary	Draft Regulation
			or metering data, average consumption at the relevant tariff calculated over the period covered by the estimated bill.
<b>5.2 Estimations</b>	Methodology for estimated bills	The final decision is to retain the current drafting practice in referring to applicable regulatory instruments. Consistent with the approach above reference to reading will be changed to the more general "collect" which applies equally to accumulation and smart meters.	Amend clause 5.2(b) to read: "...permit an estimate of metering data rather than collection of metering data from the customer's meter..."
<b>5.3 Bill Smoothing</b>	Methodology for determining bill smoothing arrangements and for reconciling bills	SVDP and CUAC submitted that this regulation should be reviewed now to allow for a 3 month reconciliation, taking in account that smart meters will enable more accurate estimates. The principle is accepted, but the Commission considers it too early to undertake this regulatory change now.	No change
<b>5.4 Adjustments</b>			Delete the instances of "substitute or" in clause 5.4(b).
<b>ADJUSTMENT OF THE BILL</b>			
<b>6.2 Undercharging</b>	Obligations on retailers, and monies to be recovered from the customer, if the retailer has undercharged or not charged a customer	The substantive final decision on this matter is in section 4.2.2	For further review when smart meters are more operational
<b>PAYMENT OF THE BILL</b>			
<b>7.1-7.5 Payment of bills</b>	Time for customers to pay, unless negotiated differently in a market contract/ Ways in which customers can pay their bills/Payment in advance/Fees and Charges for Credit Card and Dishonoured Cheque payments	Consideration of regulation deferred until the Victorian Parliament and the Government's policy position is clarified.	This matter has now been deferred.
<b>CREDIT MANAGEMENT</b>			
<b>New clause 12A</b>		The substantive final decision on this matter is in section 3	Insert new clause 12A SUPPLY CAPACITY CONTROL PRODUCT A retailer may not offer to provide a supply capacity control product to a customer before 1 January 2014."

ENERGY RETAIL CODE			
Clause	Summary of Obligation	Commentary	Draft Regulation
			[Proposed: Insert new definitions in clause 34 of the Energy Retail Code as follows: "supply capacity control means the use, other than the emergency use, of the smart meter to temporarily interrupt electricity supply to a customer for credit management purposes)
<b>PAYMENT DIFFICULTIES</b>			
<b>11.1 – 11.4 Assistance to customers with payment difficulties</b>	Obligations on customers and retailers if customers experiencing payment difficulties. Obligations on retailers to assess capacity to pay and provide information and assistance. Requirements for debt collection	The substantive final decision on this matter is in section 3	No change to this regulation
<b>PART 4 - DISCONNECTION</b>			
<b> GROUNDS FOR DISCONNECTION</b>			
<b>13.1 Non-payment of bill</b>	Procedures prior to retailers disconnecting customers	The substantive final decision on this matter is in section 6.2	Amend clause 13.1(c) to include a third dot point c) the retailer has included in the disconnection warning: <ul style="list-style-type: none"> <li>• if the customer...</li> <li>• in any other ...</li> <li>• for customers with smart meters, that the disconnection could occur remotely; and</li> <li>• a telephone ...</li> </ul>

ENERGY RETAIL CODE			
Clause	Summary of Obligation	Commentary	Draft Regulation
<b>13.2 Customers without sufficient income</b>	Additional obligations on retailers prior to disconnecting customers who are known to have financial difficulties	The substantive final decision on this matter is in section 6.2	<p>Replace clause 13.2 with</p> <p><b>13.2 Domestic customers without sufficient income</b></p> <p>(a) Despite clause 13.1, a retailer must not disconnect a domestic customer (other than a by remote disconnection) if the failure to pay the retailer's bill occurs through lack of sufficient income of the customer until the retailer has:</p> <ul style="list-style-type: none"> <li>(i) also complied with clause 11.2, and</li> <li>(ii) used its best endeavours to contact the customer in person or by telephone, and</li> </ul> <p>the customer has not accepted an instalment plan within five business days of the retailer's offer.</p> <p>(b) Despite clause 13.1, a retailer must not disconnect supply to a domestic customer's supply address by de-energising the customer's supply address remotely if the failure to pay the retailer's bill occurs through lack of sufficient income of the customer until the retailer has:</p> <ul style="list-style-type: none"> <li>(i) also complied with clause 11.2,</li> <li>(i) contacted the customer in person or by telephone, or after unsuccessfully attempting to contact the customer once in person or twice by telephone, contacted the customer by mail, email or SMS; and</li> <li>(iii) when contacting the domestic customer, set out all the options for the customer, and</li> </ul> <p>the customer has not accepted an instalment plan within five business days of the retailer's offer.</p>



ENERGY RETAIL CODE			
Clause	Summary of Obligation	Commentary	Draft Regulation
<b>13.5 Customer's request</b>	Sets out a customer's right to request a disconnection	Commission's substantive consideration of this matter has been set out in section 6.1	Replace clause 13.5 with 13.5 A customer's right to request disconnection (a) On request, a retailer must disconnect the customer and, if requested, finalise the customer's account in accordance with the customer's request. (b) Upon such a request, where the customer can be disconnected by de-energising the customer's supply address remotely and the retailer reasonably believes that it can do so safely, the retailer must disconnect the customer's supply address within two hours. (c) Paragraph (b) does not apply to a request for disconnection at a scheduled time.
RECONNECTION			
<b>15.2 Time for reconnection</b>	Circumstances and timing for customer's reconnection	Commission's substantive consideration of this matter has been set out in section 6.1	Replace clause 15.2 with 15.2 Time for reconnection (a) If a customer makes a request for reconnection under clause 15.1: <ul style="list-style-type: none"> <li>• before 3 pm on a business day, the retailer must reconnect the customer on the day of the request; or</li> <li>• after 3 pm on a business day, the retailer must reconnect the customer on the next business day or, if the request also is made before 9 pm and the customer pays any applicable additional after hours reconnection charge, on the day requested by the customer.</li> </ul> • , where the retailer is able to reconnect the customer by re-energising the customer's supply address remotely and reasonably believes that it can do so safely, subject to the above bullet points, the retailer must use its best endeavours to reconnect the customer's supply address within two hours." A retailer and a customer may agree that later times are to apply to the retailer.
<b>PART 6 - MARKET CONTRACTS AND VARIATION</b>			

<b>ENERGY RETAIL CODE</b>			
<b>Clause</b>	<b>Summary of Obligation</b>	<b>Commentary</b>	<b>Draft Regulation</b>
<b>20 Variations requiring customer's agreement</b>	How variations to tariff and other terms and conditions can be effected	Commission's substantive consideration of this matter has been set out in section 4.3.3 The Commission is proposing a slight amendment to this clause to make it clear that both the tariff rate and structure can to be amended with explicit informed consent.	Clause 20 will be amended as follows: (a) The amount and structure of the tariff and any terms and conditions of an energy contract between a customer and a retailer may only be varied by agreement in writing between the customer and the retailer. <sup>3</sup>  (b) If the amount or structure of the tariff changes in accordance with a term or condition of an energy contract previously agreed between the customer and the retailer, no further agreement is required between the retailer and the customer to effect such tariff or structure change, provided that, where the contract is a market contract, the customer had given its explicit informed consent to the inclusion of the relevant term or condition in the energy contract."
<b>21 Gazette based variations</b>	How variations to standing offers take effect	As above	No change
<b>PART 8 - GENERAL</b>			
<b>PROVISION OF INFORMATION</b>			
<b>26.2 Charter</b>	Circumstances in which retailer must provide a customer charter and information to be provided	The Template Charter requirements will be reviewed as a result of the final decision.	No change to the regulation, but the template charter published by the Commission will be reviewed.
<b>26.4 Advice on available tariffs</b>	Information which must be provided to customer on available tariffs and notification of tariff variations	Commission's substantive consideration of this matter has been set out in section 4.3.3	Replace clause 26.4(b) with: (b) A retailer must give notice to a customer of any variation to the retailer's tariffs that affects the customer. The notice must be given as soon as practicable and in any event: <ul style="list-style-type: none"> <li>in the case of customers with smart meters, 20 business days prior to the variation, and</li> <li>otherwise, no later than the customer's next bill.</li> </ul>
	Maintenance of life support register and information from retailer to distributor	Further consideration of the requirements may arise in the review of load control products	No change to the current regulation
<b>HISTORICAL BILLING INFORMATION</b>			

<b>ENERGY RETAIL CODE</b>			
<b>Clause</b>	<b>Summary of Obligation</b>	<b>Commentary</b>	<b>Draft Regulation</b>
<b>27 Historical billing information</b>	Information to be provided to the customer and charges which may be imposed	Commission's substantive consideration of this matter has been set out in section 5.1.1	Clause 27.1 – after “billing”, insert “and metering”. New clause 27.2(e) will be included: (e) if requested by a customer with a smart meter, a retailer must provide interval data electronically, or by some other form, in a way which makes the information understandable and accessible to the customer.
<b>34 Definitions</b>	Definitions	Insert definition of metering data for purposes of smart meters	Insert definition of “metering data” for purposes of smart meters as being the half hourly data collected from the meter, including any substituted and estimated data that was used in the preparation of customers' bills.

ELECTRICITY DISTRIBUTION CODE			
Clause	Summary of Obligation	Commentary	Draft Regulation
<b>2.5 Previous connection</b>	That the distributors must use best endeavours to energise a customer's supply within one business day	Commission's substantive consideration of this matter has been set out in section 6.1.	
<b>9 Provision of information Clause 9.1.13</b>	When disconnecting supply the distributor must leave information at the site about reconnection including a list of retailers	Commission's substantive consideration of this matter has been set out in section 6.3.	Replace clause 9.1.13 with: (a) When disconnecting the supply address of a customer who is vacating or has vacated the supply address, a distributor must leave at the supply address a document provided by the Commission which sets out: (i) to whom the occupant must address any request to connect the supply address; (ii) what the occupant's options are for entering into a contract for the sale of electricity with a retailer; and (iii) a list of current retailers." (b) Paragraph (a) does not apply where the disconnection occurs remotely and the distributor's 24 hour telephone number is set out on the meter."
<b>9 Provision of information Clause 9.1.14</b>	This clause sets out the advice that the distributor must give the customers when a smart meter is to be installed.	The Commission consulted on this after the AER's final decision. The AER's view was that this provision related to both interval and smart meters. The clause will be retained at this time, but may be subject to review once the Government's legislative and policy developments are clarified.	No change
<b>12 Disconnection of Supply</b>	Sets out the conditions under which the distributor may and may not disconnect the customer, including at a retailer's request and at the customer's request	Commission's substantive consideration of this matter has been set out in section 6.1.	Insert new paragraphs 12.3(b),(c), 12.4(b) and (c) <b>12.3 Retailer's request</b> (a) A distributor must disconnect supply to a customer's supply address if the customer's retailer has requested disconnection. (b) Upon a valid request by the customer's retailer, where the distributor is able to

ELECTRICITY DISTRIBUTION CODE			
Clause	Summary of Obligation	Commentary	Draft Regulation
			<p>disconnect supply to the customer's supply address by de-energising the customer's supply address remotely and reasonably believes that it can do so safely, subject to clause 12.6, the distributor must use its best endeavours to disconnect supply to the customer's supply address within two hours.</p> <p>(c) Paragraph (b) does not apply to a request for disconnection at a scheduled time.</p> <p><b>12.4 Customer's request</b></p> <p>(a) A distributor must disconnect supply to a customer's supply address if the customer has requested disconnection and must use best endeavours to disconnect supply in accordance with the customer's request.</p> <p>(b) Upon such a request, where the distributor is able to disconnect supply to the customer's supply address by de-energising the customer's supply address remotely and reasonably believes that it can do so safely, subject to clause 12.6, the distributor must use its best endeavours to disconnect supply to the customer's supply address within two hours.</p> <p>(c) Paragraph (b) does not apply to a request for disconnection at a scheduled time.</p>

<b>ELECTRICITY DISTRIBUTION CODE</b>			
<b>Clause</b>	<b>Summary of Obligation</b>	<b>Commentary</b>	<b>Draft Regulation</b>
<b>13 Reconnection</b>	Sets out the conditions under which the distributor must reconnect a customer	As above	<p>Insert paragraph 13.1(c) into clause 13.1.2:</p> <p>13.1.2 If a customer, or a retailer on behalf of a customer makes a request for reconnection under clause 13.1.1 to a distributor:</p> <p>(a) before 3 pm on a business day, the distributor must reconnect the customer on the day of the request; or</p> <p>(b) after 3 pm on a business day, the distributor must reconnect the customer on the next business day or if the request also is made before 9 pm and the customer pays any applicable additional after hours reconnection charge, on the day requested by the customer or retailer.</p> <p>(c) , where the distributor is able to reconnect the customer by re-energising the customer's supply address remotely and reasonably believes that it can do so safely, subject to paragraphs (a) and (b), the distributor must use its best endeavours to reconnect the customer within two hours.</p>
<b>Other matters</b>			
<b>6.3.4(d) Supply Restoration Payments</b>	Sets out the requirements for supply restoration payments for unplanned interruptions	The relevant thresholds from the 2006-2010 price determination must be incorporated into the Distribution Code to ensure continuity for the 2011-2014 price period. This is a drafting matter only.	<p>Replace existing clause 6.3.4(d) with:</p> <p>(d) supply interruptions on a day where the unplanned interruption frequency exceeds the thresholds set out in the following table:</p> <p>[Column 2 of Table 2.1, Volume 2 of the Victorian 2006-2010 Electricity Price Determination to be inserted]</p>

CODE OF CONDUCT FOR MARKETING RETAIL ENERGY IN VICTORIA			
Clause	Summary of Obligation	Commentary	Draft Regulation
<b>3.3 Pre-contractual information</b>	A retailer must provide the information to a consumer before entering into a contract, including: details of all applicable prices, charges <sup>94</sup> , tariffs and service levels that will apply to the consumer, where the retailer must declare that the price offered is inclusive of all costs, including GST; and the type, frequency of bills and payment methods the consumer will receive; cancellation rights and any termination fees that might apply; all relevant information about any difference between the contract's terms and conditions and the basic terms and conditions under the Energy Retail Code	This regulation should be revisited when the Government's legislative and policy positions regarding smart meter tariffs are clear.	No change now

---

<sup>94</sup> Subject to the retailer being aware of all charges which may apply to that consumer or the consumer's premises.

**ELECTRICITY CUSTOMER TRANSFER CODE**

Clause	Summary of Obligation	Commentary	Draft Regulation
<p><b>4 Process for customer transfer - Proposed transfer date and meter read method</b></p>	<p>These sections are concerned with establishing the transfer date and the need for an appropriate meter reading at that time for the purpose of transfer.</p>		<p><b>Include a new clause</b>            4.1A Smart meters            For the purposes of clauses 4.2 and 4.3, if a customer has a smart meter that is remotely read, a reading of the customer’s meter and the processing of the consumption data in accordance with the Electricity Customer Metering Code or Metrology Procedure, as the case may be, is considered to be an actual read and a scheduled meter read.</p> <p>Clause 4.2(b)(2)            “was an actual meter reading date for a relevant customer with other than a smart meter occurring after the retrospectivity start date (CATS code 1010 or 1081); or”</p>



ELECTRICITY CUSTOMER METERING CODE			
Clause	Summary of Obligation	Commentary	Draft Regulation
<b>2.4 Impulse Output</b>	Allows the customer to request an “impulse output” from the meter and that the customer must pay for the provision of such facilities.	The Commission confirms its view that smart meters are not intended to have impulse outputs which allow physical access to consumption data. For smart meters such access is intended to be via the IHD or web portal.	“(a) A customer, other than a customer with smart metering, may request a distributor, a retailer or a responsible person (as the case may be) to provide it with impulse outputs representing the quantities of electricity measured.”
<b>2.6 Information for Customers</b>	Requires information to be left with the customer showing how the meter can be read by the customer from the accessible display. Currently this clause only applies to type 5 meters (interval meters that are manually read)	The drafting of this clause should be made clearer.	The Commission agrees that that drafting could be clearer and proposes  “A distributor, retailer or responsible person must provide sufficient written information to the customer so that the customer can access, at a minimum, the cumulative total energy measured by an interval meter or smart meter at the customer’s premises;  <ul style="list-style-type: none"> <li>• when the meter is installed at a customer’s premises, and</li> <li>• anytime the information is requested by the customer.”</li> </ul>
<b>6 Installation</b>	The clause is concerned with the cost of installing different meters	Prior to smart metering, the clause has assumed that customers may request only higher cost metering. Under smart metering the clause could be interpreted as allowing customers to request a reversion to basic metering. The clause must continue to operate for >160 MWh customers with type 4 metering who may wish to request higher standard metering. The clause must recognise that smart meters are to become the minimum standard for small customers and that this standard is established currently by Victorian law rather than the NER or metrology procedures. Currently the NER and metrology procedures do not	The Commission proposes that a new paragraph (aa) be inserted at the beginning of the clause: “This clause 6.1 is subject to the minimum standard of metering equipment being smart metering following the initial installation of smart metering at a customer’s premises.”  Additionally, this clause should apply to all customers, not just first tier customers as it currently sets out.

<b>ELECTRICITY CUSTOMER METERING CODE</b>			
<b>Clause</b>	<b>Summary of Obligation</b>	<b>Commentary</b>	<b>Draft Regulation</b>
		specifically include smart meters.	
<b>7.1 Access to data</b>	Sets out rights of the customer to access data electronically directly from the meter at the customer's cost	<p>This clause is concerned with direct access to data by physical means which is not available to customers with smart meters. Clause 7.1(d) and (e) allows customers to obtain metering data from their retailer.</p> <p>The Commission's final decision is to clarify that the obligation is concerned with physical access.</p>	"A distributor, a retailer or a responsible person (as the case may be) must, on written request from a customer, other than a customer with a smart meter, provide facilities to enable the customer direct physical access to the metering equipment to electronically access data stored in metering equipment provided by the distributor, the retailer or the responsible person."
<b>8 Collection of metering data</b>	Sets out that the customer may arrange how the data will be collected.	The Commission will clarify the application of this clause.	<p>New clause 8(aa) will be inserted:</p> <p>"This clause 8 does not apply to customers with smart meters."</p>
<b>9 Definitions</b>		There should be a definition of smart metering	<p>Smart meter will be defined as:</p> <p>"A metering installation installed at a customer's premises where the annual electricity consumption is 160 MWh or less that meets the requirements of Division 6A ("advanced metering infrastructure") and relevant Orders under Division 6A of the Electricity Industry Act (2000)."</p>

<b>USE OF SYSTEM AGREEMENT</b>			
<b>Clause</b>	<b>Summary of Obligation</b>	<b>Commentary</b>	<b>Draft Regulation</b>
<b>7.4 &amp; 7.5 Invoices and Metering Data</b>	Obligations to parties to meet their financial obligations	Commission's substantive consideration of this matter has been set out in section 7.	See drafting in section 7
<b>8.1 &amp; 8.3 Compliance with Privacy Laws</b>	Obligations on parties to comply with applicable Privacy Laws in relation to privacy, disclosure, use or confidentiality of information	Commission's substantive consideration of this matter has been set out in section 5.	No change
<b>9.8 Changes in Network Tariffs or Distribution Services</b>	Obligations and procedures in relation to changes to network tariffs	Commission's substantive consideration of this matter has been set out in section 4.3.3.	Insert a new clause 9.8(jj): "(j) Despite anything else contained in this clause 9.8, the Distributor must not, unless otherwise agreed with the Retailer, re-assign a Customer to a different Network Tariff as a result of the installation of a smart meter (as defined in the Energy Retail Code) until 30 Business Days after notifying the Retailer of the proposed change."

**GUIDELINE NO 19 – ENERGY INDUSTRY – ENERGY RETAILERS’ FINANCIAL HARDSHIP POLICIES**

Clause	Summary of Obligation	Commentary	Draft Regulation
<p><b>2.2 Contents of the policy</b></p>	<p>Sets out the requirements of a retailers’ hardship program which must be met for approval by the Commission.</p>	<p>Commission’s substantive consideration of this matter has been set out in section 3</p>	<p>Clause 2.2 will be amended by inserting the following clauses:                      "(xiv) recommend the most appropriate tariff at the time of entry to the financial hardship program, bearing in mind:                      (A) cost effectiveness;                      (B) whether the customer has dedicated off peak appliances;                      (C) the customer's previous tariff (including network charge); and                      (D) the customer's overall power usage;                      (E) the customer's previous bills, if available; and                      (F) any other relevant information provide by the customer."                      "(xv) require the retailer to monitor their behaviour and consumption during their participation in the financial hardship program to ensure that they continue on the most appropriate tariff and facilitate a change if necessary."</p>

# APPENDIX B | EXAMPLES OF GRAPHS AND BILLS

Figure 1 Example of an EnergyAustralia bill

<b>USAGE BREAKDOWN</b>		
Peak	271 kWh	22.27%
Shoulder	673 kWh	55.27%
Off Peak	274 kWh	22.47%
<hr/>		
<b>TOTAL ENERGY</b>	<b>1,219 kWh</b>	

