



2010–11 COMPLIANCE REPORT

ENERGY RETAIL BUSINESSES

APRIL 2012



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CHAIRPERSON'S COMMENTARY

The primary objective of the Essential Services Commission (the Commission) is to promote the long term interests of Victorian customers with regard to the price, quality and reliability of essential services. To meet this objective, the Commission establishes standards and codes to regulate energy retailers' conduct. We monitor their compliance with these regulatory obligations and encourage or enforce compliance as necessary.

This report outlines our monitoring activity in the financial year 2010–11 and the results. For instance, customers' complaints showed continued concern about energy prices, while retailers sought our help with difficulties they face in supplying energy to customers who fail to pay. Consumer advocates maintained that retailers did not fulfil their present obligations towards customers in financial hardship. This was true for some complaints of wrongful disconnection we assessed.

To assist monitoring and compliance, each retailer must have a robust compliance system in place and working effectively. This must define how the retailer normally meets its regulatory obligations, and how it detects, corrects and reports to us any material breach. We also require retailers to confirm for us regularly that they have such a system and, therefore, that their reports of compliance breaches are accurate and complete. Retailers' reports included some serious breaches:

- among the many reports of account transfers made without explicit informed consent were more than 750 cases where consent was allegedly recorded through misleading, deceptive or unconscionable conduct
- several retailers reported IT problems that delayed them sending information on new contracts or tariffs to several hundred customers, but TRUenergy reported delayed, estimated or erroneous bills affecting many thousands.

To test and assess the retailers' compliance systems, we continued to develop our program of independent audits. Our reports showed significant weaknesses in some retailers' compliance systems. This is particularly true when identifying and correcting errors in the operating data that retailers report to the Commission. This data is the basis of our annual performance reports and our assessments of how well the retailers perform against established standards of customer service.

As we continue to analyse and report on the results of these audits, we ensure the retailers take action to comply with their performance reporting obligations to us, as well as other licence obligations to their customers.

Dr Ron Ben-David
Chairperson



1 INTRODUCTION

1.1 The purpose of this report

The Essential Services Commission (the Commission) licenses businesses that generate, supply and sell energy in Victoria, and establishes codes and guidelines to regulate these businesses in the long term interests of Victorian consumers.¹ This report provides an overview of our compliance activities and the energy retailers' level of compliance with their regulatory obligations during the financial year July 2010–June 2011.

Fourteen licensed energy retailers sold electricity to domestic customers during that period. Most of them also sold electricity to business customers and eight of them sold gas as well. A further six specialised retailers sold electricity to approximately 1000 business customers.

The Commission monitored the retailers' compliance with their obligations in various ways, including the following matters outlined in the subsequent chapters of this report:

- We continued a series of compliance audits of two major retailers and initiated a program of similar audits of the remaining retailers.
- Retailers reported breaches of their regulatory obligations under our guidance and direction and we followed up those reports.
- We assessed complaints of wrongful disconnection where the retailer and the Energy and Water Energy Ombudsman (Victoria) Limited ('the Energy Ombudsman') did not agree on a resolution, and decided the outcome pursuant to the regulations.
- We investigated serious complaints raised by customer advocacy groups or the Energy Ombudsman.
- We investigated large-scale systemic issues and serious compliance breaches that came to light in customers' complaints, while individual complaints were resolved by the Energy Ombudsman.

The Commission responded to instances of noncompliance by requiring retailers to make good the disadvantage experienced by customers and to correct the faults.

1.2 The powers of the Commission

The energy retail businesses in Victoria are governed by three principal Acts: the *Electricity Industry Act 2000* (EI Act), the *Gas Industry Act 2001* (GI Act) and the *Essential Services Commission Act 2001* (ESC Act). As well as imposing obligations directly on the businesses, the Acts empower the Commission to issue licences and publish codes and guidelines for the conduct of retail businesses.

¹ The other businesses mainly engaged in generating, transmitting and distributing energy are licensed by the Commission, but are regulated by a Commonwealth body. Our powers to regulate energy retailers are expected to pass to the Australian Energy Regulator (AER) in July 2012, although we may retain some monitoring powers.



We have a wide range of enforcement measures available to respond to allegations of noncompliance with licence obligations. These measures range from less formal administrative options to progressively more substantive statutory-based responses. We may proceed with more significant enforcement actions where required, or to address and rectify noncompliance where other measures were ineffective.

1.3 Our approach to compliance and enforcement

The Commission encourages a culture of compliance among the regulated businesses through cooperation and persuasion where possible. We encourage retailers to adopt the Australian Standard AS 3806-2006 Compliance Programs. This provides principles and guidance for implementing a flexible and effective compliance program within a business.

Such a program, if implemented effectively and resourced appropriately, builds compliance management and monitoring into the normal operating procedures of a business. This gives appropriate assurance that the retailer's staff will detect actual or potential compliance failure and respond promptly.

As a condition of their licences, retailers must monitor their compliance effectively and report breaches. We also look for independent confirmation that retailers' compliance programs are indeed effective and that we can rely on their breach reports. Periodic regulatory audits provide this confirmation.

Where retailers' compliance reports, independent audits or other reports show the need, we can sanction the retailers.

1.4 Our relationships with other organisations

We have well-established relationships with other jurisdictional regulators and both government and community agencies, which assist with compliance monitoring activities. Memoranda of Understanding (MOU) formalise the relationships between the Commission and the other bodies. In particular, Consumer Affairs Victoria (CAV), the Energy Ombudsman and the Department of Human Services (DHS) are active in monitoring the conduct of the regulated energy businesses in the market.² Where potentially significant and widespread noncompliance issues are identified, we consult with the relevant agency to ensure a consistent and efficient response to addressing the noncompliance.

We also consult with the Australian Competition and Consumer Commission (ACCC) on marketing conduct matters. In 2010-11 we continued discussions with the Australian Energy Regulator (AER) and the Department of Primary Industries about the scope and nature of our energy industry monitoring role. This was to prepare for the transfer of these functions, which is expected in July 2012.

Our Customer Consultative Committee (CCC) and consumer organisations also provide valuable information about customers' experiences, which helps to identify potential noncompliance issues.

² See the Commission's website at [About Us > Memoranda of Understanding](#)



1.5 Structure of the report

The remainder of this report is structured as follows:

- Chapter 2 outlines the Commission's approach to compliance auditing, the work undertaken in the audit program during 2010-11 and its results.
- Chapter 3 summarises the retailers' 2010-11 annual compliance reports by categorising the breaches as systemic or isolated, and identifying the remedial actions taken by the retailers.
- Chapter 4 summarises the wrongful disconnection compensation cases identified by retailers, customers or the Energy Ombudsman.
- Appendix A1 summarises other compliance issues in 2010-11, including:
 - investigation of selected customer complaints (chiefly into marketing and billing issues)
 - reports and consultations (notably concerning financial hardship and disconnection issues)
 - other regulatory initiatives and industry events.
- Appendix A2 summarises the compliance breaches the retailers reported to the Commission.



2 REGULATORY AUDITS

The Commission may require the retailers to undertake periodic independent audits to assess their compliance with selected obligations and the accuracy of their periodic compliance and performance reports. In 2010-11, we directed two retailers – AGL and Simply Energy – to conduct such audits to assess their current compliance in selected areas, and their progress in resolving concerns identified in earlier audits. We also launched a program of audits for all the major retailers in Victoria, to examine all significant compliance obligations currently of concern. These audit initiatives are outlined below.

2.1 AGL

Background

In 2009, an independent audit found AGL did not comply with many of its obligations for billing customers, holding and reporting refundable customer advances, and managing hardship programs and complaints. Neither did it comply with many performance-reporting requirements. AGL undertook to comply with all these obligations and to conduct a follow-up audit.

2010-11

The independent follow-up audit in May–July 2010 was reported to us in October 2010 and we published a summary report in December 2010.³ By then AGL largely complied with the regulatory and reporting obligations it had previously failed. However, it continued to take and hold some refundable advances without reporting them, breaching its undertakings to the Commission. Its reports to us also overstated the number of energy field audits it provided to customers.

AGL again undertook to return customers' advances and, this time, to compensate them as we directed. It also undertook to report performance indicators correctly and to conduct a further audit. For consistency and completeness of coverage, the scope of AGL's follow-up audit was based on the program of audits of other major retailers for 2010-11 (see section 2.3). It focused on AGL's licence obligations last audited in 2008, and the remaining performance indicators where AGL did not yet comply. The audit was originally scheduled for the first quarter of 2011.

Subsequent action

Because of its other auditing commitments, AGL did not commence our audit until the third quarter of 2011. The report, finalised in March 2012, showed that AGL now complied with its undertakings and obligations for refundable advances. However, two hardship indicators — the *Number of energy field audits provided at no cost to customers*, and *Participants provided with appliances* — were again found to be unreliable and inaccurate. We took appropriate

³ See [ESC < Energy < Summary Reports - Regulatory Audits of Energy Retail Business < View all Publications < RPT - Summary Audit Report - AGL Re-Audit](#)



enforcement action. Our summary report and AGL's required corrective actions are published on the Commission's website.⁴

2.2 Simply Energy

Background

In early 2009, an independent audit found that Simply Energy complied with all the licence obligations that were reviewed, but with few of the performance reporting requirements. A follow-up audit in late 2009 found some improvement but performance reporting was still below standard.⁵ Another follow-up audit of performance reporting in June 2010 found that Simply Energy still did not comply with reporting requirements for seven previously audited performance indicators and for six that were audited for the first time.

2010–11

For consistent and complete coverage, Simply Energy's next follow-up audit was based on the general program of audits set up for retailers (see section 2.3). The scope, finalised in February 2011, included those performance indicators where Simply Energy was still noncompliant, and previously unaudited indicators. The draft report, provided in June 2011, found the retailer did not correctly report three previously audited performance indicators, but did comply with all of the licence obligations in the audit.

Subsequent action

The auditor's report was finalised in November 2011. The Commission's summary report and the corrective actions Simply Energy undertook to complete — which include a follow-up audit — are published on the Commission's website.⁶

2.3 Other retailers in 2010-11

The Commission's compliance strategy relies in part on the retailers' ability and willingness to report breaches of its obligations. This process is covered in some detail in chapter 3.

Periodically, however, we require independent verification of the completeness and accuracy of the retailers' breach reports, the accuracy and reliability of the performance information they provide us and the robustness of their compliance frameworks. The majority of Victorian energy retailers had not been audited in Victoria since 2005-06.

We finalised the scope of independent compliance audits for all major retailers in 2010-11. It covered issues raised by many people including customers and their advocates, the Department of Primary Industries, our Customer Consultative Committee, the Energy Ombudsman and the retailers. It also considered other factors, such as the planning and conduct of audits of retailers active in other jurisdictions, and the impending transfer to national regulation.

⁴ See [Home » Energy » Summary Reports - Regulatory Audits of Energy Retail Businesses 2010-11 » AGL » AGL 2011 Summary Audit Report](#)

⁵ See [ESC < Energy < Past projects < Summary Report Regulatory Audits of Energy Retail Businesses 2009 <RPT Summary Audit Report Simply Energy](#)

⁶ See [ESC < Energy < Regulatory Audits of Retail Business < Simply Energy < Simply Energy - Summary Audit Report 2012](#)



The obligations included in this minimum scope reflected recently introduced requirements, areas where noncompliance had significant implications, or issues identified in reports and advice provided to the Commission (including some of the retailers' own compliance reports). The areas of concern are:

- *Compliance monitoring and reporting:* The Commission relies on retailers' ability to monitor compliance with their regulatory obligations and to report breaches as required, in order to extend the interval between independent regulatory audits.
- *Marketing Conduct:* Compliance is necessary to obtain explicit informed consent from customers — particularly disadvantaged customers — to market contracts. Inappropriate behaviour of retailers and their agents affects customers personally and diminishes the effectiveness of the competitive market.
- *Affordability and timeliness of services:* This covers billing (tariff changes, delays and omissions, billing errors and adjustments) disconnection/reconnection (including wrongful disconnection) and retailers' financial hardship policies. These matters determine the extent to which low-income customers in particular are able to pay their bills and maintain access to supply. The auditor must engage a consultant or practitioner who is appropriately qualified and experienced in managing hardship cases to review hardship policies.
- *Complaints:* Customer complaints to retailers can highlight instances of noncompliance, and complaint-handling by retailers is central to providing good service.
- *Solar power, contract terms and conditions, metering and tariff changes:* This covers customers installing interval meters for photovoltaic cells or for other reasons and experiencing problems with feed-in or conventional tariff changes, related contract terms and conditions.

AGL and Simply Energy audits were scheduled and conducted as described above. Both followed modified scopes that recognised the obligations and performance indicators that had recently been audited and found to be compliant.

Audits of Country Energy and EnergyAustralia were planned. However, ownership and management of the two retailers passed to Origin Energy and TRUenergy respectively when the businesses were sold by the New South Wales government. As at December 2010, Country Energy served approximately 2 per cent of Victorian consumers, while EnergyAustralia served fewer than 3 per cent. Given the nature of the transactions (including transferring customers, a shift to providing services on an agency basis, and changes in personal responsibilities and operating procedures) the Commission deferred the audits.



3 RETAILERS' COMPLIANCE REPORTS

3.1 Overview

There are 4.4 million electricity and gas customers in Victoria. Retailers must manage that many customers' contracts and issue approximately 20 million bills throughout the year. Approximately 1 million customers changed their energy retailer in 2010-11. Retailers carried out significant marketing campaigns; individual sales agents contacted thousands of customers.

Retailers reported a number of instances of noncompliance with the regulatory obligations, with remedial actions that generally addressed breaches. Three areas of concern stood out:

- various breaches of the Commission's *Code of Conduct for Marketing Retail Energy in Victoria* (the Marketing Code)
- billing errors and delays that breached various requirements of the Commission's *Energy Retail Code* (the Retail Code)
- wrongful disconnections that breached the IE Act or the GI Act — which require retailers to comply with specific requirements of our Retail Code and the terms and conditions of the retailers' contracts with their customers.

Marketing breaches

In terms of the numbers of customers affected, the most significant breaches reported were delays in providing new customers with the full details of their contract, through errors in IT systems or processing. Origin Energy reported one failure, lasting for six weeks, that affected more than 20 000 customers. Similar breaches by other retailers affected some hundreds more. Retailers must extend the cooling-off time for customers to consider their new contracts.

Retailers reported transferring new customers from their existing retailers to new contracts without explicit informed consent. These breaches were most often reported as errors in recording or processing customer details. Of more concern were breaches where sales agents misled customers, allegedly fabricated consent to contracts or otherwise improperly engaged customers. More than 750 such cases were investigated over the period. The agent responsible was warned, retrained, dismissed or, rarely, prosecuted. Action was taken against the third-party agency in many cases.

Subsequent events

An industry-based accreditation scheme and voluntary code of practice, established by Energy Assured Limited (EAL) and approved by the ACCC, began operating in January 2012. The Commission anticipates that the scheme and code should minimise noncompliance by sales agents. EAL's code sets standards for recruiting, training, assessing and registering door-to-door sales agents. Members of EAL may only employ registered agents.



Billing issues

During the year, TRUenergy reported that almost 72 000 customers were affected by different breaches of the Retail Code. Of these:

- 52 000 had bills delayed by missing or mistimed data
- 12 000 received only estimated bills in the year, due to data errors or lack of access to read their meters
- 7000 received bills with errors, sometimes due to long-standing faults in TRUenergy's billing system data.

TRUenergy is developing new IT systems for customer billing but resolving the various issues has been delayed significantly. We continue to work with the Energy Ombudsman to ensure that TRUenergy deals promptly and fairly with the problems it caused its customers.

Other retailers reported billing customers late or incorrectly, or sending out payment reminders before their bills. The errors were corrected.

Wrongful disconnections

Breaches of the Retail Code leading to a wrongful disconnection may cause considerable hardship or discomfort to the customers involved. Because compliance breaches that result in the wrongful disconnection of a customer are very important, so these are covered in more detail in chapter 4. The remainder of this chapter deals with the other reported breaches.

3.2 Retailers' compliance reporting

Classification — Type 1, Type 2, Type 3

The Commission issued a Compliance Reporting Manual to summarise the regulatory obligations of the retailers and to classify them according to the likely severity of any breach.

Type 1 breaches could critically affect customers and includes incidents where the effect increases over time if not rectified quickly. Retailers must report all actual or potential Type 1 breaches immediately.

Type 2 breaches must be reported six-monthly. They are breaches of regulatory obligations where:

- noncompliance would seriously affect customers, and/or
- the obligation is 'new' or has not been complied with in previous years, and/or
- the impact of that noncompliance increases over time.

Type 3 breaches are breaches of all other regulatory obligations. The retailers are required to report them only once a year.



We generally assess whether the reported breaches are systemic or isolated:

- Systemic breaches affect significant numbers of customers. For example, in computer-based operations that lack appropriate controls, a retailer's IT processes repeatedly fail to produce the intended results, and records are therefore wrongly selected or formatted, or calculations are incorrect. In manual operations, incorrect instructions to staff, inadequate error-checking or supervision and similar factors may cause recurrent breaches.
- Isolated breaches affect fewer customers. Employees or agents may fail to follow established procedures or may process individual transactions incorrectly, but the impact is limited. A single isolated error may affect many customers but, unless the error seems part of a pattern of similarly unreliable operation, it may be more appropriate to consider it an isolated incident.

The reliability of retailers' compliance reporting systems

The reliability of the reports of compliance breaches that we receive from retailers depends on their capacity and willingness to detect noncompliance and report accurately. As required, the retailers regularly assure the Commission that their compliance systems are effective and their reports of noncompliance are complete.

However, such assurances and reports need to be tested periodically. The ability of the energy retailers' compliance systems to prevent or detect noncompliance, and the accuracy of the compliance reports that they send the Commission, are included in scope of the 2011 regulatory audit program.

3.3 Analysis of 2010-11 compliance reports submitted by retailers

Type 1 breaches

This section summarises the Type 1 breaches of the licence, Retail Code or Marketing Code reported by retailers, other than breaches related to wrongful disconnection (which are presented in chapter 4).

Retail Code

The retailers' reports included the following systemic breaches:

- Simply Energy failed to inform approximately 1350 customers of a tariff increase because of systems and administrative errors. Affected customers were subsequently told of the increase in their next bills. Simply Energy said that its internal processes would be improved to prevent this noncompliance recurring.
- Approximately 6100 AGL customers and 1600 Australian Power & Gas customers were not informed their fixed-term contracts were due to expire. Both retailers altered their systems to prevent a recurrence. AGL confirmed it provided affected customers with an additional month to cancel their contract. Australian Power & Gas advised that the customers remained on their existing tariffs until they received the required information.
- Human error meant 141 consumers who cancelled their contracts with TRUenergy during the cooling-off period were still transferred to the retailer. They were transferred back to their previous retailers and the staff responsible for the error received further training. TRUenergy also reviewed its internal processes to prevent future recurrences.



Details of all the Type 1 breaches are set out in appendix section A2.1.

Marketing Code

The Marketing Code breaches reported by retailers showed that noncompliance is largely the result of the behaviour of retailers' sales agents. The most serious — but least common — Marketing Code breaches occur when sales agents attempt to make a sale through deliberate misconduct such as:

- intentionally targeting vulnerable consumers
- misrepresenting the purpose of the visit
- recording consent from an underage consumer
- misinforming consumers about the retailers they represented or the tariffs on offer.

Retailers reported that a small number of agents completed transfers without the consumer's knowledge. This was allegedly done by using false names and birth dates but actual supply addresses, or by impersonating a customer during the voice verification stage of the sale process.

In general, retailers cancelled or reversed the account transfers and warned their sales agents about their conduct and retrained them. Australian Power & Gas, Origin Energy and Neighbourhood Energy, whose sales agents completed fraudulent sales, terminated the sales agents' employment. Neighbourhood Energy also reported its sales agents' fraudulent activity to Victoria Police for further action.

There were also breaches caused by computer systems and processes failure, such as:

- failing to send contractual information to over 1000 customers in a timely manner
- sending information packs with incorrect details to 149 customers.

We reviewed the remedial actions that the retailers reported taking and investigated further as needed. We did not take any further enforcement action for these reported breaches because the retailers' actions appeared appropriate and adequate. We require retailers to monitor their sales agents' training and customer complaints continuously to ensure that this behaviour does not continue.

The effectiveness of training and supervision are included in the scope of the 2011 regulatory audits. Preliminary results show that most retailers, but not all, can demonstrate they train sales agents effectively. Most can show they adequately monitor their agents' conduct, ensure they provide the necessary information to customers and respond to the customers' complaints.

Guideline no. 19 — Energy Price and Product Disclosure

Simply Energy reported that a systems issue meant tariffs were incorrectly labelled in its Price and Product Information Statements. This was corrected and the information provided to the Commission for publication.



Type 2 breaches

This section summarises the major Type 2 breaches reported by retailers (see appendix section A2.2 for all Type 2 breaches).

Retail Code

As last year, most systemic breaches related to noncompliance with billing obligations:

- *Billing frequency:* EnergyAustralia, Origin Energy and TRUenergy all reported that their customers received bills outside of the prescribed timeframe of three months for electricity and two months for gas. Simply Energy also reported issuing bills to 4493 customers outside of the regulated timeframes because it incorrectly sent out reminder notices before issuing bills. Simply Energy reissued the bills with the payment terms adjusted.
- *Bills based on estimated reads:* TRUenergy reported that 12 612 customers have not had an actual meter read in over 12 months and have been billed on estimates.
- *Applying the wrong tariff to customers:* More than 1200 Origin Energy customers were overcharged when the new tariff was not applied to customers' accounts. An account set-up issue meant Simply Energy overcharged approximately 1800 of its customers. Customers of both retailers were notified of the problems and compensated for the overcharged amount. TRUenergy also overcharged approximately 6800 customers due to an error in its billing systems. The retailer reviewed its processes and compensated customers.
- *Contents of bills:* Origin Energy reported that all its gas customers received bills that did not show the distributors' name. Origin Energy changed its system to ensure future compliance.

Marketing Code

The only Type 2 breach of the Marketing Code reported by retailers related to breaches of clauses 2.1 to 2.3, which cover the conditions for contacting customers:

- EnergyAustralia and Simply Energy reported that their sales agents refused to show their identification badge upon request to 14 consumers. Both retailers provided the sales agents with further training.
- Simply Energy telesales staff did not provide identification to four consumers. Simply Energy retrained its telesales staff and apologised to the consumers.
- EnergyAustralia reported that its sales agents ignored the 'No Canvassing' signs at the premises of seven consumers. Sales agents of Lumo Energy (Lumo) failed to take notice of a 'Do Not Knock' sign at a customer's premises. Again, the sales agents were warned and retrained.

Guideline no. 13 – Greenhouse Gas Disclosure on Electricity Customers' Bills

The only two breaches of this guideline reported by retailers relate to clause 2.1, which sets out the minimum greenhouse gas information that must be shown on customers' bills:

- Neighbourhood Energy reported that the greenhouse gas emissions shown on monthly bills for customers related to their quarterly consumption, rather than monthly consumption.



- Simply Energy reported that customers on feed-in tariffs received incorrect emissions information on their bills. This was caused by a systems error, which was rectified in October 2011.

Guideline no. 19 – Energy Price and Product Disclosure

Retailers reported two breaches of this guideline:

- Simply Energy reported that its website advertised products that were no longer available. The error was due to its third party provider, which was requested to remove the expired material.
- Approximately 10 000 customers entering into a market contract with Origin Energy received offer summaries that did not comply fully with information and formatting requirements (clauses 3.4 and 3.5). Origin Energy reported it has since updated its offer summary. Customers who received the noncompliant offer summaries were flagged in its billing system to ensure that any early termination fee is waived or refunded.

Type 3 breaches

Retailers reported more systemic Type 3 breaches in 2010-11 than in 2009-10.

TRUenergy breached the Retail Code because it failed to obtain customers' explicit informed consent to monthly billing before altering their billing frequency. Customers who did not give post-facto consent had their billing periods changed back to quarterly.

Retailers' reports also included the following systemic breaches of:

- *clause 2.4 and 2.5 of the Marketing Code*: Australian Power & Gas and TRUenergy sales staff did not keep records of visits and telephone contacts with consumers. Both retailers revised their procedures and processes to ensure future compliance.
- *part 2, sections 47–49 of the EI Act*: Simply Energy did not apply the new winter concessions to 1800 accounts. Invoices with the correct concessions were reissued.
- *clause 6.4 of the Electricity Retail Licence*: Approximately 4000 Simply Energy customers did not receive Guaranteed Service Level (GSL) payments due to a process failure. Simply Energy undertook to pay the GSLs to its customers and improve its internal processes to prevent a recurrence.
- *clause 7.2 of the Electricity Retail Licence*: Simply Energy customers were billed incorrectly because of administrative and systems errors. The errors were corrected.
- *clause 11.3 and Appendix A of Guideline no. 22*: Neighbourhood Energy could not survey a sample of customers about their understanding of the contract. The retailer assured the Commission that it would have the resources to meet its obligations in the future.

See section A2.3 in the Appendix for further information on Type 3 breaches.



4 WRONGFUL DISCONNECTION COMPENSATION

4.1 Overview

In 2010-11 residential energy prices continued to rise, by six or seven per cent on average. More than 31 000 residential customers were disconnected for non-payment in the 12 months, or around 7.7 per thousand electricity customers and 7.4 per thousand gas customers.⁷

Victoria's wrongful disconnection payment (WDP) legislation came into force in December 2004.⁸ A retailer who disconnects the energy supply to a customer must pay compensation if it breaches the relevant terms and conditions of the contract. The legislation fixes a compensation rate of \$250 for each fuel and for each day or part of a day that supply is disconnected from the customer's premises.

Amendments to this legislation came into force on 1 January 2012, and cap a wrongful disconnection payment at \$3500 if the customer does not notify the retailer of the disconnection within 14 days of the disconnection.⁹ This amendment does not affect disconnections that occurred before that date, for which any compensation payment is unlimited.

This chapter outline cases that were referred to us by the Energy Ombudsman during 2010-11. It also outlines cases that were settled by the retailers, but involved the Energy Ombudsman. Other cases are outlined as Type 1 compliance breaches in the appendix.

4.2 Cases requiring Commission involvement

The Commission becomes involved in a wrongful disconnection case after a customer makes a complaint to the Energy Ombudsman and the customer or the retailer then disagrees with the Energy Ombudsman's proposed resolution. In 2010-11 the Energy Ombudsman requested the Commission decide on 12 alleged wrongful disconnections. These involved AGL (six cases), TRUenergy (three cases), Lumo Energy (two cases) and Neighbourhood Energy (one case). The Commission decided that 10 of the 12 cases represented wrongful disconnections, for which compensation was payable.

Decisions in favour of the customer

AGL

The Commission found that five of the six disconnections by AGL were wrongful. We found that the retailer did not demonstrate it complied satisfactorily with its obligations to customers in financial hardship. Retailers must offer payment plans, provide telephone information about energy efficiency and the availability of independent financial advice, and/or assess the customer's capacity to pay.

⁷ See *Energy Retailers Comparative Performance Report — Customer Service 2010-11*, and *Energy Retailers Comparative Performance Report — Pricing 2010-11* on the Commission's website at [Energy > Energy retail - performance reports > View all publications](#)

⁸ Section 40B of the *Electricity Industry Act 2000* and section 48A(1) of the *Gas Industry Act 2001*.

⁹ *Energy Legislation Amendment (Bushfire Mitigation and Other Matters) Act 2011*.



Neighbourhood Energy

The Commission found that the one disconnection by Neighbourhood Energy referred to us was wrongful and was similar to the AGL disconnections discussed above.

Lumo Energy

Two cases involving Lumo Energy (Lumo) were referred to the Commission. Both related to the form of notice required before disconnecting a customer on a dual-fuel account (which is not the same as when the customer has two separate accounts).

In one case, billing for electricity and gas was synchronised on a single billing date, which is a defining characteristic of a dual-fuel account. Hence we decided that the customer did have a dual-fuel account. Lumo Energy failed to provide the required disconnection notice before disconnecting the energy supplies of a customer with a dual-fuel account and therefore, the disconnection was wrongful.

The other case was decided in favour of the retailer and is detailed below.

TRUenergy

Three TRUenergy cases were referred for a decision. One was resolved when TRUenergy accepted it wrongfully disconnected supply and accepted the Energy Ombudsman's earlier decision.

In the other two cases, TRUenergy accepted it wrongfully disconnected the customer but argued the compensation payment should be capped. The Commission confirmed compensation for wrongful disconnection was payable from the day of disconnection to the day of reconnection in both cases.

Decisions in favour of the retailer

Lumo Energy

The Commission noted the retailer billed the customer for both gas and electricity on a single invoice sometimes, but not always. We decided the billing was not synchronised and therefore the customer did not have a dual-fuel account. Lumo provided the required notice before disconnecting supply on single-fuel contracts and disconnection was not wrongful. Compensation was not paid.

AGL

The Commission found AGL did not wrongfully disconnect supply in one of its six cases. The customer was a resident of a block of units served by a common Bulk Hot Water system for which AGL was the sole gas retailer. AGL was also the retailer for gas to that customer's own unit until he changed his retailer. The customer received bills, reminders and disconnection warnings for the metered bulk hot water supply, which he ignored because he thought AGL was no longer his retailer.

The Commission agreed with AGL that the provisions of the GI Act relating to compensation for wrongful disconnection did not apply to AGL's supply of metered hot water to the customer. Hence no compensation payment for wrongful disconnection of that supply was appropriate.



4.3 Cases not requiring Commission involvement

As part of their compliance reports, the retailers also report the number of wrongful disconnection cases investigated and settled by compensation payment. Many of the reported disconnections could be attributed to more than one cause, such as IT system errors, failure to identify or respond to the customer's financial hardship, or stages of a disconnection process getting out of step. The information provided by the retailers in 113 cases has a number of common features:

- A third (33 per cent) of reported wrongful disconnections were cases where the retailer failed to:
 - respond as required with information or assistance to a customer in financial hardship
 - assess adequately the customers' capacity to pay or
 - disconnected the wrong customer for debt (generally, the new occupant of premises offer an instalment payment plan as required).
- A quarter (25 per cent) were cases where the retailer:
 - failed to issue a payment reminder or disconnection warning or
 - disconnected during the reminder or warning period or while the customer had a disputed bill under investigation.
- A further 25 per cent were cases where the retailer either:
 - wrongfully disconnected the intended customer for a debt that had been paid (generally, because the disconnection process was not halted) or
 - disconnected the wrong customer for debt (generally, the new occupant of premises where the retailer had intended to disconnect the previous occupant).
- Cases where the retailer reported a failure to use best endeavours to contact a customer before disconnection accounted for around 7 per cent of the reported total.

In the first and last groups, it appears that retailers' staff may have exercised poor judgment in their dealing with customers. Retailers could address these deficiencies through appropriate resourcing, training or supervision.

However, some customers are reluctant to engage with a retailer if they owe money and are unlikely to pay in the short term. The Commission organised a workshop to discuss the issues and identify solutions in late 2010. Further consultation on necessary changes to the Retail Code continued through 2011.¹⁰ The Commission's final decision clarifies the customer's obligation to engage meaningfully with the retailer, and so sets limits on the retailer's obligation to offer payment plans to a customer who does not engage. There are more details in appendix A1.2.

It appears the retailer's IT systems and processes failed for various reasons in the remaining cases. Occasionally, this was because the flow of information did not keep up with events as they happened. Retailers are generally improving their systems and processing.

¹⁰ See [ESC < Water < Past Projects < Retailers' Obligations - Disconnection & Reconnection](#)



A1 OTHER COMPLIANCE INITIATIVES

This appendix outlines other compliance matters that came to light through investigating complaints received at the Commission, and through special initiatives and reviews that we undertook during the period

A1.1 Complaint investigations

This section summarises some potential systemic issues or serious compliance breaches, received as complaints from customers or other stakeholders and investigated by the Commission. Where appropriate, the individual complaints were referred to the Energy Ombudsman to investigate and resolve.

Offer summaries and 'Do Not Knock' stickers

We received complaints from consumers and advocacy groups about incidents where energy retailers' sales agents ignored 'Do Not Knock' signs or failed to provide offer summaries as required. Similar complaints were made about most of the retailers that were actively marketing. We introduced measures to ensure Victorian consumers receive the information they require to make the best energy choice to suit their needs but are protected from intrusive marketing.

In July 2010 the Commission sent a letter on the subject to the Chief Executive Officers of all energy retail businesses in Victoria. The letter clarified the retailers' obligation to provide an offer summary as required under Guideline no. 19 — Energy Price and Product Disclosure. We asked them to explain how they ensured their staff and field sales agents complied with the requirement. Eight advised that they were compliant; others said they were taking steps to improve their processes and comply.

In April 2011 we wrote again to the Chief Executive Officers. We requested confirmation that their companies continue to observe the requirements in the Energy Marketing Code of Conduct to respect 'no canvassing' signs. We also asked each retailer to provide an example of its offer summary for any one distribution zone for each of its current market offers. Two energy retailers identified compliance issues with providing their summaries or including necessary details. Both retailers agreed to take all required steps to comply.

However, the Commission remains concerned about retailers providing potential customers with offer summaries that allow them to make an informed comparison and choice of market offer. This is why compliance with Guideline no. 19 was included in the 2011 program of regulatory audits of retailers — see section 2.3.

Contracts and capacity to sign a contract

The Commission received several complaints from a community legal centre that raised serious compliance issues about Lumo Energy's door-to-door sales practices in that community. The complaints centred on customers who signed contracts that they did not understand because of limited literacy or comprehension of the English language.



The community legal centre confirmed the demographics of the area meant this problem would continue if door-to-door sales continued. Lumo agreed not to conduct door-to-door sales in that area and investigated previous complaints and took remedial action where required.

Billing

The Commission received complaints about delays, overbilling, underbilling, estimates, meter reads, tariffs and incorrect billing details. As a percentage of customers' billed, the number of complaints remains relatively small.

Many billing complaints related to TRUenergy. Upon investigation, TRUenergy identified several systemic billing issues. We worked closely with the Energy Ombudsman to ensure a consistent regulatory interpretation and approach. TRUenergy agreed to fix all billing issues identified. It advised the majority of these systemic issues are due to be resolved by June 2012 when new IT systems are implemented.

Solar billing and feed-in tariffs

Customers with photovoltaic (solar) systems complained of confusion, billing delays and errors, and tariff changes. The most common complaints were customers not receiving the correct solar feed-in tariff.

On 23 December 2010 the Minister for Energy and Resources asked the Commission to assess the Standard Feed-in Tariff (SFIT) terms and conditions published by TRUenergy (28 October 2010). TRUenergy agreed to update its terms and conditions in accordance with the Commission draft findings.

We continue to address some of the customer confusion through our outreach program of presentations to community groups and consumer advocates.

Smart meters

The majority of complaints about smart meters related to media reports and customers' uncertainty about the rollout. Customers raised specific issues about the bills they received after the new meters were installed: the associated costs of installation and metering services appearing on bills, imposing GST charges for smart meters not installed and sometimes misaligned billing tariffs.

Many customers wanted to know if they had the right to refuse to have their smart meter installed. The Victorian government's smart meter rollout review provides greater certainty for both industry and customers. We anticipate ongoing smart meter coverage in news media means customers will continue to contact the Commission for clarification and guidance.

Price increases

Customers contacted the Commission about pricing matters, generally asking about retailers' ability to change contracted prices and the notification retailers must provide if they do. The Commission gave customers the information that they sought and suggested they use the Commission's price comparison website to ensure they receive the best rates.



Simply Energy — Gas Congestion charge

The Commission received a complaint in June 2010 from a customer about a bill he received from a collection agency for a Gas Congestion Charge that he allegedly owed Simply Energy. In December 2007 the Commission found the charge was unjustified and Simply Energy's collection efforts at that time breached the Retail Code. The retailer advised that its debt collectors no longer sought payment from 574 customers.

This time, the Commission again required Simply Energy to investigate and take the necessary corrective action to stop its collection agents. The retailer advised the problem was caused by an administrative error and failure to process a computer file. As a result, debt collectors again sought payment from 77 of its past customers. Simply Energy advised it reversed this debt collection process, cancelled the alleged debts and contacted the individuals where possible to apologise and explain.

A1.2 Reports and consultations

Standard Feed-in Tariff terms and conditions — Ministerial referral

In December 2010 the Minister asked the Commission to assess whether the SFiT terms and conditions published by TRUenergy were considered fair and reasonable. We found insufficient detail about the charges for electricity consumed and payments for electricity fed back into the grid. There was also insufficient assurance that a single SFiT would be available to all classes of customer.

The Commission advised TRUenergy and the Minister accordingly. The retailer revised its terms and conditions to make them fair and reasonable in the opinion of the Commission.

Hardship policies, report and follow-up

It is a condition of retailers' licences that they establish hardship policies to protect low income and vulnerable consumers. The Commission's Guideline no. 21 — Energy Retailers' Financial Hardship Policies sets out minimum requirements for the retailers' policies. Retailers must submit their initial policies to the Commission for approval. Diamond Energy did so, and the policy was approved.

During 2010-11 the Commission amended the Guideline to improve the usefulness of the information that retailers must provide their customers in financial hardship. Dodo Power and Gas and Click Energy both submitted revised policies, which the Commission also approved.

The Commission engaged Hall & Partners | Open Mind to conduct a qualitative study of the experiences of energy and water customers in financial hardship. We shared the results of the study with the utility businesses and community groups so that we, and the staff of these organisations, could better understand the experiences of the customers and learn how to improve the operation of hardship policies and programs.

The study interviewed 53 customers in depth and the results showed a variety of customer experiences and perceptions, and the scope for improvement. We asked businesses to respond



to the issues raised by the study report. We published a summary of their responses and a report on the best practices identified in the study and subsequent analysis.¹¹

Wrongful disconnection consultation

In December 2010 the Commission invited interested parties to discuss possible changes to the Retail Code and to the retailers' operating procedures for disconnection. The object was to enhance customer protection by clarifying retailers' obligations to offer instalment plans, without imposing unreasonable obligations on the retailers. Ten retailers, three consumer advocacy groups and the Energy Ombudsman attended at the workshop.

The primary issue for retailers was their inability to assess a customer's capacity to pay when the customer does not engage with them. In this instance, retailers cannot offer a plan as required by the Retail Code. Other concerns included the nature of the instalment plans to be offered, financial counsellors' assessments of capacity to pay, and paying lump-sum amounts.

The workshop was followed by further consultation in March and April 2011. The scope was broadened to consider matters raised by participants in the workshop, by distributors and by the Hall & Partners | Open Mind consultant's report. We invited submissions from retailers and other stakeholders and considered their responses.

Subsequent action

We continued consulting before publishing Draft and Final Decisions in late 2011 and early 2012 respectively.¹² The Final Decision articulates the principles that retailers should adopt in dealing with a customer to demonstrate a disconnection is not wrongful. We would consider these principles in reviewing any alleged wrongful disconnection referred to us, and we would expect the Energy Ombudsman to do likewise. We advised the retailers, consumer advocates and the Energy Ombudsman of the Final Decision.

Consultation is continuing about how to change regulatory instruments, given the expected transfer of powers from the Commission to the AER.

Smart Meters review — Capacity control and verifying bills

In December 2010 the Commission published an Issues Paper about using supply capacity control, made feasible by smart meters.¹³ This arrangement means that all power to the customer's premises is switched off when the customer's load reaches a certain limit. Supply is restored after a set short period of time, but is interrupted again if the load remains above an agreed limit.

In September 2010 the Commission decided using supply capacity control to manage credit should not be permitted until the planned rollout of smart meters is complete at the end of 2013. However, the Issues Paper considered other uses for capacity control, such as reducing a customer's total load in return for a lower tariff.

¹¹ See [ESC < Water < Past Projects < Improving approaches to customer financial hardship < Commission response to Hall & Partners | Open Mind report](#)

¹² See [ESC < Water < Past Projects < Retailers' Obligations - Disconnection & Reconnection](#)

¹³ See [ESC > Energy > past projects > Smart meters > Smart Meters - Capacity control and verifying bills draft decision](#)



In June 2011 the Commission's Draft Decision proposed not to allow supply capacity control for any reason except an emergency. However, the Final Decision in December 2011 allowed trials of capacity control for other purposes to proceed after further consultation. We will also publish a report on the international experience of load-control products.

In separate consultation on regulatory changes needed to introduce smart meters, the Commission decided that relevant customers' bills should show the total accumulated consumption read.¹⁴ This figure corresponds to the total consumption a customer could check against a similar reading on the meter at their premises. The Retail Code was changed following this consultation. Retailers must print the information on any customer's bill after 1 April 2011 if the distributor provides the reading.

Subsequent action

The Commission continued to work with retailers with major IT system changes in progress, to ensure they comply with the requirement in the Retail Code to print the information on all smart meter bills issued after 1 January 2012.

Compliance Report — Tariff reassignment

In June 2010 the Commission published a compliance report into regulatory implications when customers lost the off-peak element of their tariffs after an interval meter was installed.¹⁵ This was our response to industry developments occurring before the smart meter rollout started in late 2009.

Our report confirmed the distributor and the retailer had different obligations to advise the customer of a tariff change and, for market contracts, the retailer needed to receive the customer's general agreement or explicit informed consent. We assessed compensation that the retailer — or the retailer and distributor — should pay in different circumstances, if the existence of the advice and agreement or consent could not be confirmed.

We also asked retailers to investigate whether their customers experienced such a tariff change. If so, they needed to pay the appropriate compensation, coordinating this with the distributor where necessary. The retailers were also directed to reassign these customers to a peak/off-peak tariff or to a suitable time-of-use tariff if the customer wished, to eliminate the ongoing financial disadvantage. We also asked the AER to take the necessary enforcement action to ensure distributors' compliance with relevant obligations.

We tracked the retailers' progress in identifying the customers, contacting them and paying compensation where necessary to resolve this issue. The retailers identified fewer than 1000 customers in total who lost an off-peak tariff in the circumstances described in the report, and advised the Commission that they had been compensated as required. If still customers of the retailer, they were also offered an appropriate peak/off-peak tariff or a suitable time-of-use tariff.

It appears some retailers found it difficult to identify customers who were potentially affected in these circumstances, and to compensate them if necessary. Therefore, we included a review of the issue when developing the scope of the retail audit program (see section 2.3).

¹⁴ See [ESC > Energy > past projects > Smart meters > FDP - Smart Meters Regulatory Review](#)

¹⁵ See [Energy > Regulation & Compliance > Reports & Investigations > Regulatory assessment of tariff reassignment due to installation of interval metering](#)



A1.3 Other regulatory initiatives and industry events

Periodic meetings with the Energy Ombudsman's staff

Commission staff meet every four to six weeks with staff of the Energy Ombudsman's office, to review current concerns, particularly systemic issues that may affect numerous customers.

Purchase of Country Energy and EnergyAustralia

The New South Wales government completed the sale of a number of energy businesses in 2010-11, including Country Energy and EnergyAustralia, which were both licensed as energy retailers in Victoria. We advised Origin Energy and TRUenergy respectively on compliance issues that would arise from their purchasing the two businesses.

As noted in section 2.3, the change in ownership, management, systems and processes means Country Energy and EnergyAustralia were removed from the 2011 program of regulatory audits.

Origin & Dodo Energy — approval of new billing format

Retailers are required by a licence condition to provide certain information on their bills, to inform their customers about the greenhouse gas emissions equivalent to their electricity consumption. The Commission's Guideline no. 13 – Greenhouse Gas Disclosure on Electricity Customers' Bills expresses these requirements. Retailers must submit a sample of their proposed bills to the Commission for approval.

Origin Energy and Dodo Energy both submitted bill formats for approval during the year. We clarified issues for the businesses and approved the formats.

TRUenergy billing — investigative and corrective actions

In late 2010 TRUenergy disclosed to the Commission several issues with its billing systems. TRUenergy's investigations identified several issues, including errors and delays in setting up customers' tariffs, and data missing from TRUenergy's systems.

As a result, some thousands of customers' bills were delayed, sometimes for an extended period. TRUenergy established a project to correct its billing. We meet periodically with TRUenergy, to monitor its progress towards compliance and to assess its proposed actions to ensure that these do not further breach the Retail Code.

Community meetings — Braybrook and Morwell

During the year, we supported our compliance and enforcement activity through initiatives to inform energy customers of their rights and of regulatory requirements that apply to retailers. Educating and empowering energy consumers in this way helps to ensure that retailers comply with their obligations and respect their customers' rights.

Commission staff gave presentations at information sessions in Morwell and Braybrook in 2010-11. These locations, and other regional and metropolitan centres visited since then, were chosen as places where we could meet energy consumers who face multiple social disadvantages and who are poorly equipped to participate in the deregulated retail market.



Staff also answered a diverse range of queries from domestic and small business energy customers throughout the year. Most enquiries came directly to the Commission; others were referred by agencies such as the Energy Ombudsman or the Department of Primary Industries. The main topics of concern in these enquiries were:

- smart meters and metering generally
- billing issues
- tariffs and energy cost
- switching between retailers
- door-to-door marketing conduct
- connection problems.



A2 RETAILERS' BREACH REPORTS

The tables below summarise the reports of noncompliance made by individual retailers in their annual reports for the period July 2010 to June 2011. We analysed the breaches to assess whether they appear to be systemic or isolated.

A2.1 Breach Type 1

Retail Code

This Code specifies the terms and conditions required in a contract for the supply or sale of energy.

Clause 11.2 & 11.4(b) – Payment difficulties

Outline the process of assessment and assistance to domestic customers experiencing financial difficulties, and invoking legal proceedings in relation to debt collection.

<i>Retailer</i>	<i>Incident</i>	<i>Cause and response</i>	<i>Nature</i>
Australian Power & Gas	Four customers were not offered a second instalment plan prior to the retailer disconnecting them.	The retailer paid the customers wrongful disconnection payments.	Isolated
Australian Power & Gas	The retailer failed to assess two customers' capacity to pay which subsequently resulted in their disconnection	The customers were paid wrongful disconnection payments.	Isolated
Essential Energy (formerly Country Energy)	Six customers experiencing financial hardship were not provided with assistance, resulting in their disconnection.	These customers received payments from Essential Energy for wrongful disconnection. Essential Energy also subsequently updated their processes to ensure customers in financial hardship are provided assistance.	Isolated
Simply Energy	The retailer did not take into consideration advice from financial counsellors when assessing the capacity to pay of seven customers, resulting in their disconnection.	These customers received a wrongful disconnection payment.	Isolated
Simply Energy	Five customers, who had not been on any instalment plan in the previous 12 months, were not offered an instalment plan prior to the retailer disconnecting the customer.	These customers received a wrongful disconnection payment.	Isolated



<i>Retailer</i>	<i>Incident</i>	<i>Cause and response</i>	<i>Nature</i>
TRUenergy	The retailer ignored the advice of a church agent, who was not considered a financial counsellor, resulting in the wrongful disconnection of a customer in financial hardship.	The customer received a wrongful disconnection payment. The staff responsible for the disconnection were retrained.	Isolated
TRUenergy	The retailer failed to inform a customer experiencing financial difficulties of its financial hardship program, which subsequently resulted in the customer being wrongfully disconnected.	The customer received a wrongful disconnection payment and was also offered to be part of the retailer's financial hardship program. The retailer also provided feedback to the staff responsible for the disconnection.	Isolated

Clause 13 (except 13.5) – Grounds for disconnection

The process that must be followed prior to disconnecting a customer:

- a retailer's obligations to customers before disconnecting their services under certain circumstances
- instances where the retailer may not disconnect a customer's service under any circumstances
- a retailer's obligations to reconnect customers that it has disconnected.

<i>Retailer</i>	<i>Incident</i>	<i>Cause and response</i>	<i>Nature</i>
Australian Power & Gas	Four customers were disconnected due to human error.	The retailers paid wrongful disconnection payments to the customers.	Isolated
Australian Power & Gas	The retailer disconnected a customer prior to the requested date.	The customer received a wrongful disconnection payment.	Isolated
Australian Power & Gas	The retailer disconnected four customers without following the regulated processes.	The customers received wrongful disconnection payments.	Isolated
Essential Energy	Four customers were disconnected even though they had made the required payment or agreed to a payment arrangement with the retailer.	The retailer updated its disconnection process to prevent a recurrence of the noncompliance and made wrongful disconnection payments to the affected customers.	Isolated
Essential Energy	Two customers received bills with an incorrect due by date, which may have caused confusion and resulted in their disconnection.	The retailer updated its disconnection process to prevent a recurrence of the noncompliance and made wrongful disconnection payments to the affected customers.	Isolated
Essential Energy	A communication failure between Country Energy and the relevant distributor resulted in a customer being wrongfully disconnected.	The retailer updated its disconnection process to prevent a recurrence of the noncompliance and made a wrongful disconnection payment to the affected customer.	Isolated



<i>Retailer</i>	<i>Incident</i>	<i>Cause and response</i>	<i>Nature</i>
Red Energy	The retailer disconnected nine customers without following the regulated processes.	The retailer apologised to the customers and made wrongful disconnection payments.	Isolated
Simply Energy	Four customers were disconnected for non-payment of a bill even though the customer had paid the bill.	The customers received a wrongful disconnection payment and the relevant staff retrained.	Isolated
Simply Energy	Two customers incorrectly transferred to the retailer were wrongfully disconnected	Wrongful disconnection payments were made to the customers and the relevant staff member was retrained.	Isolated
Simply Energy	Two customers were disconnected prior to the requested date.	Wrongful disconnection payments were made to the customers and the relevant staff member was retrained.	Isolated
Simply Energy	The retailer failed to adequately assess two customers' capacity to pay, resulting in their wrongful disconnection.	Wrongful disconnection payments were made to the customers and the relevant staff retrained.	Isolated
Simply Energy	A customer in financial hardship was disconnected because the retailer failed to inform the customer of the financial assistance available.	The customer received a wrongful disconnection payment and the relevant staff retrained.	Isolated
Simply Energy	The retailer wrongfully disconnected two customers for the non-payment of a bill by previous occupants at the premises.	The customers received wrongful disconnection payments and the relevant staff were retrained.	Isolated
Simply Energy	Five customers were disconnected due to processing errors caused by the retailer's staff.	The customers received wrongful disconnection payments and the relevant staff retrained.	Isolated
Simply Energy	A customer was wrongfully disconnected due to an incorrect NMI being entered.	The customer received a wrongful disconnection payment.	Isolated
Simply Energy	Three customers were disconnected due to the retailer's failure to use best endeavours to contact them.	The customers received wrongful disconnection payments and the relevant staff retrained.	Isolated
Simply Energy	One customer was wrongfully disconnected after the retailer finalised the account.	A wrongful disconnection payment was made to the customer and the relevant staff member was retrained.	Isolated
Simply Energy	The retailer's failure to follow the regulated processes resulted in the wrongful disconnection of 26 customers.	The customers received a wrongful disconnection payment.	Isolated



<i>Retailer</i>	<i>Incident</i>	<i>Cause and response</i>	<i>Nature</i>
TRUenergy		The retailer has detected an issue with its IT system that would result in disconnection service orders being raised earlier than allowed under the regulations. We have sought further information from TRUenergy regarding possible impacts on customers.	Systemic
TRUenergy	The retailer wrongfully disconnected a customer, who wanted to transfer to another retailer.	The retailer's staff responsible for the disconnection was new to the area and subsequently received training. The customer received a wrongful disconnection payment.	Isolated
TRUenergy	A customer was disconnected after using electricity at the premises without establishing an account with the retailer.	The customer received a wrongful disconnection payment.	Isolated



Clause 14 – No disconnection

The circumstances under which a retailer may not disconnect a customer.

<i>Retailer</i>	<i>Incident</i>	<i>Cause and response</i>	<i>Nature</i>
Australian Power & Gas	The retailer disconnected a customer, who had a Utility Relief Grant Scheme application pending as well as a complaint being investigated by the Energy Ombudsman.	The customer received a wrongful disconnection payment.	Isolated
Australian Power & Gas	Four customers were disconnected for an outstanding amount less than \$120.	The retailer paid wrongful disconnection payments to the customers.	Isolated
Red Energy	Two customers were disconnected while their complaints were being investigated by the Energy Ombudsman.	Even though the retailer had cancelled the order to disconnect the customers, the cancellation order was lodged too late. The customers received an apology and a wrongful disconnection payment from the retailer.	Isolated
Simply Energy	A customer, who had applied for a Utility Relief Grant, was wrongfully disconnected.	This was due to a processing error. The customer received a wrongful disconnection payment from the retailer.	Isolated
Simply Energy	Two customers were disconnected while their complaints were being investigated by the Energy Ombudsman.	This was due to a processing error. The retailer paid wrongful disconnection payments to the customers.	Isolated

Clause 15 – Reconnection

A customer's right of reconnection and time of reconnection.

<i>Retailer</i>	<i>Incident</i>	<i>Cause and response</i>	<i>Nature</i>
Origin Energy	Customers calling after 6pm for a same-day reconnection cannot be reconnected.	The retailer's call centre closes at 6pm. The retailer has made arrangements with its nationally based call centre to take after hours reconnection requests.	Systemic
Simply Energy	Some customers requesting after hours reconnection were reconnected during business hours.	This was a result of the retailer's oversight. The retailer has improved its internal processes to ensure future compliance.	Isolated



Clause 20(a) – Variations require customers consent

Variations in tariffs and terms and conditions of an energy contract may only be made by agreement in writing, unless it is a gazetted term or condition.

<i>Retailer</i>	<i>Incident</i>	<i>Cause and response</i>	<i>Nature</i>
Simply Energy	The retailer failed to obtain three customers' explicit informed consent to a change in retail tariff resulting from a network tariff reassignment.	The customers received compensation and were allowed to remain on their existing tariff.	Isolated

Clause 24.1(d), 24.2(a) & 24.3(a) – Termination and expiry

When a retailer may impose an early termination fee.

When a retailer may terminate a contract for a customer's breach.

Information provided to a customer prior to the expiry of fixed term contract.

<i>Retailer</i>	<i>Incident</i>	<i>Cause and response</i>	<i>Nature</i>
AGL	Due to a technical error, 6126 electricity and gas customers did not receive the required information before the expiry of their contracts.	The retailer apologised to customers and provided them with an additional month to cancel their contract.	Systemic
Australian Power & Gas	1618 customers were not informed of the impending expiry of their contracts.	The retailer sent out the necessary information to affected customers and established a review of the process to limit any potential recurrence of this incident.	Systemic

Clauses 26.4(b), 26.7(a) & 26.7(b) – Information

A retailer must give notice to a customer as soon as practicable, of any variation to the tariff that affects the customer.

As soon as practicable, a retailer must provide details to the distributor of an address where life support or continued supply is necessary.

As soon as practicable, a retailer must report a fault at such an address to the distributor, if supplied by the customer.



<i>Retailer</i>	<i>Incident</i>	<i>Cause and response</i>	<i>Nature</i>
Origin Energy	The retailer will not be able to comply with the timeframe for notifying smart meter customers of tariff changes.	The retailer would not receive notification of tariff changes from the distributor in a sufficient timeframe. Amendments to industry processes are expected to resolve this issue.	Systemic
Simply Energy	1350 customers were not notified of tariff increases within the prescribed timeframe.	The noncompliance was due to system and administrative errors. The retailer has improved its processes and notified customers in the next bill of the tariff increase.	Systemic

Clause 33(a) & (b) – Assignment

A retailer may only assign its contract with a customer with the customer's consent.

<i>Retailer</i>	<i>Incident</i>	<i>Cause and response</i>	<i>Nature</i>
TRUenergy	141 customers, who had cancelled their contract during the cooling-off period, were still transferred to the retailer.	This was due to human error. The staff involved received further training and customers were returned to their previous retailer. The retailer also reviewed its internal processes to prevent future recurrences.	Systemic

Marketing Code

This code specifies standards and conditions for the marketing of energy including cooling off and explicit informed consent.

Clause 3.2–3.6 – Information and Conduct

Retailers must not mislead consumers, provide certain information to them and allow a cooling off period.

The retailer's obligations in relation to the conduct of sales agents and the provision of offer information to consumers.

<i>Retailer</i>	<i>Incident</i>	<i>Cause and response</i>	<i>Nature</i>
AGL	Between mid-February and late-March 2011, any customers accepting a market contract did not receive their contractual information within the required timeframe.	Upon becoming aware of its noncompliance, the retailer diverted resources to ensuring the contractual information were sent out to consumers as soon as possible.	Systemic



<i>Retailer</i>	<i>Incident</i>	<i>Cause and response</i>	<i>Nature</i>
AGL	149 customers received 'confirmation packs' that did not contain the correct information.	Affected customers received an apology letter with the correct 'confirmation packs'.	Systemic
AGL	The retailer received 229 complaints from consumers regarding misleading information being provided by its sales agents.	The retailer monitors the conduct of its sales agents and provides training to ensure the sales staff are aware of the regulatory obligations.	Systemic
Australian Power & Gas	The retailer's sales agent attempted to transfer the customer by forging the customer's signature.	The sales agent was identified and dismissed. The retailer also suspended all marketing activity undertaken by the team that the sales agent was a part of.	Isolated
Australian Power & Gas	33 consumers were misled by the retailer's sales agents. Sales agents also failed to provide contractual information to those consumers who had requested the information.	The retailer identified and dismissed the sales agent.	Isolated
EnergyAustralia	Approximately 300 customers who accepted a market contract with the retailer did not receive contractual information within the required timeframe.	This was due to sales activity being undertaken by telesales staff during the Christmas and New Year period. Affected customers were immediately sent the necessary information and were allowed to cancel their contract without any early termination fees.	Isolated
EnergyAustralia	The retailer's sales agents engaged in misleading and deceptive conduct. Approximately 164 consumers were either not informed of important information about the contract or were targeted because they were elderly or from a non-English speaking background.	Affected consumers would have the opportunity to return to their previous retailer without penalty and the sales agents responsible would be retrained or their employment contract terminated.	Systemic
EnergyAustralia	The retailer's sales agents ignored approximately 14 consumers' requests to cease marketing and leave their premises, then fraudulently completed the sale without the consumer's consent.	The retailer investigated the complaints, retraining the relevant sales agents, or terminating their contract. The affected customers were transferred back to their previous retailer without penalty.	Isolated
Neighbourhood Energy	Eight consumers were transferred to the retailer without their consent.	The retailer's investigation identified three sales agents responsible for fraudulently completing the sale and reported them to Victoria Police for further investigation.	Isolated



<i>Retailer</i>	<i>Incident</i>	<i>Cause and response</i>	<i>Nature</i>
Origin Energy	The retailer did not send out full contractual information to 137 new customers.	This was due to a processing error that the retailer has since rectified. The affected customers were sent the additional material and informed that the cooling off period commences from receipt of the additional information.	Isolated
Origin Energy	A small number of new customers on standing offer contracts did not receive information about their contract at the time of account establishment.	This was due to an error in its billing system, which has since been rectified.	Isolated
Origin Energy	The retailer investigated 163 instances of alleged misconduct by its sales agents, which may have resulted in customers signing up with the retailer based on misleading information.	The retailer takes appropriate disciplinary action against the responsible sales agents and may revise its training material, if necessary.	Systemic
Red Energy	Two consumers were almost transferred to the retailer due to misleading information provided by its sales agents.	The retailer was able to cancel the transfer. The consumers received an apology from the retailer and the sales agents were warned about their conduct and will be monitored.	Isolated
Simply Energy	1015 customers did not receive contractual information within the prescribed timeframe.	This was due to a process error that the retailer has subsequently rectified and the customers were sent the contractual information.	Systemic
Simply Energy	Due to human error, 27 consumers were transferred to the retailer even though they had cancelled their contract during the cooling-off period.	The affected consumers received an apology from the retailer, were transferred back to their previous retailer and the responsible staff was disciplined and received further training.	Isolated
Simply Energy	The retailer's sales agents were engaged in misleading, deceptive and unconscionable conduct by: <ul style="list-style-type: none"> • failing to provide four consumers with contractual information upon request • failing to inform consumers of new Winter concessions • being pushy with 37 consumers. 	The sales agents were disciplined and retrained. The retailer also apologised to the affected consumers.	Systemic
TRUenergy	Sales agents failed to inform consumers signing up with TRUenergy that they received a commission for the sale.	This was due to an error in the checklist used by sales agents. The information has since been updated by the retailer.	Systemic



Clause 4.1 & 4.3 – Consumer consent

Retailers must obtain explicit informed consent (EIC) of the consumer and the rules regarding sales to minors and authorised consumers.

Each calendar year, the retailer must audit a sample of customers' market contracts to ensure that each customer has given EIC.

Retailers must keep records for one year, which must be made available for independent audit as required.

<i>Retailer</i>	<i>Incident</i>	<i>Cause and response</i>	<i>Nature</i>
EnergyAustralia	Two sales agents attempted to fraudulently complete nine sales.	The retailer apologised to the customers.	Isolated
EnergyAustralia	511 consumers were transferred to the retailer without their consent.	Most of these consumers were transferred without consent or transferred even though consent was withdrawn. Approximately 15 per cent of the transfers were due to incorrect NMI or MIRN being entered or the retailer was unable to cancel the transfer in time. Only two transfers were due to fraudulent activity by sales agents. All transfers were reversed and bills were cancelled or customers were advised not to pay them.	Systemic
Lumo Energy	12 consumers were transferred to the retailer without consent.	This was due to sales agents fraudulently completing sales to receive the commissions. The retailer suspended all sales activity from that team and terminated the employment of the responsible sales agents. Affected customers were transferred back to their previous retailer.	Isolated
Origin Energy	1585 consumers were transferred to the retailer without their knowledge and consent.	This was due to a systems error. Customers were transferred back to their previous retailer without penalty and the retailer will continue to monitor its transfer process.	Systemic
Origin Energy	56 consumers were transferred to the retailer without their consent.	These incidents resulted from fraudulent activity by sales agents, whose employment was terminated by the retailer. Consumers were provided with the opportunity to transfer back to their previous retailer without penalty.	Isolated
Red Energy	A customer felt pressured by a telesales agent to transfer to the retailer.	The retailer will monitor the performance of the relevant sales agent, who would also be provided with additional training.	Isolated



<i>Retailer</i>	<i>Incident</i>	<i>Cause and response</i>	<i>Nature</i>
Simply Energy	An underage consumer signed a contract with the retailer.	This was due to a sales agent's conduct. The customer received an apology and was offered the opportunity to be transferred back to the previous retailer.	Isolated
Simply Energy	12 consumers were transferred to the retailer by sales agents who did not obtain the consumers' explicit informed consent.	The sales agents were not following the required process. The retailer has retrained all its sales agents and apologised to the consumers, who were also provided with the opportunity to return to their previous retailer.	Systemic

Clause 6 – Marketing and consumer information

Retailers must abide by the Privacy Act and not misrepresent their intentions as market research and not selling. Retailers must comply with the National Privacy Principles and any relevant guidelines issued by the Commission.

<i>Retailer</i>	<i>Incident</i>	<i>Cause and response</i>	<i>Nature</i>
Simply Energy	The retailer's sales agent misled seven consumers as to the purpose of the visit and then transferred these consumers to the retailer without obtaining their explicit informed consent.	The sales agents were disciplined and retrained. The retailer also apologised to the consumers and offered to transfer them back to their previous retailer.	Systemic

Guideline no. 19 – Energy Price and Product Disclosure

This guideline specifies minimum requirements in relation to:

- the process to be established to enable customers to access relevant published information
- the details and format for publication of energy standing offers, and Price and Product Information Statements (PPIS).

This guideline also contains obligations for certain written information, in the form of offer summaries that retailers must provide customers.

Clause 2.1(b) – Provision to the Commission

A retailer must provide details of its Standing Offer to the Commission in a prescribed form.

<i>Retailer</i>	<i>Incident</i>	<i>Cause and response</i>	<i>Nature</i>
Simply Energy	Due to incorrect labelling of tariffs in the retailer's PPIS, the Commission was unable to publish it on the YourChoice website.	This was due to a system issue that the retailer resolved. The tariff was subsequently corrected and the PPIS provided to the Commission	Isolated



A2.2 Breach Type 2

Type 2 breaches are breaches of regulatory obligations where:

- noncompliance would seriously impact on customers and/or
- the obligation is 'new' or has not been complied with in previous years and/or
- the impact of that noncompliance increases over time.

A breach of a Type 2 regulatory obligation is to be reported on a six monthly basis.

Retail Code

This Code specifies the terms and conditions required in a contract for the supply or sale of energy.

Clause 2 – Retailer's obligation to connect.

A retailer must connect as soon as practicable.

<i>Retailer</i>	<i>Incident</i>	<i>Cause and response</i>	<i>Nature</i>
Red Energy	The retailer delayed connecting a new customer's supply.	This was due to the previous occupant's debt. The retailer has apologised to the customer and arranged after hours connection at the retailer's expense.	Isolated



Clause 3.1 – Billing cycles

Retailer obligations to issue bills to customers:

- electricity — issued every three months
- gas — issued every two months
- dual-fuel — issued as agreed between retailer and customer.

Retailer	Incident	Cause and response	Nature
EnergyAustralia	336 electricity and gas customers did not receive bills within the prescribed timeframe due to practical difficulties such as meter reading problems, production and postage delays.	EnergyAustralia does not believe that full compliance with this obligation is possible without a major redesign of the operation of the energy market.	Systemic
Origin Energy	The retailer estimated that approximately 3 per cent of customers received their bills outside of the required timeframes.	The retailer monitors its performance and seeks ways to ensure that customers receive their bills within the prescribed timeframes.	Isolated
Red Energy	Due to issues with the distributor, a customer did not receive the bill within the required timeframe.	The retailer agreed to an extended payment plan with the customer.	Isolated
Simply Energy	Less than 1 per cent of new customers received their bills outside of the prescribed timeframes.	This was due to an account set-up issue that the retailer has since resolved. Customers were billed soon after the billing cycle ended.	Systemic
Simply Energy	4493 customers received reminder notices prior to receiving the bills.	The retailer issued unpaid bills and adjusted the payment terms.	Systemic
TRUenergy	Due to system configuration issues, approximately 52 500 customers did not receive their bills within the required timeframes.	The retailer is implementing upgrades to its systems and processes to reduce the backlog of delayed bills.	Systemic

Clause 4.2 & 4.4 – Information and graphs

Rules governing the minimum information to be included on a customer's bill and the rules requiring consumption graphs to be included on all bills.

Retailer	Incident	Cause and response	Nature
EnergyAustralia	Customers with smart meters have been issued bills that do not disclose the total accumulated consumption figure for the billing period	The retailer had sought the Commission's approval of compliance with this obligation at a later date due to its business being sold off by the NSW government.	Systemic
Neighbourhood Energy	Customers billed on a monthly basis received bills that showed quarterly, instead of monthly, consumption.	The retailer has not received any complaints from customers and does not believe that customers have been disadvantaged by its noncompliance.	Systemic



<i>Retailer</i>	<i>Incident</i>	<i>Cause and response</i>	<i>Nature</i>
Origin Energy	The retailer's gas bills do not display the distributor's name.	The retailer is implementing system changes to ensure that the distributor's name is displayed on gas bills.	Systemic
Origin Energy	The retailer's bill content for customers with smart meters is currently noncompliant with the requirements on estimated reads, accumulated consumption reads, and the presentation of consumption and average daily cost information. Impact on customers is minimal due to the Government's moratorium on time-of-use tariff.	The retailer's billing system is currently transitioning to a new billing system, which will have the correct information. The retailer expects to be fully compliant from April 2012	Systemic
TRUenergy	Customers' bills did not display the distributor's name.	This is due to the retailer's outsourced provider. System changes have been implemented to ensure that the distributor's name is displayed on bills.	Systemic

Clause 5.1–5.3 – Basis of bill

The bill must be based on actual meter readings at least once every 12 months or based on estimations as per prescribed conditions. Estimated bills may be applied under a bill smoothing arrangement.

<i>Retailer</i>	<i>Incident</i>	<i>Cause and response</i>	<i>Nature</i>
Red Energy	Three customers were billed based on estimated reads even though there was access to the meter.	The retailer apologised to the customer.	Isolated
TRUenergy	12 612 customers have not had an actual meter read in over 12 months and have been billed on the basis of estimated reads.	The retailer was not able to be fully compliant due to meter access problems, meter read errors and meter address errors. The retailer has processes in place to ensure an actual read is obtained at least once every 12 months. Customers are informed that the bill is based on estimated reads and would be notified if this is due to a meter access issue.	Systemic

Clause 6.2 & 6.3 – Undercharging and overcharging

Sets out conditions under which a retailer may recover money from a customer who has been undercharged, unless this is due to an unlawful act by the customer, and conditions under which the retailer must repay a customer who has been overcharged.



<i>Retailer</i>	<i>Incident</i>	<i>Cause and response</i>	<i>Nature</i>
Origin Energy	1263 customers were overcharged.	The retailer failed to apply new tariffs to the customers' accounts. Customers were informed of the issue and credited the overcharged amount.	Systemic
Origin Energy	Since 2006, approximately 3000 customers did not receive their full entitlements under the Life Support Rebate.	The retailer has not updated the Life Support Rebate amount in its billing system since 2006. The affected customers were paid the outstanding amount and a \$20 goodwill payment.	Systemic
Simply Energy	1826 customers were overcharged.	This was due to an account set-up issue that the retailer has since resolved. The retailer informed customers of the problem and refunded the overcharged amount.	Systemic
Simply Energy	1849 customers were undercharged due to the incorrect tariff being applied to their account.	This was due to an account set-up issue that the retailer has since resolved. The retailer notified customers of the problem and has decided not to recover the undercharged amount.	Systemic
TRUenergy	Approximately 3800 customers were not charged the correct amount for their energy consumption.	This is due to problems with the retailer's billing system. Regulators have been informed of this issue. The retailer will refund customers who have been overcharged and will not seek to recover from those who have been undercharged. Its processes will also be reviewed.	Systemic
TRUenergy	Due to an error in the billing system, peak rates were applied to off peak tariffs. This affected 3046 customers.	The retailer notified all affected customers of the problem and provided a refund, and additional compensation, to customers.	Systemic

Clause 8.1–8.3 – Refundable advances

The conditions under which a retailer may require a refundable advance from a customer, apply shortened collection cycles and deal with a customer who is having difficulty paying.

<i>Retailer</i>	<i>Incident</i>	<i>Cause and response</i>	<i>Nature</i>
AGL	The retailer had either taken or partially refunded the refundable advances of 278 customers.	Until all affected customers have been refunded, the retailer will not be accepting refundable advances from customers unless otherwise advised by the Commission. The retailer will also make a goodwill payment.	Systemic



Clause 28.1 – Complaint handling

All complaints must be handled according to prescribed Australian Standard or otherwise. Information on the process must be included in the charter.

<i>Retailer</i>	<i>Incident</i>	<i>Cause and response</i>	<i>Nature</i>
Simply Energy	A customer was not able to escalate a complaint within the retailer's organisation.	The customer was not informed of the right to escalate a dispute. The retailer's staff and team involved were retrained on the dispute escalation process.	Isolated



Marketing Code

Clauses 2.1 to 2.3 – Contact with consumers

Times at which retailers may contact consumers, information to be provided to consumers, requirements to keep 'no contact lists' and observe them, requirement to observe 'no canvassing' signs.

<i>Retailer</i>	<i>Incident</i>	<i>Cause and response</i>	<i>Nature</i>
EnergyAustralia	After a review of its internal records, the retailer discovered that its sales agents failed to show their ID badge when visiting 10 consumers.	The sales agents were notified of their noncompliance and were provided with further training.	Isolated
EnergyAustralia	The retailer's sales agent ignored a 'no canvassing' sign when visiting seven consumers.	The sales agents were notified of their noncompliance and were provided with further training.	Isolated
Lumo Energy	A resident with a 'Do Not Knock' sign displayed at the premises was approached by Lumo sales staff.	Sales staff failed to notice the 'Do Not Knock' sign.	Isolated
Simply Energy	The retailer's sales agents did not show identification to four consumers.	The relevant sales agents were retrained and the affected customers received an apology as well as an offer to return to their previous retailer.	Systemic
Simply Energy	Telesales agents did not provide identification to four consumers.	The relevant sales agents were retrained and the affected customers received an apology as well as an offer to return to their previous retailer.	Systemic

Guideline no. 13 – Greenhouse Gas Disclosure on Electricity Customers' Bills

Content of the information to be disclosed includes emissions calculated as specified for current period and past year, with a graph and other matter.

Format of the information to be approved by the Commission.

<i>Retailer</i>	<i>Incident</i>	<i>Cause and response</i>	<i>Nature</i>
Neighbourhood Energy	The greenhouse gas emissions information appearing on bills for customers, who are billed on a monthly basis, is based on quarterly, rather than monthly, usage.	The retailer is currently investigating this noncompliance and expects to resolve this issue by the end of the 2011-12 financial year.	Systemic
Simply Energy	The greenhouse gas emissions information shown on customers' bills was incorrect. This affected all customers on feed-in tariffs,	This was due to problems with the retailer's billing system, which have been resolved.	Systemic





Guideline no. 19 – Energy Price and Product Disclosure

This guideline specifies minimum requirements in relation to:

- the process to be established to enable customers to access relevant published information
- the details and format for publication of energy standing offers, and PPIS.

This guideline also contains obligations for certain written information, in the form of offer summaries that retailers must provide customers.

Clause 2.1(a) & 2.2 – Internet publication

A retailer must publish its Standing Offer on its website.

The home page must link easily and logically to the Standing Offer.

Retailer	Incident	Cause and response	Nature
Simply Energy	The retailer advertised a product on its website that is not available.	The retailer requested that its website provider remove the expired product from the website.	Isolated

Clause 3.4 & 3.5 – Information and format requirements

Detailed requirements for the content and format of a retailer's PPIS.

An alternative format may be used with the Commission's prior approval.

Retailer	Incident	Cause and response	Nature
Origin Energy	Approximately 10 000 new electricity and gas customers received offer summaries that were not compliant with Guideline no. 19. This included the omission of the Commission's YourChoice website address.	The retailer has updated its offer summaries and affected customers have been flagged in its system to ensure that early termination fees would either be waived or refunded	Systemic



A2.3 Breach Type 3

Type 3 breaches are all other breaches of regulatory obligations.

Retail Code

Retailer	Incident	Cause and response	Nature
EnergyAustralia	Clause 4.5 to 4.6: The retailer's billing system does not allocate a customer's partial payment in proportion to the balance owing for each fuel, as required.	The retailer reported that each jurisdiction has different requirements for payment allocations and considered it impractical to redesign its billing system to suit each jurisdiction's requirements.	Systemic
TRUenergy	Clause 10.1: Explicit informed consent was not obtained from customers before TRUenergy changed the frequency of their billing cycle.	Affected customers were contacted to obtain their explicit informed consent. For customers who did not provide consent, TRUenergy has reinstated the quarterly billing cycle.	Systemic
Red Energy	Clause 13.5: Eight customers were wrongfully disconnected.	Red Energy apologised to the customers and made wrongful disconnection payments to these customers.	Isolated
TRUenergy	Clause 26.2: TRUenergy did not include a statement on its bills that customers are entitled to a free copy of the customer charter.	TRUenergy has scheduled a message to appear on bills annually.	Systemic

Electricity Retail Licence

Retailer	Incident	Cause and response	Nature
Simply Energy	Clause 6.4: As a result of a processing error, Simply Energy did not apply GSL payments to 4000 customer accounts.	GSL payments were applied to affected customers and its internal processes will be improved.	Systemic
Simply Energy	Clause 7.2: Due to an administrative error, Simply Energy failed to apply the correct tariffs to 414 customers on feed-in tariff products resulting in these customers being undercharged.	The feed-in tariff customers affected by the incorrect tariffs were informed in writing regarding the incident.	Systemic
Simply Energy	Clause 7.2: 1696 customers received incorrect bills with some finding that their accounts have been closed.	This was due to an administrative and systems configuration error.	Systemic



Retailer	Incident	Cause and response	Nature
Simply Energy	Clause 7.2: Simply Energy performed secondary credit checks on two customers with one of these customers consenting to only one credit check.	The retailer reported that it will only perform one credit check in future.	Isolated
Simply Energy	Clause 11: The retailer overclaimed the administrative fees owing to the Department of Human Services.	Simply Energy has notified the Department of Human Services of its error and refunded the amount.	Systemic

Electricity Industry Act 2000

Retailer	Incident	Cause and response	Nature
Simply Energy	Part 2, Section 47–49: 392 customers on life support have not received the correct concessions.	Simply Energy is now manually applying the appropriate concessions.	Systemic
Simply Energy	Part 2, Section 47–49: Simply Energy failed to reconcile concession entitlements with Centrelink on a quarterly basis.	A new process has been implemented to ensure quarterly reconciliation with Centrelink takes place.	Systemic
Simply Energy	Part 2, Section 47–49: Simply Energy did not apply the new winter annual concessions to 1800 customer accounts.	The retailer has updated its systems and affected invoices were withdrawn and reissued showing the correct concessions.	Systemic

Marketing Code

Retailer	Incident	Cause and response	Nature
Australian Power & Gas	Clause 2.4–2.5: The retailer failed to maintain complete records of visits and telephone contact with consumers.	New procedures to improve record keeping will be implemented.	Systemic
TRUenergy	Clause 2.4–2.5: It has become apparent to the retailer that its door-to-door sales agents have not maintained complete records of visits to consumers.	TRUenergy now requires that its sales agents carry 'walksheets' with them.	Systemic

Guideline no. 19 – Energy Price and Product Disclosure



Retailer	Incident	Cause and response	Nature
Essential Energy	Clause 4.1: Offer summaries were not provided to Victorian consumers. Country Energy did not believe that many consumers were affected as it has ceased all marketing activity in Victoria.	Procedures were implemented to ensure customers will be provided with an offer summary.	Systemic

Guideline no. 21 – Energy Retailers' Financial Hardship Policies

Retailer	Incident	Cause and response	Nature
TRUenergy	Clause 2.4: TRUenergy has not reviewed its Hardship Policy since April 2007.	The Hardship Policy has been reviewed and submitted to the Commission for approval.	Systemic

Guideline no. 22 – Regulatory Audits of Retail Energy Businesses: Electricity and Gas Industries

Retailer	Incident	Cause and response	Nature
Neighbourhood Energy	Clause 1.1.3 & Appendix A: The retailer was not able to conduct the required audit of a sample of customers regarding consent to their contract.	The retailer will ensure that there are resources available to meet this obligation in future.	Systemic

Information Specification (Service Performance) for Victorian Energy Retailers

Retailer	Incident	Cause and response	Nature
Simply Energy	Reporting Framework: The retailer failed to provide the Commission with the Information Specification Requirements by the required date.	The Commission received the information three weeks later.	Isolated