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# REGULATORY REVIEW – SMART METERS

DRAFT DECISION

JULY 2010

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## CHAIRPERSON'S OVERVIEW

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

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

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

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

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

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

In April 2010, the Commission published an Issues Paper which raised a number of regulatory matters for review.<sup>3</sup> We emphasised that we were not proposing an overhaul of the regulations or of the regulatory framework, but canvassed a number of options. In some areas, we proposed a regulatory amendment, where it

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

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

<sup>3</sup> Issues Paper: Smart Meters – Regulatory Review at <http://www.esc.vic.gov.au/NR/exeres/73BC5D94-88A2-4910-93EE-E47E83A10385.htm>

appeared straightforward and in other areas, we posed questions, the answers to which were designed to assist the Commission to decide what regulatory amendments may be required.

Our key objectives were that customers are provided with consumption and pricing information that is transparent, timely and useful and that all customers, particularly vulnerable and low income customers, continue to be protected to maintain access to supply.

We conducted a public forum on 13 May and two workshops in March and June and received 35 submissions to the Issues Paper. All matters raised during these consultations have been taken into account in this draft decision.

We have, however, decided to defer consideration of some key issues, in light of the *Energy and Resources Legislation Amendment Bill* and the Government's current deliberations on the transitional arrangements.<sup>4</sup>

These matters relate specifically to the regulation which impacts directly on the transition of customers to time-of-use tariff structures. We note that there is considerable consultation being undertaken by the Department of Primary Industries (DPI) with industry and consumer representatives on the timing and implementation of these transitional arrangements. We therefore believe it is premature to propose amendments to the current regulation until these matters are clarified.<sup>5</sup>

We will revisit this regulation once the Government's deliberations and decisions on these matters are clarified and the Parliament has passed the Bill.

I invite interested parties to make submissions on this draft decision to the Commission by 13 August 2010. The final decision, together with the draft regulatory amendments, is scheduled to be released on 3 September 2010.

**Dr Ron Ben-David**  
Chairperson

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<sup>4</sup> The Minister for Energy and Resources stated on the ABC 'Stateline' Program on Friday, 11 June 2010 customers can choose to stay on a flat rate tariff if they did not want to go to a time-of-use tariff, for whatever reason.

<sup>5</sup> These provisions relate specifically to deemed and standing offer customers to a monthly billing cycle.

## GLOSSARY

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

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

## 1.1 What are smart meters?

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

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

Smart meters also allow the distribution company to locate outages and restore power more quickly.<sup>6</sup>

## 1.2 Regulatory powers of the Commission

The structure of the National Electricity Market (the NEM), which includes Victoria, is complex, with a number of regulatory bodies responsible for different aspects of the market. This complexity will increase for a period as the energy regulation further transitions from state based regulation to nationally based regulation.<sup>7</sup>

From 1 January 2009, the Australian Energy Regulator (AER) assumed responsibility for economic regulation of the electricity distribution businesses, including setting the distribution prices and charges. This includes setting the metering charges to take account of the smart meter implementation for the period 2009-2011.<sup>8</sup>

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<sup>6</sup> More information about smart metering, its capability and the rollout can be obtained from the Department of Primary Energy (DPI) website at [www.dpi.vic.gov.au/smartmeters](http://www.dpi.vic.gov.au/smartmeters) or the national smart meter project website at [http://www.ret.gov.au/Documents/mce/emr/smart\\_meters/default.html](http://www.ret.gov.au/Documents/mce/emr/smart_meters/default.html).

<sup>7</sup> When the national arrangements are complete the Australian Energy Market Commission (AEMC) will be the rule maker and the Australian Energy Regulator (AER) will be the regulator for distribution and retail functions.

<sup>8</sup> See Final Determination: Advanced Metering Implementation at <http://www.aer.gov.au/content/index.phtml?itemId=726410>. The AER will review the distributors' submissions for the 2012-2014 metering charges in 2011.



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

- Rule making for the Victorian distribution businesses, but not the enforcement of the rules or the economic regulation of the distribution businesses,<sup>9</sup> and
- Rule making and rule enforcement for the Victoria electricity retail sector including the licences, codes and guidelines made by the Commission.

### 1.3 Guiding principles for the review

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

The Commission must also have regard to the benefits and costs of regulation for customers and the regulated entities, and to ensure there is consistency in regulation between States and on a national basis.<sup>10</sup>

From these objectives, and in response to submissions to the Issues Paper, the following principles will also guide the review:

- the regulatory amendments will not limit or constrain the innovation that is available from smart meters and will continue to facilitate competition in the Victorian energy retail market
- the regulatory framework will assist in the delivery of the benefits of smart meter technology to customers
- customers will be provided with timely, transparent, useful and accurate information
- customers, particularly vulnerable customers, will continue to be protected by the regulatory framework
- the financial costs of supporting new systems and processes are properly allocated between retailers and distributors, where appropriate.<sup>11</sup>

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<sup>9</sup> From 1 January 2009, the Australian Energy Regulatory has responsibility for distribution economic regulation, including the regulation of AMI metering charges.

<sup>10</sup> *Essential Services Commission Act, 2001*, section 8.

<sup>11</sup> Some industry submissions were that the Commission should take into account the costs and benefits of the regulation and have regard to efficient costs across the industry. These are broad objectives under the ESC Act, which the Commission already must take account of in its regulatory decisions.

## 1.4 Review scope

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

The regulations in the following instruments will be reviewed:

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

The review also considered approaches in other jurisdictions, specifically Regulatory frameworks in Texas, Ontario and California were examined for lessons learnt and regulatory approaches which could be considered for adoption in Victoria. These jurisdictions were selected because of their similarity to Victoria, including the scope and level of retail competition, the mandated or voluntary rollout of smart meters and the application of TOU pricing.

We also took account of the outcomes of the customer trials implemented by EnergyAustralia in New South Wales.

## 1.5 Consultation

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

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

Based on these submissions, and information gleaned from other sources, an Issues Paper was published in late April 2010. Thirty five submissions were received and all substantive matters have been taken into account in this draft decision. A summary of the themes arising from the submissions is attached in Draft Decision: Background Paper No 1 – Summary of Submissions.

The review also considered a report by the St Vincent de Paul Society and a paper issued by the Ministerial Council on Energy Standing Committee of Officials.<sup>12</sup>

The following activities will complete the review by 30 September 2010:

- 15 July 2010 - Draft Decision published for consultation
- 27 July 2010 – Workshop on key issues arising from the Draft Decision
- 3 September 2010 - Final Decision and draft regulatory amendments published
- 30 September 2010 – Final regulatory amendments published.

## 1.6 Making submissions to the draft decision

Submissions in electronic format are preferred and should be provided to the Commission by 13 August 2010:

By email to;

smartmeters@esc.vic.gov.au

Or mailed to:

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

Or sent by a facsimile to;

03 9651 3688

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

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<sup>12</sup> St Vincent de Paul Society, February 2010: A National Report on Customer Protections and Smart Meters and Ministerial Council on Energy Standing Committee of Officials, August 2009: Smart Meter Customer Protection and Safety Review – Draft Policy Paper One

In reaching these draft decisions, the Commission reviewed the matters in the Issues Paper, took account of subsequent policy developments and considered all substantive issues in the submissions and raised at the public forum and workshops.

This section briefly summarises the draft decisions on the key matters set out in the Issues Paper. Each section referenced provides the reasoning for the decisions.

The Commission's draft decision on all other regulatory matters is set out in Appendix A.

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

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

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

- Agree with participants the most cost-effective tariff based on their behaviour and circumstances known at the time of entry to the program
- Monitor participants' behaviour and consumption during the program to ensure that they continue on the most cost-effective tariff and facilitate a change if necessary
- Not offer supply capacity control products until 31 December 2013.<sup>13</sup>

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

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

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

Clause 4.2 of the Energy Retail Code will be amended so that the following is shown on all customers' bills derived from interval data<sup>14</sup>:

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<sup>13</sup> This date may be amended if a review of, and amendment to, the Guideline No 21 occurs before that date.

<sup>14</sup> Interval data is derived from the smart meter readings in customers' premises.

- the total accumulated consumption reading corresponding to the end of the billing period
- the consumption by tariff segment, the actual tariffs and total consumption for the period.

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

Clause 5 of the Energy Retail Code will be amended so that:

- retailers must indicate that the bill is estimated when more than 5 per cent of the interval metering data that is used to determine the billed energy consumption are not actual readings from the smart meter
- when any interval metering data from a smart meter is required to be substituted to determine the energy consumption in the bill, the retailer must either:
  - (a) indicate on the bill that the bill is substituted and the extent of the substitutes; or
  - (b) not charge in the bill for energy consumption for each interval that is substituted.<sup>15</sup>

The Commission currently collects data on the number and proportion of estimated bills issued by retailers. The performance indicators will be expanded to include the number and proportion of bills issued with substituted data.<sup>16</sup>

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

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

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

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

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

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<sup>15</sup> The validation and substitution of metering data for this purpose will be in accordance with Clause 3.4 of the Metrology Procedure: Part A National Electricity Market, July 2009, overseen by the Australian Energy Market Operator (AEMO).

<sup>16</sup> This requirement will be incorporated in the Information Specification (Service Performance) for Victorian Energy Retailers issued by the Commission.

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

We will retain the current requirement that it is the retailer's decision as to whether to show the network charges on the bill.

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

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

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

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

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

The Commission will commence a review of Guideline No 19: Energy Industry – Price and Product Disclosure in January 2011, taking into account the smart meter tariffs that are likely to be offered to customers and the work being undertaken by the AER.<sup>17</sup>

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

The provision of historical billing data will continue to be regulated under clause 27 of the Energy Retail Code.

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

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

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

- both retailers and distributors to establish a set of privacy principles for the dissemination of consumption information through IHDs, before they are utilised;

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<sup>17</sup> The second exposure draft of the National Energy Customer Framework requires the AER to make and amend Retail Pricing Information Guidelines for energy retailers. The AER is undertaking preliminary consultation to inform the development of the Guidelines and published an Issues Paper on 15 March 2010. The AER intends to consult further on the development of the Guidelines later this year.

- retailers, in providing IHDs to their customers, to provide information to the customers setting out how the consumption and cost information displayed on the IHD compares to the consumption and cost details on the customer's bill.

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

Amend the relevant clauses of the Energy Retail Code and the Electricity Distribution Code to:

- require that where a remote connection, disconnection or reconnection is to be carried out, that the distributor uses its best endeavours to perform the services within two hours of a valid request from a retailer or customer;<sup>18</sup> and
- clarify the drafting of the terms for connection and energisation, taking into account smart meters to remove any ambiguity.

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

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

Clause 13.2 of Energy Retail Code will be amended so that, prior to disconnecting customers in hardship who are to be disconnected remotely, retailers must also contact the customer in person or by telephone, or in extenuating circumstances, by mail.<sup>19</sup> This communication must set out all the options for the customer.

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

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

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

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

Clause 7.8(a) of the UoSA will be repealed and replaced with the following:

"Subject to clause 7.9, a party must pay the amount specified in each invoice rendered to it in accordance with this agreement to the other party within the

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<sup>18</sup> These amendments will be appropriately be applied to customers' requests. The regulation will be properly drafted to ensure that obligations on retailers to follow proper disconnection and reconnection timeframes for credit management purposes will be adhered to.

<sup>19</sup> Extenuating circumstances will be defined to mean that a letter can be sent after a retailer has attempted unsuccessfully to contact the customer after making one visit or two telephone calls to the property.

following number of business days after the day on which the invoice is received (or deemed to be received) by the first party:

- To the extent that the invoice relates to Supply Points with a remotely read internal meter [which has been installed after 28 August 2007] and the billing period relates to a period before 1 January 2012 – within # Business Days<sup>20</sup>;
- Otherwise – within 10 Business Days

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

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

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

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

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<sup>20</sup> Stakeholder views are sought on the timing to be inserted here.



## 3 ASSISTING VULNERABLE CUSTOMERS

### Overview

The legislation and regulations place obligations on retailers to assist customers to remain connected to supply. The Electricity Industry Act requiring retailers to implement financial hardship programs, combined with regulatory obligations to provide instalment plans and other assistance, ensure that low income and vulnerable customers have an energy safety net.

We proposed a small number of regulatory amendments to increase the protections for small customers when smart meters are operational, including that disconnection warnings to customers should be amended to advise customers that they may be remotely disconnected (see section 6.2).

The Commission could not identify any additional regulation within its powers to further protect vulnerable customers, although we noted the current review of the effectiveness of the retailers' financial hardship programs.<sup>21</sup> The issues brought to that review, however, had not foreshadowed amendments to the regulations arising from the operations of smart meters.

Views were sought on whether there are any enhancements to the current regulations which are necessary for vulnerable customers arising from the implementation of smart meters.

### Submissions

All retailers considered that the current regulations offer adequate protections to assist customers in hardship. In their view, there is no need for further regulation other than the requirement to require disconnection notices to show that the premises could be disconnected remotely.

The Energy Retailers' Association of Australia (ERAA) acknowledged that there may be 'price shocks' for customers in hardship who consume more electricity at peak pricing times, but that the responsibility for lessening the bill impacts lies with the Government through Community Service Obligations. EWOV also was

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<sup>21</sup> See consultations at <http://www.esc.vic.gov.au/NR/exeres/0365B775-CD7E-4005-85FD-4231C5EC18A8.htm>

concerned at the impact of peak pricing on low income customers, but saw that this issue should be addressed outside this regulatory review.

Some consumer groups cautioned that other potential regulatory changes may exacerbate difficulties for customers in hardship. That is, the proposal to move customers to monthly billing cycles may mean that they are not able to manage their bill payments as effectively as previously and may also be disadvantaged if disconnections happen more quickly than under a quarterly billing cycle.<sup>22</sup>

SilverSpring Networks (SSN) raised the potential of the smart metering technology operating as a sophisticated pre-payment meter, the use of which for small customers is statutorily prohibited in Victoria.<sup>23</sup> Notwithstanding, SSN considers that the technology, which enables the capability to “choke” or restrict the amount of power going through the meter, will be of considerable advantage to customers in financial difficulties.<sup>24</sup> They will be able to choose to reduce their consumption (and therefore the amount of their bill) as a credit management tool.

Conversely, DHS and VCOSS submitted that there are risks for low income and vulnerable customers who may not fully understand the tariffs in the new contracts that are offered to them or their circumstances may change during the life of the contract. These events may result in further hardship for these customers unless additional obligations are placed on retailers.

The Commission is also aware that consumer groups have expressed considerable disquiet at the potential for low income or vulnerable customers to be offered a supply capacity control product to assist them in managing their energy consumption without fully understanding the implications of these products. These groups are also concerned that these customers may feel they have no choice but to accept the products because of their circumstances in relation to their utility supplier.<sup>25</sup>

### **Analysis and draft decision**

The Commission notes that most submissions confirmed that the current regulatory framework protects low income and vulnerable customers to remain connected to supply. However, there may some risks emerging for these customers which are not fully understood at this early stage of the smart meter program.

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<sup>22</sup> As noted, the Commission now will not address regulation for monthly billing for customers on deemed and standing offer contracts until there is further clarification from the Victorian Government on the transitional arrangements.

<sup>23</sup> Section 40E of the Electricity Industry Act 2000 and Section 48D of the Gas industry Act 2001.

<sup>24</sup> The Victorian AMI Minimal Functional Specifications enable the smart meters to be fitted with a functionality that allows the main supply contactor to limit supply to the customer within specified parameters.

<sup>25</sup> Consumer groups have raised this matter in submissions, at the Minister for Energy and Resource’s Customer Consultation Working Group and at the Commission’s workshop held on 23 July 2010.

This is particularly relevant to the potential bill increases which may be experienced by some customers on time-of-use tariffs in peak pricing periods. The Commission notes that the Victorian Government has stated its intention to address this issue in part by considering whether customers should be offered both smart meter flat and time-of-use tariffs, at least for the short-to-medium term.

Customers will require information from a range of sources over the next few years to understand how they may benefit from the operation of smart meters, including which tariff to choose. These benefits may include the supply capacity control products discussed above.

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

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

### **Draft Decision**

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

- Agree with participants the most cost-effective tariff based on their behaviour and circumstances known at the time of entry to the program
- Monitor participants' behaviour and consumption during the program to ensure that they continue on the most cost-effective tariff and facilitate a change if necessary
- Not offer supply capacity control products until 31 December 2013.<sup>26</sup>

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

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

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<sup>26</sup> This date may be amended if a review of, and amendment to, the Guideline occurs before that date.

## 4 PROVIDING INFORMATION AND INFORMED CONSENT

### 4.1 Overview

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

With smart meters, a range of new time-of-use tariffs will be developed. These tariffs may be based on consumption or demand in preset daily or seasonal time periods (time-of-use pricing), dynamically set according to network congestion or wholesale energy prices (dynamic pricing), or vary each half-hour with the wholesale market (real-time pool pricing).

The Government announced that the distributors have agreed to a 'moratorium' on the assignment of customers to a time-of-use tariff until at least the end of 2010.<sup>27</sup> Since that time, the Government has introduced into the Victorian Parliament the *Energy and Resources Legislation Amendment Bill* which proposes new heads of power for the Governor in Council to make orders in relation the transition of customers to time of use pricing structures.<sup>28</sup>

The retailers also may be required to offer small customers a choice of either a time-of-use or a flat tariff when smart meters are installed.<sup>29</sup> The following issues are addressed against this policy background.

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

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

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

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<sup>27</sup> Media Release dated 22 March 2010 from the Minister for Energy and Resources at <http://www.premier.vic.gov.au/component/content/article/9853.html>.

<sup>28</sup> Minister for Energy and Resources, Second reading speech, Energy and Resources Legislation Amendment Bill, Hansard, 24 June 2010

<sup>29</sup> Announcement on the ABC 'Stateline' Program on Friday, 11 June 2010.

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

## 4.2 Reviewing the bill

### 4.2.1 Verifying the accuracy of the bill

The regulation requires that the bill shows the electricity consumption in each period that a tariff applies and if the meter is an accumulation meter, the previous and current meter readings.<sup>30</sup>

This regulation currently is not applied to bills based on readings from an interval meter. This is because the consumption that is billed is derived from the half hourly data collected from the meter and not from a reading of a register from the meter as it is with an accumulation meter.<sup>31</sup>

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

We consider it is important that customers are able to verify their usage against their bill when they have a smart meter. We raised in the Issues Paper two means by which this objective could be achieved.

#### i. Consumption by individual tariffs

To enable customers to reconcile their charges against their consumption, bills for smart meters should show the consumption for each tariff segment, the tariffs, and the total consumption for the current period. Figure 1 shows how this information may be set out on the bill.

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<sup>30</sup> ERC clause 4.2(g)

<sup>31</sup> ERC clause 4.2(h)

**Figure 1**

<b>Meter ID</b>	<b>Consumption</b>	<b>X Tariff<sup>32</sup></b>	<b>= Cost</b>
Off Peak Energy ABC1234	1,302.3 kWh	7.4000 c/kWh	\$96.37
Shoulder Energy ABC12345	2,616.6 kWh	12.800 c/kWh	\$334.93
Peak Energy ABC123456	1,424.7 kWh	32.400 c/kWh	\$461.60
Supply Charge	93 days	42.000 c/Day	\$39.06
<b>Total Electricity for the period</b>	<b>5343.6 kWh</b>		<b>\$931.96</b>

**ii. Total accumulated consumption**

With TOU tariffs customers are likely to be more interested in consumption in tariff periods rather than just the total consumption. Nevertheless, we sought views as to whether the total accumulated consumption reading<sup>33</sup> should be included on customers' bills to provide benefits to customers.

There are a few options for how this information could be included on customers' bills:

- the total accumulated consumption reading as at the bill date
- the total accumulated consumption reading as at the bill date and at the previous bill date (this would resemble the "current" and "previous" reading)
- the total consumption for the billing period is added to the "previous" total accumulated usage, which customers could compare with their reading from the smart meter.

In considering these options, we noted concerns previously expressed by the retailers that the total accumulation consumption reading on the meter may become increasingly remote from the cumulative consumption figure calculated by the retailer (which is used for billing purposes) due to the effects of estimations and substitutions. This is discussed more fully in section 4.2.2.

<sup>32</sup> These tariffs are based on tariffs applied by EnergyAustralia. They do not represent the Commission's views on what time-of-use tariffs may be applied in Victoria.

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

Views were sought on the approaches designed to ensure customers maintain their ability to confirm the accuracy of their bill. That is:

- to include the consumption by tariff segment, total consumption for the period and tariffs
- the options for including the meter's total accumulated consumption on the bill

We also asked about the implications for cost, feasibility and information value to customers of the options for including the meter's total accumulated consumption on the bill.

## Submissions

All respondents agreed that the bill should show the electricity consumption broken down by tariff category. There was also general agreement that the bill should show the total consumption for the current period and the total cost.

Submissions were divided on whether requiring the total accumulated consumption on the bill would be of value to customers.

Some respondents, including distributors and the policy departments, considered the information may be useful to customers. Customers could independently verify to some extent the total accumulated consumption reading against their meter when they receive a bill.

Retailers did not support the proposal. Most repeated their concern that the total accumulation consumption reading on the meter may become increasingly remote from the figure used for billing purposes. This is because of the effects of estimations and substitutions, which in their view would tend to confuse, not enlighten customers. These views were also expressed at the workshop held on 23 June 2010.

Origin was concerned that, if the retailers were required to show the total accumulation read on the bill, they would be required to make significant qualifications about its accuracy. They also noted that it is not mandatory for the distributors to provide this read although the business-2-business procedures provide for it.

Consumer and environmental representatives and EWOV were supportive of the information being on the bill, noting its limitations. VCOSS, for example, noted that the purpose of the total accumulated read is to assist customers in assessing the veracity of their bill, but not to reconcile it entirely. EWOV believed it would assist to reduce a number of customer complaints if customers could see a total accumulated meter read on each bill.

DPI noted the retailers concerns about the potential for some differences between the figure on the bill and the total meter reading. However, the department also understood that the incidence of this occurring would be low and that the current proposal, or a similar approach, should be adopted in the regulations. In their view, it will be important to require a retailer to indicate on a bill the incidence of any material discrepancy.

### **Analysis and draft decision**

The Commission has considered all the submissions and noted the comments made at the recent workshop. We note the universal support for showing the tariff segment, the tariffs, and the total consumption for the current period on the bill.

We believe that disclosing the total accumulated consumption reading on the bill will be of value to customers. This reading may enable customers to confirm their usage for the current period with the period for their last bill, much as customers do today. We fully understand that the figure on the bill will not agree precisely with what the customers read from the meter once they receive their bill. This, however, is no different from what happens today. A customer may receive a bill a few days after their meter has been read and the figure on the meter will not agree with the last reading on their bill.

We also understand that there will be some divergence between the two figures because of the effect of substitutions. Most parties considered that, in practice, this divergence will be minimal.

No submissions substantiated significant cost implications of disclosing the total accumulation consumption reading on the bill. It is understood that many industry systems have already been designed to allow for this reading and some distributors are already collecting and providing the information to retailers.<sup>34</sup> Retailers will be revising bill formats for new tariffs and graphs and adding this component to the bill is assumed to be a small incremental cost associated with this activity.

The Commission notes that the smart meters service levels specification requires that the accumulated consumption be routinely collected and provided to the retailer daily from 1 January 2012.<sup>35</sup> However, from the information provided to this review, there appears to be no impediment to the accumulated consumption data being collected with routine quarterly and monthly reading of interval data from smart meters prior to this date.

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<sup>34</sup> CitiPower noted that they already collected the accumulation index read and provide it to the retailers with the interval (billing) data

<sup>35</sup> Advanced Metering Infrastructure – Minimum AMI Service Levels Specification (Victoria), Sept 2008, page 6. Available on DPI website.



### Draft Decision

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

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

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

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

#### 4.2.2 Estimated and substituted data on bills

The Energy Retail Code requires retailers to indicate whether the bill is based on a reading or is an estimated bill or whether it is based on any substituted data.<sup>36</sup>

For accumulation meters estimated reads are used when the meter is not able to be read, perhaps due to the lack of access. Generally the estimate will be replaced on the next bill by an actual meter read. A substituted reading occurs when the meter is accessed but the metering data subsequently cannot be used, perhaps due to meter failure. In such a situation, the substituted data can never be replaced by actual data.

##### i. Estimates

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

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

The likelihood of estimated bills with smart meters should be minimal when the remote reading feature of these meters is fully employed. On this basis, there is one view that the practice of issuing bills based on estimates should be proscribed now.

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<sup>36</sup> ERC clauses 4.2(e) and (f)

In the Issues Paper, we indicated that it appears to be too early to decide that estimates should not be allowed at all in billing because the capability of the meters and systems are not yet fully understood or implemented.<sup>37</sup> It is acknowledged that, with remote meter readings, it will no longer be necessary to indicate to customers that the bill is estimated to encourage customers to provide access to their meter. However, there may still be some circumstances where all or part of customers' bills will be estimated.

Views were sought on options for requiring that customers are advised that their bills are estimated;

- Only when the bill is wholly an estimate, as currently required under regulation
- Where there is a combination of estimates and actual readings
- Determining a materiality threshold, such as only where 2 per cent or more of the interval data is estimated.

Comments were also sought on whether there should be some default tariff arrangements impacting distributors, retailers and customers when bills are estimated.

## ii. Substitutes

Currently retailers are required to indicate when any substituted data has been used for billing purposes.

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

Customers should be advised that their bills in some circumstances are based on substituted data, but we suggested that the preferred option was to retain the current requirement that customers be notified that *any* part of a bill is based on substituted data.

Views were sought on the options for the use of substitutes;

- When the bill is based on any substituted data, as currently required under regulation
- Where the bill is based wholly on substitutes
- Where the bill is based wholly on substitutes

<sup>37</sup> Until end 2013, under a derogation to the National Electricity Rules (Chapter 9.9B), Victorian smart meters are classified as type 5 or type 6 which means data need only be delivered to the market quarterly.

## Submissions

Most parties agreed that there should be some level of threshold above which retailers must indicate that the bill is estimated.<sup>38</sup> Notwithstanding, some consumer groups still advocated that the practice of issuing bills based on estimates be abolished in a smart meter environment.<sup>39</sup>

The views were divided on the threshold level when customers should be advised that their bills are based on estimated data, ranging from less than 2 per cent to up to 20 per cent.<sup>40</sup> TRUenergy considered that the threshold should be set sufficiently high to recognise that an estimated bill is a significant call centre driver and hence cost to retailers.

Submissions were also divided on the application of a default tariff when estimates or substitutes are applied. Consumer groups and EWOV supported the proposal. Neither distributors nor retailers supported the proposal. A number of retailers considered this inappropriate intervention by the regulator in the competitive energy market and distributors indicated that the systems would not efficiently support such this decision.

Submissions were also divided on how substituted data should be treated on customers' bills. Some consumer groups considered that customers should be advised if any substituted data was used during the billing period. On the other hand, most retailers believed that customers would be confused or misled if only one or two half-hourly periods were based on substituted data, but they were led to believe it constituted a major part of the bill.

Others considered it premature to set regulatory requirements until the industry participants have the opportunity to evaluate the distributors' performance in providing data to the retailers.

UED confirmed the Commission's previous understanding that, as the need for substituted bills is largely based on meter failure, the incidence of substituted bills should be quite low.

## Analysis and draft decision

The Commission agrees that the operation of smart meters will largely eliminate missed meter reads. As the meters will be remotely read, it will no longer be necessary to indicate to customers that the bill is estimated to encourage customers to provide access to their meter.

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<sup>38</sup> In the submissions a number of industry respondents queried the use of the terms the Commission was using in its issues paper. SP AusNet and Dodo noted that while the ERC refers to estimated bills, industry processes refer to substitutes or final substitutes and that estimation has a different meaning. For the purpose of the ERC and customer billing the Commission will retain the terminology that an "estimated bill" is a bill that will be reconciled and a "substituted bill" is the final bill issued to customers.

<sup>39</sup> See submissions from the FCRC and CUAC

<sup>40</sup> See submissions from EWOV, CUAC, AGL, TRUenergy and UED

However, we cannot agree at this time that estimated bills will never be a feature of the electricity market. Estimated bills will be required where storm damage has caused a communications outage or when systems are down. In these circumstances all or part of customers' bills will be estimated and the next bill will reconcile the charge once the actual data is obtained. The occurrence of these should be minimal and fall as experience is gained. Nevertheless the likely extent of estimated bills is difficult to estimate until further experience in the business processes is gained.

A 5 per cent threshold is proposed for estimated bills - for a quarterly bill this corresponds to 4.5 days of estimates and for a monthly bill, approximately 1.5 days.<sup>41</sup> This appears to the Commission to be a reasonable threshold for the customer knowing that their bill is based on estimated readings, noting that these estimates will be reconciled with actual readings in the next bill.

The Commission also agrees that the incidence of substituted bills should be quite low. This is because, if the bill is largely based on substituted data because the data has been lost, it is likely there is a material problem with the functioning of the meter. In these circumstances, the distributor must replace the meter.

It is possible that a momentary fault could cause loss of data for just a few intervals without a meter failure and that it may not be of value to indicate this to the customer on the bill. This suggests that a threshold for a substituted bill may be warranted.

Alternatively, there may be a case for treating substitutes differently to estimates because substituted data can never be replaced. Customers possibly should be made aware of the fact that any part of their bill is substituted even though the financial impact may be minor.

Retailers have claimed that the costs of informing customers of any substituted data on their bills, particularly in call centre enquiries, far outweigh the financial implications for the customers.

There is an alternative approach that gives flexibility to the retailers in this regard. They could have the option of not indicating the bill is substituted if they choose not to charge for the substituted intervals. In this case there is a trade off for retailers: they are not paid for the power in these intervals, but they avoid the additional customer contacts that accompany substituted bills where only minor substitutions occur.

If the retailer considers the costs are substantial, they would be required to inform the customer that all or part of their bill is based on substituted data.

The Commission considers that this proposal appropriately leaves the commercial decision to the retailers' discretion, that is, they can determine the costs and benefits of advising their customers whether or not the bill is substituted.

The Commission will not consider further the proposal to apply a default tariff to an estimated bill at this time in light of the Government's legislative and policy approaches to smart meter tariffs generally.

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<sup>41</sup> This proposal is for 5% of the number of trading intervals in the bill that are substituted not 5% of the consumption. In a 90 day bill 5% of trading intervals is 216 trading intervals or 4.5 days.

However, we have noted the consumer groups' submissions that the current regulation does not place sufficient incentive on the retailers to avoid estimated accounts. If retailers have undercharged or not charged a customer, they currently are allowed to recover between 9 - 12 months of the undercharged amount.<sup>42</sup> The consumer groups state that, as retailers will be receiving half-hourly interval data on a daily basis, they will have substantial data on which to bill and the reasons for estimated accounts should be significantly reduced.

Therefore, once smart meters are operational and monthly billing is introduced, the consumer groups submit that retailers should only be allowed to recover up to three months of undercharged amounts (or up to three billing periods). This will equate with the current regulation, which also allows for recovery of up to three to four billing periods, and will provide an incentive for the retailers to improve their data recovery and billing systems.

The Commission considers it too early to consider amendments to the regulation at this time. Nevertheless, we believe that the issues raised by the consumer groups deserve consideration when the smart meters are operational and monthly billing is more prevalent. This regulation will be revisited at that time for review.

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<sup>42</sup> Retailers can recover up to nine months if the reason for the undercharge is related to the retailers' billing systems; otherwise they can recover up to 12 months. This regulation is set out in clause 6.2 of the Energy Retail Code.

## Draft Decision

Clause 5 of the ERC will be amended so that:

- retailers must indicate that the bill is estimated when more than 5 per cent of the interval metering data that is used to determine the billed energy consumption are not actual readings from the smart meter
- when any interval metering data from a smart meter is required to be substituted to determine the energy consumption in the bill, the retailer must either:
  - (a) indicate on the bill that the bill is substituted and the extent of the substitutes; or
  - (b) not charge in the bill for energy consumption for each interval that is substituted.<sup>43</sup>

The Commission currently collects data on the number and proportion of estimated bills issued by retailers. The performance indicators will be expanded to include the number and proportion of bills issued with substituted data.<sup>44</sup>

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

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

## 4.3 Managing consumption and costs

### 4.3.1 Graphical information on the bill

The current regulation assists customers to understand their consumption quite simply. That is, retailers are required to provide customers with graphs of the last 12 months of consumption by billing period, and a year-on-year comparison of current billing period consumption.<sup>45</sup>

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<sup>43</sup> The validation and substitution of metering data for this purpose will be in accordance with Clause 3.4 of the Metrology Procedure: Part A National Electricity Market, July 2009, overseen by the Australian Energy Market Operator (AEMO).

<sup>44</sup> This requirement will be incorporated in the Information Specification (Service Performance) for Victorian Energy Retailers issued by the Commission.

<sup>45</sup> ERC clause 4.4 - the periods to be graphed are either quarterly or monthly, depending on the billing cycle

TOU tariffs will mean that this simple consumption graph is unlikely to be adequate given the wide range of potential tariff structures that may emerge over the next few years. For example, the graphical needs of customers on a TOU tariff may be very different to customers on dynamic tariffs.

With 30 minute interval data, it is possible to provide customers with daily bar graphs or other graphical approaches over the billing period.

Customer pricing trials in California, Texas and Ontario reported that the display of their daily peak, shoulder and off-peak period consumption was essential for the effective management of electricity costs.<sup>46</sup>

For customers who take up TOU tariffs the bill should include monthly graphs for a two part tariff (or three part, if shoulder tariffs are included), even if these customers are billed quarterly. We were concerned that, without regulation, customers could be given a graph of quarterly or monthly totals, which may reduce their ability to understand and manage their electricity costs or to consider alternative offers from retailers.

Views were sought on:

- the proposal is to require retailers to provide customers with a graph similar to that used by EnergyAustralia or Ontario Energy Board when time-of-use tariffs are introduced for customers with smart meters.
- the implications for incremental costs or barriers to innovation of this approach
- whether mandating daily periods may also be beneficial for customers

## Submissions

Compared to other matters, there was quite a deal of consistency in the submissions. All parties supported customers' bills showing a visual representation of their consumption if they are on time-of-use tariffs (see Appendix B). Many supported the relatively simple EnergyAustralia approach, which shows the consumption by tariff blocks on a quarterly basis.

The Ontario approach, which shows consumption on a daily basis, was considered by some respondents to be too cumbersome although supported by others.

CUAC foreshadowed its concerns that retailers may offer complex tariffs over a day (for example, a five-tariff structure), and that further consumer research should be undertaken prior to regulating how that information should be visually presented on a bill. There was also a view that the bill benchmarking work being undertaken at the national and Victorian level may confuse customers in relation to the information on their bills.

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<sup>46</sup> Background Paper 2: Review of Other Jurisdictions – Regulations and Smart Meters

Many retailers urged the Commission to either set minimum, or no, requirements for how the information should be graphically presented. This is because providing the graphical information on the bill provides an opportunity for the retailer to innovate between its competitors and respond to changing tariff and market conditions.

### **Analysis and draft decision**

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

However, there is a change required in relation to billing periods. If customers are on monthly billing cycles, the existing regulation should be interpreted to require retailers to provide the consumption information on the bill on a monthly basis. If, however, customers are on a quarterly billing cycle, we consider that it is necessary that customers on TOU tariffs are able to monitor their consumption behaviour on a monthly basis.

We note that there are proposals in Victoria, and through the National Energy Customer Framework, for retailers to provide benchmarked consumption information to customers. We agree that it is appropriate for retailers to best determine how these requirements interact with the existing requirements to provide consumption information by tariff structure on the bill.<sup>47</sup>

We also consider that customers should be provided with basic information of their daily costs on the different TOU tariffs over a monthly period. This is particularly important if customers are to compare their costs on a flat tariff with a TOU tariff. Therefore the existing regulation will require this additional information, noting that some retailers already provide this information to their customers.

#### **Draft Decision**

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

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

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<sup>47</sup> The Victorian Electricity Industry Act currently requires retailers to provide information to customers so that they compare their electricity consumption against benchmark figures. This information does not have to be on the bill. The National Energy Customer Framework may place a legislative obligation for the information to be on the bill.



### 4.3.2 Unbundling tariffs and charges on the bills

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

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

Customer bills are most impacted by the costs associated with growing network peak demands and generation, which suggests that it would be beneficial for customers to see and be charged directly for these distribution and generation costs.

There is significant mandatory unbundling of tariff components on customer's bills in overseas jurisdictions, that is, the specific network, retail and other charges are detailed.

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

We asked for views on whether:

- Customers would gain any information from unbundling of the distribution charges if the retailer does not base its tariff on the distributor's tariff structure.
- It would be helpful for customers to have some charges unbundled, but not others?
- Unbundling of network charges and tariff alignment have the potential to reduce retailer flexibility in tariff offerings,

We also asked for details on the costs, benefits and feasibility of greater unbundling and whether regulation should go beyond requiring the unbundling of retailer and distribution cost sub-components of wholesale and metering costs.

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<sup>48</sup> ERC clause 4.3

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

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

## Submissions

Submissions were not in agreement on whether there should be more unbundling of charges on customers' electricity bill.

EWOV and some consumer groups supported the principle that customers need to understand which charges are influenced by their behaviour and which charges are fixed, but thought that in practice, greater detail may lead to customer confusion. VCOSS nevertheless considered that unbundling the charges will allow greater scrutiny of costs and drive competition by customers knowing what costs are regulated and which are subject to competition.

Distributors were somewhat supportive, noting that customers would probably benefit from greater transparency of information on their bill. However, they were concerned about restricting retailers' capacity to offer innovative products and confusion for customers. Retailers generally were less supportive. They could not see that there would be benefits to customers if the retailer did not base its tariff on the distributor tariff structure. The requirement for retailers to unbundle in these circumstances would increase retailer's costs and complexity for customers.<sup>51</sup> Retailers also did not agree that unbundling of tariffs would influence customers' behaviour in the competitive market.

The policy departments also had different views. DTF thought that there may be some benefit in requiring the unbundling of network and retail tariffs in the competitive market to enable retail offers to be more easily compared. DPI however, was concerned that there should only be unbundling if the regulated charges were fully described and replicable.

## Analysis and draft decision

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

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

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

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<sup>51</sup> TRUenergy, for example, submitted that regulating unbundled could impose multi-million dollar costs on the retailers.

### **Draft Decision**

We will retain the current requirement that it is the retailer's decision as to whether to show the network charges on the bill.

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

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

The regulations require that customers' explicit informed consent must be given to a change in tariff associated with a market contract. Customers' agreement is not required for deemed and standing contract tariff changes.<sup>52</sup> The regulations do not allow changes to a tariff structure, for example from a flat tariff to a TOU tariff, without the explicit agreement of customers.

Both the legislation and the regulation require the retailer to advise the customer of any tariff change at least by the next bill after tariff change takes effect.<sup>53</sup> The legislation applies only to customers on deemed and standing contracts.

The Commission no longer considers it appropriate that notice of these variations is provided "*...as soon as practicable and in any event no later than the customer's next bill.*" Customers should not receive notification that their tariff has increased at the same time that the increase is applied to their bill.

The Commission could amend the regulations for customers on market contracts, but the obligation on retailers in respect to notification of tariff variations for customers on standing contracts could not be effected without a legislative amendment. The Commission consulted with the DPI in preparing the Issues Paper and understood that these issues were being considered in a policy context.

Views were sought as to whether the Commission should make changes to the regulation now for customers on market contracts or wait for the outcomes of the Victorian Government's deliberations, so that there is consistency between customers on market contracts and those on standing contracts.

### **Submissions**

There was general agreement that there should be consistency for customers on standing and market contracts when being notified about tariff amendments. Retailers generally appeared to accept that it was reasonable for customers to be advised of tariff variations earlier than the current requirements, but also advocated that comparable obligations should be placed on the distributors.

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<sup>52</sup> ERC s20.1 and 21.1(b)

<sup>53</sup> Section 35Cb) of the EI Act and ERC clause 26.4(b)

Some retailers also expressed concern that they would be disadvantaged if customers were reassigned to smart meter time-of-use tariffs by the distributors, and the they were not able to make subsequent changes to retail contracts without customers' explicit consent.

Consumer and environmental representatives believed that the retailers should also provide additional information to the customers, for example, on consumption behaviour, in these notifications.

The submissions, however, tended to address both the notification of tariff variations and notification of tariff structure changes. Many respondents considered that the regulations should address both matters.

Consumer and environmental groups strongly stated that deemed and standing offer customers must provide their explicit informed consent to any tariff structure changes. We reiterate that this regulatory review will not address this issue.

CALC noted, however, that the current regulation allows the retailer to vary a tariff and/or a tariff structure in a market contract if they obtain the explicit informed consent of the customer, including at the time of entering the contract. CALC questioned whether consent provided at the time of entering the contract may be considered an unfair contractual term under the *Fair Trading Act*.

Consumer Affairs Victoria noted that a central task of the Commission's review is to ensure that customers are provided with transparent consumption and pricing information. Under the new Australian Consumer Law - to be adopted in 2011- the transparency of the contractual term will be a key factor in determining whether or not the term is considered fair under the law.

The DPI submitted that:

*Consistent with the position of the Victorian Government that customers have a choice as to whether they move to a TOU tariff, the ESC's review should contemplate both an opt-in and an opt-out scenario.*

*In circumstances where the TOU tariff is entered into pursuant to a market contract, the current rules requiring consent to a change to the tariff may need to be enhanced in order to provide adequate protection to a customer.*

*In circumstances where a TOU tariff may be able to be offered by a retailer to discharge its statutory "obligation to offer", a more robust framework is required. At a minimum, the ESC should envisage is a requirement for retailers to notify customers of the availability of, and any subsequent change to, a TOU tariff before that introduction or change takes place (either in the customer's preceding bill or by a separate notification).<sup>54</sup>*

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<sup>54</sup> DPI submission,

## Analysis and draft decision

As discussed earlier, the *Energy and Resources Legislation Amendment Bill* (the Amendment Bill) has been tabled in the Victorian Parliament. Debate has been adjourned until 8 July 2010. The Amendment Bill inserts new heads of power for the Governor in Council to make orders in relation to the operations of smart meters.

The amendments allow orders to be made to require retailers to notify customers about smart meter tariffs and to meet certain requirements before offering such tariffs to customers. The above submission from the DPI appears to signal that consideration is being given to the current statutory notification requirements to customers on deemed and standing offer contracts.<sup>55</sup>

In this draft decision, the Commission is considering the regulation under clause 20 – variations requiring a customer’s agreement, and clause 26.4 – notification to customers of tariff variations.

### *Variations requiring a customer’s agreement (clause 20b) – customers on market contracts*

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

The Commission notes that the unfair contract terms regime provides a list of factors and examples where a term of a standard form contract can be void if it causes a significant imbalance in parties’ rights and obligations under the contract and it is not reasonably necessary to protect the interests of the party advantaged by the term. An example given by the legislation of a possible unfair term is one that allows one party only to vary the terms of the contract. Whether it is unfair would depend on other criteria and the circumstances of the case.

In this regard, we note the submission from the Executive Director, Consumer Affairs that, under the new Australian Consumer Law, the transparency of the contractual term will be a key factor in determining whether or not the term is considered fair under the law.

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

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<sup>55</sup> These customers are those referred to in the DPI submission customers to whom a “TOU tariff may be able to be offered by a retailer to discharge its statutory “obligation to offer”,

*Notification to customers of tariff variations (clause 26.4(b)) – customers on deemed and standing contracts*

The Commission considers that it is self-evident that customers should be advised of tariff variations, particularly upward variations, prior to those variations taking immediate effect. Customers on deemed and standing offer contracts are currently covered by the statutory provisions of the EI Act.

Any amendments made to the current regulations will only impact customers on market contracts, but we note the DPI's submission to the Issues Paper which supports the Commission's views on this matter. We also note that the *Amendment Bill* provides the Government with the head of power to make an order on tariff notifications.<sup>56</sup>

The Commission considers that customers should be advised of pending tariff variations at least one month prior to the date of effect. In view of the fact that customers may be on either monthly or quarterly bills, and the considerable amount of information on a bill may mean the message is overlooked, the Commission's view is that this information is provided by separate notification.

The Commission agrees that the obligations on distributors to advise retailers of pending network tariff changes need review so that the retailers can meet their new obligations. This matter is addressed in clause 9.8 of the default Use of System Agreement. These clauses will be redrafted for consultation with the distributors and retailers prior to publishing the final decision.

**Draft Decision**

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

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

**4.4 Shopping around for a better offer**

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

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<sup>56</sup> See proposed amendment to section 46D(i) of the *Electricity Industry Act 2000*.

These instruments set out the key regulations governing marketing activity, including requiring retailers to provide details of all prices, charges and tariffs to be provided to customers before entering into a contract.<sup>57</sup> Guideline No 19 requires retailers to provide customers a written offer summary in a standard form so that they can use this to compare offers between retailers.

Smart meters will allow networks and retailers to develop a wide range of tariff structures, featuring many different types of prices and charges. Without a common approach, it may become virtually impossible for customers to evaluate offers between retailers. Retailers may be encouraged to develop complex offerings to reduce customers' ability to identify potential savings from competing retailers.

Requiring the use of common definitions on retailer bills and market offers appears to be increasingly popular overseas as a response to retailers using their own definitions that undermine customers' ability to compare competing offers. Regulators have in some cases developed their own dictionary of terms and required retailers to use consistent definitions where they have been provided.

On the other hand, too prescriptive and standardised information may risk customers choosing a sub-optimal retail offer for them.

Views were sought on the following options for retailers to provide information to customers in their marketing activities:<sup>58</sup>

- Requiring the energy retail businesses to offer retail market offers with tariff structures that are the same as the network tariff structures. That is, if the network has a three part TOU tariff that applies to various time periods, then it would be a requirement that the retailers provide at least one market offer with the exact same tariff structures.
- Requiring retailers to provide indicative charges for a standard set of customer profiles to assist customers when choosing between two complex retail offers.
- Requiring retailers to display the average price paid per day or unit of energy on the bill to provide customers with a simple index for understanding how their costs are trending, with information on how to compare that cost against competing offers.

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<sup>57</sup> Marketing Code, section 6.3

<sup>58</sup> These options are also discussed in the St Vincent de Paul Society: A National Report on Customer Protections and Smart Meters, February 2010

## Submissions

Most retailers considered that the regulations should not present a barrier to them developing product offerings in response to customer needs. In their view, prescribing standardised formats, terminology and tariff structures will stifle innovation and potentially lead to price re-regulation in the competitive energy market.

Consumer advocates had a directly opposing view. They consider that customers are confused and misled by marketing behaviour now, particularly low income and vulnerable customers, and this will be exacerbated by the proliferation and complexity of time-of-use tariffs. The regulator (either the Commission, the AER or both) should develop standardised information to be presented to customers in product offerings to enable consumers to compare “like with like”.

Consumer advocates and EWOV nevertheless considered that more research should be undertaken with consumers to see how best to present the information.

The policy departments were concerned not to stifle retailers’ innovation, but recognised also that customers are often confused by the electricity market already and may have difficulty in making choices with the more complex TOU tariffs. They supported a standardised approach to facilitate this choice.

Those who supported a standardised approach suggested requiring retailers to show comparative offers against a standard set of customer characteristics and load profiles. There was no agreement as to whether offers should be compared against a unit price. Some considered the simplicity would aid customers, while others asserted that just citing a unit price did not show the customer the full benefits of the particular offers.

There was support for a website setting out the different offers available to customers, similar to the YourChoice website run by the Commission.<sup>59</sup>

## Analysis and draft decision

The existing requirements in Guideline No 19: Energy Price and Product *Disclosure* require the retailer to provide information on the existing offer to customers in a way that the customer can easily understand the offer. The regulations are also designed to assist the customer to easily compare offers against each other.<sup>60</sup>

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

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<sup>59</sup> See [www.yourchoice.vic.gov.au](http://www.yourchoice.vic.gov.au)

<sup>60</sup> The Commission is aware that some retailers are not providing customers with Offer Summaries now and is pursuing this as a compliance matter.



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

We therefore consider that Guideline No 19 requires review and amendment. However, we are persuaded that it is too early to consider the best format and approach. We agree with many respondents that more information is needed on the types of offers that will be made, how customers' usage patterns will influence time-of-use tariff structures and what information customers actually need before we can decide how best to assist customers to compare offers and make a decision.

We also acknowledge that work is being undertaken by the AER in developing pricing guidelines for the national market.<sup>61</sup>

### **Draft Decision**

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

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<sup>61</sup> The second exposure draft of the National Energy Customer Framework requires the AER to make and amend Retail Pricing Information Guidelines for energy retailers. The AER is undertaking preliminary consultation to inform the development of the Guidelines and published an Issues Paper on 15 March 2010. The AER intends to consult further on the development of the Guidelines later this year.

## 5 | ENABLING ACCESS TO BILLING AND METERING DATA

### OVERVIEW

This section brings together a number of related issues concerned with providing information to customers about their power usage when they have a smart meter, that is:

- access to historical metering data – this data is at billing level and would enable customers to replicate a missing bill
- access to metering data – this is the interval (half hourly) data that underpins the billing level data for customer with smart meters;
- consumption information through new technology;
- the role of distributors in providing metering data to customers; and
- privacy and security concerns.

In the Issues Paper the Commission sought views on how regulation should assist customers obtaining billing and metering data.

### 5.1 Access to historical billing data

The current regulations require that retailers provide customers (including former customers) with historical billing data held by the retailer. This right of access includes one free request per year for data within the last two years. Retailers are required to use best endeavours to provide the data within 10 business days.<sup>62</sup>

This regulation would appear to continue to satisfy customer's needs to reconstruct their bill even with new TOU tariffs. With these tariffs that have a number of segments the billing would change from being a single consumption figure per quarter to consumption in different tariff segments for each month or quarter. That is, the historical data supplied by the retailer would be the consumption data for each tariff component aggregated for each billing period.

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<sup>62</sup> ERC s27

Views were sought on whether the regulation of the provision of billing level data would continue to meet the needs of customers to allow them to reconstruct their historical bills in a smart metering environment for ad-hoc or occasional purposes

### 5.1.1 Access to metering data

Smart meters will record consumption information each half hour and this data will be much more useful to customers for analysing usage patterns than data that just corresponds to the billing period.

For the data to be useful, it must be:

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

There is also newly developing technology to assist customers. In-home-displays (IHD) accessing data directly from the meter via a wireless link means that information will be provided at relatively low cost and in near real-time that will enable customers to better understand and manage their electricity consumption.<sup>63</sup>

The use of the internet to provide metering data directly to customers however raises significant issues of privacy and data security. Metering data has always been regarded as confidential, but with interval data additional information such as when a customer's home is consuming power and when it is occupied becomes available. This information must be kept private and secure.

Most overseas jurisdictions are providing customers with secure access to their smart metering information.<sup>64</sup> This information is often provided by the distributors.

There is a need for regulation to require customer access to metering data that will be available on a daily basis through secure communication methods capable of protecting customer privacy. Ensuring the privacy and security of customer data may be achieved by a number of ways including the use of a secure website or web based service, or via encrypted email. Web based methods can support near-real time access to the data by customers at relatively low incremental cost.<sup>65</sup>

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<sup>63</sup> Some parties are concerned that the implementation of this technology will raise future concerns for customers – see submission from the Victorian Employers' Chamber of Commerce and Industry. This initial review is not addressing regulation in this area at this time.

<sup>64</sup> Background Paper 2: Review of Other Jurisdictions – Regulations and Smart Meters

<sup>65</sup> Retailers (and perhaps distributors – see discussion in section 5.1.1) should also be required to facilitate customer access to the Home Area Network (HAN) once technical specifications and access arrangements are agreed within the industry. However, it is too early to consider regulations around the HAN given the current lack of industry arrangements.

We sought views on:

- whether distributors as well as retailers should be obliged to provide metering data sets to customers;
- how distributors or retailers can provide interval data from smart meters securely to customers;
- how the cost of such a service could be assessed; and
- what other information and information sharing issues should be considered in reviewing the regulations.

## Submissions

The submissions mostly supported retailers continuing to have the role for providing data to customers.

Distributors generally agreed that retail billing data is best provided by the retailer according to the customer's chosen retailer's offering. Retailers are better able to verify a customer for a particular premise than distributors. However, SP AusNet provided conditional support for distributors providing metering data to customers, through a web based service.

Environmental representatives said that access to data should be directly to the meter or in an easily accessible standardised format supplied by retailers to customers or their nominated third party. There was support for data being available on demand within 24 hours via a web portal in much the same way that banks provide online data by "username" and using password protection.

Consumers groups submitted that the data should be provided in the same format as the customers bills (if the bill was electronic then the billing data is provided electronically), and on a daily basis through secure communication methods. However, they were concerned about the one third (approximately) of customers who do not have access to the internet and suggested choice must be available as to whether a full set of data can be provided or a summary. This concern was also expressed in other submissions.

Both the consumer and environmental representatives advocated strongly that the regulation should include the ability of the customer to nominate a third party to receive the data on their behalf.

Retailers considered that the current regulatory provisions for historical data provision do not need to change under smart meters in order for customers to reconstruct their bills. In their view only the retailers should provide metering data sets to customers.

Policy departments considered that access to interval data is essential for customers to understand their usage patterns, although some means of aggregating and presenting this data is necessary. They noted concerns about the security of wireless systems. These departments believed that this data could reasonably be provided by distributors as they are responsible for the smart meter and associated systems; they therefore have the most cost effective means of providing the data through a web portal.

Many submissions, including a metering equipment supplier, noted that customers will only really benefit if they are able to obtain the data through a number of complementary applications and technologies are provided, including IHDs, web portals and home area networks.

Other submissions, including the Office of the Victorian Privacy Commissioner, strongly identified privacy and security of data as key concerns. There were questions as to whether the businesses had sufficient controls in place to protect individual customer's privacy, and whether the existing laws provided sufficient guidance in respect to access to on-line metering data. The Privacy Commissioner also believed that strict security measures must be in place regarding the disclosure and use of information by third parties and the communications from the meter to the distributor and other parties.

### **Analysis and draft decision**

There is general agreement that the current regulation for the provision of historical data at billing level can continue to apply. This information must be provided as consumption data by tariff segment for each billing period to allow bills to be reconstructed.

The current regulation in the Electricity Customer Metering Code requires "metering data" and "energy data" be made available to customers or their representatives by the retailer or distributor.<sup>66</sup> The regulation also sets out that there may be a charge for such data that relates to a period that is more than two years earlier.

The Commission sees that there could be a case for the distributors to provide this data directly to customers. However, this will require a significant shift in the customer/distributor relationship. Therefore, at this time, we agree that retailers should generally provide metering data to customers. They have the most direct relationship with customers and the incentive to innovate in order to attract and retain customers through a range of products, including those associated with the new technologies.

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<sup>66</sup> Clauses 7.1(d) and (e)

The existing metering code regulation appears to be sufficient as a general obligation for retailers to provide half hourly data to their customers.<sup>67</sup> This requirement however does not deal with how the data is provided or how soon after the energy is consumed should the relevant consumption data be available. It does deal with the cost of providing the data; a charge is able to be levied if the request is for data for a period over two years.

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

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

An important aspect of the use of IHDs is security and the privacy of data. The Commission understands that the retailers, through the distributors, will be able to arrange for a customer's IHD to securely and uniquely be bound to the meter. This raised questions as to how the confidential nature of the data will be handled when customers' change premises, as the data presumably will be retained in the meter.

The Commission considers it is too early to develop comprehensive regulation around this technology, given the current lack of industry arrangements. The Commission notes the concerns raised by the Victorian Privacy Commissioner. Energy businesses are regulated by the *Federal Privacy Act, 1988*, which incorporates the National Privacy Principles. These principles set clear restrictions on the use, disclosure and storage of personal information, and the Commission would expect that both the industry will develop arrangements in accordance with these principles.<sup>68</sup>

In the Commission's view, the provision of information to third parties is a matter for individual customers. That is, customers can choose to provide their consent so that their data is passed to third parties; the utilities again must comply with the relevant privacy law.

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<sup>67</sup> Clause 7.1 takes into account that the metering data referred to in clause 7.1 of the metering code can be interval data or accumulation data

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

## DRAFT DECISION

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

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

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

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

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

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

## 6 REMOTE CONNECTION, DISCONNECTION AND RECONNECTION

### Overview

Smart meters allow new approaches to the connection, disconnection and reconnection of customers.<sup>70</sup> They will be able to perform these functions remotely using a facility that is built into the meter. This means that a visit to the premises will not be necessary; the service could be performed much quicker and simply and at lower cost.

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

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

This review is concerned only with the implications for remote connections, disconnections and reconnections under the operation of smart meters, as it is not intended that the regulation will change for manual services.

### 6.1 Prompt connection, disconnection and reconnection service

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

For reconnections, the relevant regulations require the retailers to energise customers' connections on the same day if the request is made before 3 pm or if the request is made after 3 pm, the next business day.<sup>71</sup> This reconnection is performed by the distributor for the retailer.

For connections, retailers must request the connection within one business day<sup>72</sup> and the distributor must connect the premises to supply within 10 business days<sup>73</sup> or by one business day if only energisation is required.<sup>74</sup>

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<sup>70</sup> Deenergisation and energisation are also terms used to describe making the power available to premises where the premises is already connected to the distributor's mains. A consistent approach is required across a number of codes for these definitions to take into account smart meter based services. For this paper, we will continue to use reconnection and disconnection interchangeably with energisation and de-energisation.

<sup>71</sup> ERC Clause 15.2(a)

<sup>72</sup> ERC Clause 2

<sup>73</sup> EDC Clause 2.2

<sup>74</sup> EDC Clause 2.5



There are no specific timeframes set out in the regulations for when the distributor must disconnect the premises at the retailers' request. Both distributors and retailers must use their best endeavours to disconnect premises at the time of a customer's request.<sup>75</sup>

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

The smart meter functionality specification requires that the meter and communication systems can perform 99% of connections and disconnections in one hour<sup>76</sup>. Government however has not mandated a higher level of service in the corresponding service levels.<sup>77</sup>

The Commission considered that it will be in customers' interests to have these services performed more promptly and in a time period that reflects the capability of the metering arrangement.

Views were sought on whether the regulation should require the distributors to connect, disconnect and reconnect premises more quickly if the smart meter functions are available.

## Submissions

Submissions were not in agreement whether regulation should require more prompt connection, disconnection and reconnection services.

Some retailers considered that distributors should provide much more timely and inexpensive disconnection and reconnection services, although Origin considered that the current one business day requirement was necessary for all communications and systems to be in place.

Distributors noted that Minimum AMI Functionality Specification (Victoria) sets robust performance levels on the distributors and there was no need to introduce further regulation to require distributors to provide these services more quickly when the smart meter functions are available.

Other retailers and distributors considered that there should be no change in the requirements relating to this matter until national service levels are established.

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<sup>75</sup> EDC Clause 12.4 and ERC Clause 13.5

<sup>76</sup> [http://new.dpi.vic.gov.au/\\_\\_data/assets/pdf\\_file/0014/13109/Minimum-AMI-Functionality-Specification-Victoria.pdf](http://new.dpi.vic.gov.au/__data/assets/pdf_file/0014/13109/Minimum-AMI-Functionality-Specification-Victoria.pdf)

<sup>77</sup> Advanced Metering Infrastructure – Minimum AMI Service Levels Specification (Victoria), Sept 2008, page 6

CALC submitted that disconnection should be enabled within 2 hours of a customer's request via the retailer. Therefore the regulations should codify the service level requirements that 99 per cent of remote connection and disconnection be performed within one hour.

### **Analysis and draft decision**

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

The Minimum AMI Functionality Specification (Victoria) published by the Victorian Government requires, in effect, that distributors perform these services remotely, where it can be done safely, in preference to manually. This means that the services will become more efficient.

This draft decision assumes a high degree of remote connections, reconnections and disconnections at a point in time. We are concerned with whether the regulations should be amended to provide for faster services where the smart meter remote facility is to be used.

Where the distributor, based on a request from a retailer, decides it can safely use the remote facility to connect, disconnect or reconnect the customer in energised premises, it is our view that the retailer and the customer would benefit from a shorter time period. A shorter period should not involve material costs. Additionally, remote services can be extended into the after hours period without involving additional costs or time delays.

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

#### **Draft Decision**

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

- require that where a remote connection, disconnection or reconnection is to be carried out, that the distributor uses its best endeavours to perform the service within two hours of a valid request from a retailer or customer<sup>78</sup>, and
- clarify the terms associated with connection and energisation taking into account smart meters to remove any ambiguity.

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<sup>78</sup> These timeframes will most appropriately be applied to customer requests. The regulation will be properly drafted to ensure that obligations on retailers to follow proper disconnection and reconnection timeframes for credit management purposes will be adhered to.

## 6.2 Customer protection under disconnection

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

The Commission intends to amend the regulations so that the retailer's disconnection warning to customers indicates that the disconnection may be performed remotely without a visit to the property. Some consumer advocates consider that retailers should make two attempts within a 24 hour period to contact *all* customers prior to the remote disconnection. Currently the regulation only requires additional steps for customers experiencing financial difficulties.

Views were sought on the following, and other, options which may be considered to ensure that the wrong customer is not disconnected with smart meters:

- Ensuring that a customer on site is not already a new occupier when carrying out a disconnection.
- Ensuring that there is not a corresponding reconnection request when programming a disconnection.
- Undertaking site visits if the customer is a life-support customer.

We also asked if retailers should take additional steps prior to disconnecting all customers, as well as noting on the disconnection warning that the disconnection may be carried out remotely.

### Submissions

All respondents supported that the disconnection notice should state clearly that the disconnection may be carried out remotely. Consumer advocates considered that, at the minimum, retailers should undertake two site visits to all customer premises prior to disconnections, while the FCRC believed that no disconnections should be undertaken remotely.

DHS also considered that retailers should make multiple attempts to contact households using ideally two different methods. The department believes that all customers should be afforded extra protections, similar to those extended to customers in hardship.

Consumer advocates also expressed concern that, as remote disconnections will be less costly to the retailers than manual disconnections, there may be less incentive on the retailers to take appropriate care before disconnecting customers.

The retailers were universal in their submissions, that is, they should not be required to undertake any further steps prior to taking disconnection action. In their view, the regulations are sufficiently robust to avoid precipitous or wrongful disconnections. In particular the statutory wrongful disconnection provisions are a sufficiently powerful incentive to ensure they take the proper steps before disconnecting any customers

The distributors submitted that the Minimum AMI Functionality Specification (Victoria) sets robust performance levels on the distributors. They also considered that the quality control checks they have in place to ensure manual disconnections are performed in accordance with the retailers' directions similarly apply with remote disconnections. In their view, it is likely that there will be fewer mistakes with remote disconnections.<sup>79</sup>

The distributors noted particularly that there are already strong obligations to prevent disconnection of life support customers.

### **Analysis and draft decision**

The Commission understands that the consumer groups are concerned that the capacity to disconnect customers remotely will mean that computer errors are made and customers disconnected wrongly. We also understand their view that a site visit may mean that customers can avoid disconnection, although we believe that this has not been a common practice in recent years.

The Commission notes that there are already considerable obligations on the distributors with respect to disconnection of supply. We do not have evidence that these obligations have been systemically breached with manual disconnections to warrant additional regulation at this time.<sup>80</sup> However, as with all regulation, we expect that the distributors' performance will be monitored over time and, if there are systemic failures with remote disconnections, we expect that a regulatory response may be contemplated.

The Commission agrees that the wrongful disconnection legislative provisions provide a significant incentive on the retailers to avoid wrongful disconnections.<sup>81</sup> We are not persuaded that further regulation is required for all customers, but have reviewed the regulation in respect to customers who may be subject to disconnection because they cannot afford to pay.

The Energy Retail Code requires retailers to take specific steps in respect to the customers prior to disconnection, that is:

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<sup>79</sup> See submission from Jemena.

<sup>80</sup> The Commission nevertheless noted the consumer concerns in its Final Report: Review of Wrongful Disconnection Payment, January 2010 at <http://www.esc.vic.gov.au/NR/exeres/F6AFB516-7786-4013-989F-B094C7BE5571.htm>. Consideration could be given to extending the statutory wrongful disconnection provisions to the distributors.

<sup>81</sup> *ibid*

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

We do not think that it is reasonable to expect the retailers to undertake two site visits to customers’ premises prior to disconnection, as proposed by these consumer groups. However, we think that it is reasonable to remove the best endeavours obligation and require the retailer to contact these customers in person or by telephone when the premises are being remotely disconnected. We understand that, in some circumstances, this direct contact may not be possible. Therefore, in extenuating circumstances, this contact may be made by mail.<sup>82</sup> This communication must set out all the options for the customer.

#### **Draft Decision**

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

Clause 13.2 of Energy Retail Code will be amended so that, when customers covered by this clause are to be disconnected remotely, retailers must contact the customer in person or by telephone, or in extenuating circumstances, by mail.<sup>83</sup> This communication must set out all the options for the customer.

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

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

- to whom the occupant must address any request to connect the supply address;
- what the occupant’s options are for entering into a contract for the sale of electricity with a retailer; and
- a list of current retailers.<sup>84</sup>

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

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<sup>82</sup> Extenuating circumstances will be defined to mean that a letter can be sent after a retailer has attempted unsuccessfully to contact the customer after making one visit or two telephone calls to the property.

<sup>83</sup> As above.

<sup>84</sup> Electricity Distribution Code clause 9.1.13

If the premises are left energised, and the new occupant does not contact a retailer before turning on the power, the EI Act assumes this customer has entered into a deemed contractual arrangement and their liability for electricity commences from the date the power is consumed.<sup>85</sup> Under these circumstances, the retailer financially responsible for those premises has a responsibility under their licence to provide relevant information to those customers, including their options in the competitive energy market.<sup>86</sup>

The Commission understands that retailers usually require premises to be disconnected when customers vacate the premises. However, we do not know the extent to which customers take possession of premises which are disconnected and consequently do not know who to contact for energisation. This could be the retailer responsible for the premises or another retailer.

At the least, the Commission considers it important that there is some information accessible to customers who find themselves in this situation. There do not appear to be many practical options available where there is not a visit to the premises.

An option to consider is whether a sticker should be placed in the meter box that contains an appropriate call centre number for the customers to ring to contact a retailer. The costs to distributors could be off-set by savings in not visiting the site for disconnection and leaving documentation at that time.

Views were sought on the proposal to require the distributors to place a sticker in the meter box while smart meters are being installed or while the meters are still being manually read.

Respondents were asked for suggestions on other options for ensuring new occupants know how to go about finding a retailer and getting reconnected.

## Submissions

All distributors rejected the notion that they be required to place a sticker on the smart meter box when they are installing these meters into customers' premises for practical reasons. They considered that new customers entering de-energised premises may not necessarily check the meter box first, and the call centre information line to be rung may not be current over time.

They were also concerned at the retrospective costs if they were required to revisit premises.

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<sup>85</sup> Section 39 EI Act.

<sup>86</sup> Section 9.3 of the electricity retail licence

Retailers support was mixed. One retailer considered a significant amount of information should be provided on the sticker,<sup>87</sup> while others thought that the information may become out of date.

Consumer representatives, EWOV and the policy departments considered it a practical proposal as there are few other options for providing information to customers in these circumstances.

### **Analysis and draft decision**

The Commission is concerned to ensure that customers are provided with some information if they enter de-energised premises. We understand that customers may use a range of sources to connect to supply, but we do see that information in the meter box may be a last resort for customers in these circumstances. The regulatory obligation is on the distributors to leave information for customers when they disconnect the premises.

The Commission wants to find a practical solution to continue that obligation with remote disconnection without imposing unreasonable costs on the distributors and without eroding the financial benefits of smart metering.

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

We understand that there will be a proportion of premises where smart meters have already been installed without the sticker, and note that this will impact less than 10 per cent of premises. However, we do not think it appropriate for the regulatory obligation to be retrospective.

#### **Draft Decision**

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

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<sup>87</sup> Dodo Power and Gas submitted that the sticker should show that the customer has choice, that the meter may be remotely connected and disconnected, a safety message, where to find a current list of retailers and the distributor's contact number.

## 6.4 Safety considerations

The Commission noted in the Issues Paper that the remote reconnection of customers' premises after disconnection has safety implications which must, under the Electricity Safety Act, be considered in relation to the distributor's general duties to keep the public safe. ESV is currently developing protocols that will be regulated within the framework of the Electricity Safety Management Schemes. These must be submitted by the distributors by December 2010 and then approved by ESV.

The Commission noted that the proposals in section 6 did not appear to be impacted by these developments, but welcomed comments on this view.

All the submissions agreed that the regulatory proposals set out in the issues paper do not appear to be impacted by the development of a safety assessment by industry in conjunction with Energy Safe Victoria (ESV) and that further regulations are not required.

The Commission understands that ESV is currently developing protocols that will be regulated within the framework of the Electricity Safety Management Schemes and that must be submitted by the distributors by December 2010 and then approved by ESV.

The Commission will not consider this matter further in this review.



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

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

The issue arose because some distributors have built smart meter data handling and billing systems which assume and require monthly network billing.<sup>88</sup>

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

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

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

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

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

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<sup>88</sup> The decision was apparently made in the context of the Victorian Government's policy (as part of its AMI roll-out policy announced in 2006 and reflected in the revised OIC under section 46D of the Act) that network billing for each AMI customer occurs monthly ("monthly network billing"). This policy was reflected in the work of the AMI ISC, particularly its "Victorian AMI Process Model".

## Submissions

There was general industry support for the proposed solution set out in the Issues Paper. However, the ERAA and some retailers still considered that the customers' monthly billing and network monthly billing are integrally linked and there should be no adjustment to the regulation until customers change to monthly billing.

Some distributors considered that the retail regulation should be amended to require customers to pay monthly.

Most industry participants indicated that they would prefer to negotiate commercial arrangements with each other. Amendments to the default UoSA should be a last resort option if these negotiations are not successful. Notwithstanding the distributors supported amendments to the UoSA along the lines proposed in the Issues Paper.<sup>89</sup>

Generally the distributors indicated that they are employing "*best endeavours to negotiate with retailers to extend the payment terms such that the outcome is neutral to their current level of payments*".<sup>90</sup>

CUAC and VCOSS considered the proposal by the Commission to be a pragmatic solution to the impasse.

## Analysis and draft decision

We were pleased to read in the submissions from the distributors that many efforts are being made to negotiate commercial outcomes on this matter. We also note that this is the retailers' preferred outcome.

The Commission believes that the option allowing the distributors to bill monthly, but retain the payment terms associated with the customers' billing cycles is the only fair option in the medium-term, particularly until the policy positions are clarified.

To facilitate resolution of this matter the draft decision proposes specific amendments to the draft Use of System Agreement.

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<sup>89</sup> CitiPower/Powercor submitted some draft amendments which have been incorporated in the Draft Decision

<sup>90</sup> For example, submission from Jemena

### **Draft Decision**

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

Clause 7.8(a) of the UoSA will be repealed and replaced with the following:

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

- To the extent that the invoice relates to Supply Points with a remotely read internal meter [which has been installed after 28 August 2007] and the billing period relates to a period before 1 January 2012 – within # Business Days<sup>91</sup>;
- Otherwise – within 10 Business Days

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

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

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

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

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<sup>91</sup> Stakeholder views are sought on the timing to be inserted here.

## APPENDIX A | SUMMARY REVIEW OF REGULATORY INSTRUMENTS

Appendix A sets out the Commission's Draft Decision on the regulations which should be amended now or in the medium term for submissions by stakeholders.

ENERGY RETAIL CODE REGULATION UNDER REVIEW				
Clause	Summary of Obligation	Issue for operation of smart meters and ESC preliminary view in Issues Paper	Other information/submissions	ESC Draft Decision

PART 2 - BILLS				
ISSUING BILLS				
<b>3.1 Billing cycles</b>	A retailer must issue a bill to customers on a standing contract: (a) in the case of an electricity contract, at least every three months; (b) in the case of a gas contract, at least every two months; and (c) in the case of a dual fuel contract, at least as often as the retailer and the customer have agreed, with the customer's explicit informed consent . Billing cycles can be negotiated in market contracts, with explicit informed consent.	The current regulations for explicit informed consent may be seen to be acting as a barrier to customers accessing more timely information upon which they could better manage their costs. Views are sought on: <ul style="list-style-type: none"> <li>• Whether an 'opt-out' approach to monthly billing for deemed or standing offer customers is appropriate?</li> <li>• What are the implications for the costs and timing of the current collection cycle if customers move to monthly billing?</li> <li>• How should any changes to the customers' current billing cycles be implemented?</li> </ul>	Submissions set out Background Paper No 1.	<b>Commission has deferred consideration of this matter until `the legislation is passed through the Victorian Parliament and the Government's policy position is clarified.</b>
<b>4.2 Information on a bill</b>	Information which must be on the bill, including' (c) the period covered by the bill; (d) the relevant tariff or tariffs			
	(e) whether the bill is based on a meter reading or is wholly an estimated bill;			

ENERGY RETAIL CODE REGULATION UNDER REVIEW				
Clause	Summary of Obligation	Issue for operation of smart meters and ESC preliminary view in Issues Paper	Other information/submissions	ESC Draft Decision
	(f) whether the bill is based on any substituted data	Paragraph (f) references the metering code. These matters have been removed from the metering code since the metering code was amended to align it with the national metrology requirements. Refer discussion in section 3.2 of Issues paper. Additionally, it was proposed to remove the references to the metering code so that (f) reads; whether the bill is based on any substituted data prepared in accordance with the relevant substitution procedure in the <i>applicable regulatory instruments</i> .	CALC supported the Commission's proposed drafting.  UED suggest that all references to applicable regulatory instruments where estimations or substitutions are required should refer to the National Metrology Procedure: Part B.	<b>The substantive draft decision on this matter is in section 4.1.2. The Commission agrees that the metrology procedure is the specific instrument and that this instrument is noted as being "an applicable regulatory instrument". For the ERC the Commission would prefer to retain the current drafting practice.</b>
	(g) the total amount of electricity (in kWh) consumed in each period or class of period in respect of which a relevant tariff applies to the customer and, if a customer's meter measures and records consumption data only on an accumulation basis, the dates and total amounts of the immediately previous and current meter readings, estimates or substitutes;			
	(h) if the retailer elects to include meter readings or accumulated energy usage from an interval meter on the bill, the meter readings or accumulated energy usage based on quantities read or			

ENERGY RETAIL CODE REGULATION UNDER REVIEW				
Clause	Summary of Obligation	Issue for operation of smart meters and ESC preliminary view in Issues Paper	Other information/submissions	ESC Draft Decision
	collected from the corresponding meter accumulation register(s);			
	(i) if the retailer directly passes through a network charge to the customer, the separate amount of the network charge;			
	(n) if the customer is a domestic customer, details of the availability of concessions;	SVDP considered that this clause should be amended to include 'relevant consumer information tools' as the regulator can more easily require retailers to include references on their bills to important consumer information tools funded by the government. We thought there possibly a confusion of policy aims in this submission. The reference to concessions, etc is to assist customers in financial difficulty, rather than tools to address the information gaps for all consumers, and to assist them to access competition (for example, the ESC's YourChoice website).		
<b>4,3 Bundled charges</b>	The requirement for retailers to provide customers with reasonable information on network charges, retail charges and any other charges relating to the sale or supply of energy comprised in the amount payable under the customer's bill. This information only has to be provided on request.	Greater transparency through information to customers is a prerequisite for customers to benefit from the introduction of smart metering and unbundling could be considered to deliver part of this information. However, some key questions are: <ul style="list-style-type: none"> <li>• Would customers gain any information from unbundling of the</li> </ul>	<b>Submissions set out in Background Paper</b>	<b>Commission's substantive consideration of this matter has been set out in section 4.2.2.</b>

ENERGY RETAIL CODE REGULATION UNDER REVIEW				
Clause	Summary of Obligation	Issue for operation of smart meters and ESC preliminary view in Issues Paper	Other information/submissions	ESC Draft Decision
		<p>distribution charges if the retailer does not base its tariff on the distributor's tariff structure?</p> <ul style="list-style-type: none"> <li>• Would it be helpful or not for customers to have some charges unbundled, but not others?</li> <li>• Does unbundling of network charges and tariff alignment have the potential to reduce retailer flexibility in tariff offerings?</li> </ul> <p>What are the costs, benefits and feasibility of greater unbundling? Should regulation go beyond requiring the unbundling of retailer and distribution cost sub-components of wholesale and metering costs?</p>		
<b>4.4 Graphs</b>	Information to be included on graphs, including consumption information for each billing period for last 12 months and comparison with same period of the current bill.	<p>The proposal is to require retailers to provide customers with a graph similar to that used by EnergyAustralia or Ontario Energy Board when time-of-use tariffs are introduced for customers with smart meters.</p> <p>What are the implications for incremental costs or barriers to innovation of this approach?</p> <p>Given the customer feedback from overseas pricing pilots, and the potential move to monthly billing, mandating daily periods may also be beneficial for customers. Comments are invited on this approach</p>	<b>Submissions set out in Background Paper</b>	<b>Commission's substantive consideration of this matter has been set out in section 4.2.1.</b>



ENERGY RETAIL CODE REGULATION UNDER REVIEW				
Clause	Summary of Obligation	Issue for operation of smart meters and ESC preliminary view in Issues Paper	Other information/submissions	ESC Draft Decision

BASIS OF A BILL				
5.1 Bills based on meter readings	Bills must be based on meter readings unless a customer gives explicit informed consent; and, in any event, retailers must use their best endeavours to ensure the customer's meter is read at least once in any 12 months.	<p>The meter reading requirements for all meters are now largely regulated by the national metrology requirements and retailers do not have direct influence over this process except to ensure customers provide access for manual reading.</p> <p>For smart meters physical access, while still will need to be provided, is not an issue to ensure routine meter reading and the expectation is that all bills will be based on data frequently collected from the meter.</p> <p><b>Refer discussion in 3.2.2.</b></p> <p>The Commission also proposes the following amendment to this clause;</p> <p>in any event, use its <i>best endeavours</i> to ensure that the <i>customer's</i> bill is based on a reading of the <i>customer's meter</i> at least once in any 12 months and if the <i>customer's meter</i> is a <i>smart meter</i> use its <i>best endeavours</i> to ensure that every <i>customer's</i> bill is based on a reading of the <i>customer's meter</i>.</p>	<p>UED said that there is no concept of a meter read from a smart meter, data is collected or acquired by polling the meter.</p> <p>Consumer Action Law Centre supports the Commission's proposed amendments to clause 5.1.</p>	<p><b>The Commission's draft decision for clause 5.1(b), to clarify the requirement based on UED's concern, we propose to remove reference to reading to the more general "collect" which applies equally to accumulation and smart meters as follows:</b></p> <p>in any event, use its <i>best endeavours</i> to ensure that the <i>customer's</i> bill is based on <i>metering data</i> collected from the <i>customer's meter</i> at least once in any 12 months and if the <i>customer's meter</i> is a <i>smart meter</i> use its <i>best endeavours</i> to ensure that every <i>customer's</i> bill is based on <i>metering data</i> collected from the <i>customer's meter</i>.</p>

ENERGY RETAIL CODE REGULATION UNDER REVIEW				
Clause	Summary of Obligation	Issue for operation of smart meters and ESC preliminary view in Issues Paper	Other information/submissions	ESC Draft Decision
5.2 Estimations	Methodology for estimated bills	<p>This section is concerned with how the estimation is made not whether the bill is an estimated bill or not and may be impacted by smart meters</p> <p>The requirement for the estimation continues to reflect the previous position whereby the Victorian regulation set out how first tier customer's data was collected and the national electricity market regulation set out the arrangement for second tier customers.</p> <p>The meter reading requirements for first and second tier customers are now covered by the national instruments which set out how all data is to be validated, and where necessary, substituted and estimated. These requirements are set out in the "Metrology Procedure: Part B National Electricity Market", that is available on the AEMO website.</p> <p>The Commission agrees that the current estimation and substitution methodologies, that are AEMO's responsibility in a NEM context, may need to be revised for small customers with smart meters.</p> <p><b>Refer to discussion in 3.2.</b> As well, a technical amendment to this clause is</p>	<p>UED suggest that the reference to applicable regulatory instruments should be replaced with a specific reference to the metrology procedure Part B.</p> <p>Consumer Action supports the drafting changes proposed by the Commission to clause 5.2.</p>	<p><b>The Commission's draft decision is to retain the current drafting practice in referring to applicable regulatory instruments. Consistent with our approach above we propose to remove reference to reading to the more general "collect" as follows:</b></p> <p>(b) Despite clause 5.1, if a <b>retailer</b> is not able to reasonably or reliably base a bill on <b>metering data</b> collected from the <b>meter</b> at a <b>customer's supply address</b>, the <b>retailer</b> may provide the <b>customer</b> with an estimated bill prepared in accordance with the relevant estimation procedure in the <b>applicable regulatory instruments</b>.</p> <p>(c) Despite clause 5.1, if in the context of an electricity <b>customer transferring</b> from one <b>retailer</b> to another <b>retailer</b> <b>applicable regulatory instruments</b> permit an estimate of <b>metering data</b> rather than <b>metering data</b> collected from the <b>customer's meter</b>, the <b>retailer</b> may provide the <b>customer</b> with an estimated bill</p>

ENERGY RETAIL CODE REGULATION UNDER REVIEW				
Clause	Summary of Obligation	Issue for operation of smart meters and ESC preliminary view in Issues Paper	Other information/submissions	ESC Draft Decision
		<p>proposed;</p> <p>(b) Despite clause 5.1, if a <i>retailer</i> is not able to reasonably or reliably base a bill on a reading of the <i>meter</i> at a <i>customer's supply address</i>, the <i>retailer</i> may provide the <i>customer</i> with an estimated bill prepared in accordance with the relevant estimation procedure in the <i>applicable regulatory instruments</i>.</p> <p>(c) Despite clause 5.1, if in the context of an electricity <i>customer transferring</i> from one <i>retailer</i> to another <i>retailer applicable regulatory instruments</i> permit an estimate of consumption rather than a <i>meter</i> reading, the <i>retailer</i> may provide the <i>customer</i> with an estimated bill prepared in accordance with the relevant estimation procedure in the <i>applicable regulatory instruments</i>.</p>		<p>prepared in accordance with the relevant estimation procedure in the <i>applicable regulatory instruments</i>.</p>
5.3 Bill Smoothing	Methodology for determining bill smoothing arrangements and for reconciling bills	SVDP submitted that, as SMI provides retailers with daily meter reads, retailers should be required to assess the amount of energy a customer on a bill smoothing contract consumes every three months (rather than the six month requirement	CUAC supported St Vincent de Paul's proposal in principle because a 3 monthly reconciliation may provide customers under a bill smoothing arrangement with a more accurate estimate taking into	

ENERGY RETAIL CODE REGULATION UNDER REVIEW				
Clause	Summary of Obligation	Issue for operation of smart meters and ESC preliminary view in Issues Paper	Other information/submissions	ESC Draft Decision
		proposed for customers not connected to SMI). Views were sought on whether the reconciliation requirements for bill smoothing should be changed to 3 months for those customers with smart meters.	account the daily meter reads and seasonal factors.	
ADJUSTMENT OF THE BILL				
<b>6.1 Review of the bill</b>	Obligations on retailers and customers when the customer requests a review of the bill.	Should obligations be the same irrespective of smart meters?		<b>Refer discussion in section 3.2.</b>
<b>6.2 Undercharging</b>	Obligations on retailers, and monies to be recovered from the customer, if the retailer has undercharged or not charged a customer	SDVP submitted that, under smart meters a retailer cannot recover undercharged amounts for longer than 3 months prior to notifying the customer. SMI will provide retailers with daily reads of every customer's consumption and retailers should therefore be significantly better equipped to avoid undercharging scenarios. The current regulation, which in Victoria which only allows 9 months recovery, is already a substantive intervention in the market. Commission does not consider it necessary to review this regulation at this time.	<b>CUAC</b> disagrees that the regulation does not require review at this time. In a smart meter environment, particularly with daily reads, retailers should be well placed to avoid undercharging. There is no incentive for industry to reduce undercharging scenarios if they are still allowed to back-bill a customer for nine months. We believe that estimated billing should be prohibited in the long term. But, in the interim period, since estimates will continue, if there is to be back-billing, we believe that customers should only pay a default tariff, that is, the lowest possible rate. <b>CALC</b> does not support the	<b>Refer discussion in section 4.2.2.</b>

ENERGY RETAIL CODE REGULATION UNDER REVIEW				
Clause	Summary of Obligation	Issue for operation of smart meters and ESC preliminary view in Issues Paper	Other information/submissions	ESC Draft Decision
			decision. If a retailer has not identified that it is undercharging a customer when monthly billing is introduced and when interval data is available, it should be apparent that the retailer's systems and procedures are deficient and they should take responsibility for this. We recommend this be reduced to 3 months recovery only where a smart meter is in place. This would reflect the same number of billing periods as the current rule, where nine months equates to three quarterly billing periods	
PAYMENT OF THE BILL				
<b>7.1-7.5 Payment of bills</b>	Time for customers to pay, unless negotiated differently in a market contract/ Ways in which customers can pay their bills/Payment in advance/Fees and Charges for Credit Card and Dishonoured Cheque payments	The regulation only needs to be reviewed if the billing cycle is changed to monthly.		<b>This matter has now been deferred.</b>
<b>7.6 Vacating a supply address</b>	Obligations on customers for vacated premises	This clause is considered quite fair in relation to customer payment. However, stakeholder views were sought as to whether changes are required because of the review of smart meters.		

<b>ENERGY RETAIL CODE REGULATION UNDER REVIEW</b>				
<b>Clause</b>	<b>Summary of Obligation</b>	<b>Issue for operation of smart meters and ESC preliminary view in Issues Paper</b>	<b>Other information/submissions</b>	<b>ESC Draft Decision</b>
<b>PAYMENT DIFFICULTIES</b>				
<b>11.1 – 11.4 Assistance to customers with payment difficulties</b>	Obligations on customers and retailers if customers experiencing payment difficulties. Obligations on retailers to assess capacity to pay and provide information and assistance. Requirements for debt collection	In the Issues Paper, we thought that there should be a change to the regulation because of smart meters. We noted that Commission is undertaking a review of retailers' financial hardship policy implementation and the matter will be reviewed in that context.	<b>Submissions set out in Background Paper</b>	<b>Commission's substantive consideration of this matter has been set out in section 3.</b>
<b>INSTALMENT PLANS</b>				
<b>12.1 – 12.3 Options for customers and review</b>	Setting out when customers may be eligible for instalment plans and requirements for retailers to review and adjust	In the Issues Paper, we thought that there should be a change to the regulation because of smart meters. We noted that Commission is undertaking a review of retailers' financial hardship policy implementation and the matter will be reviewed in that context.		
<b>PART 4 - DISCONNECTION</b>				
<b>GROUND FOR DISCONNECTION</b>				
<b>13.1 Non-payment of bill</b>	Procedures prior to retailers disconnecting customers	We thought there was no change to the regulations generally, but refer to discussion in section 3.3 in the Issues Paper regarding further information to customers who are to be disconnected remotely	<b>Submissions set out in Background Paper</b>	<b>Commission's substantive consideration of this matter has been set out in section 6.2.</b>

ENERGY RETAIL CODE REGULATION UNDER REVIEW				
Clause	Summary of Obligation	Issue for operation of smart meters and ESC preliminary view in Issues Paper	Other information/submissions	ESC Draft Decision
<b>13.2 Customers without sufficient income</b>	Additional obligations on retailers prior to disconnecting customers who are known to have financial difficulties	We asked what steps could be taken by the distributors and/or the retailers to ensure that the wrong customer is not disconnected with smart meters? Should retailers take additional steps prior to disconnecting all customers, as well as noting on the disconnection warning that the disconnection may be carried out remotely?	<b>Submissions set out in Background Paper</b>	<b>Commission's substantive consideration of this matter has been set out in section 6.2.</b>
<b>13.3 Denying access to meter</b>	Obligations which apply when customer's meter is not accessible for reading	Clause 13.3 could be clarified that this applies to manually read meters and to ensure that it is clear that access does not imply the customer providing or not electronic access to the meter.  Minor drafting amendment proposed:  Propose the following amendment; <i>A retailer may disconnect a customer other than a customer with a smart meter if, due to acts or omissions on the part of the customer, the customer's meter is not accessible for the purpose of a reading for three consecutive bills in the customer's billing cycle but only if:</i>	CitiPower submitted that the amendment is not appropriate. Whilst access problems should be reduced with smart meter the right for disconnection should be retained if due to actions of the customer the smart meter readings cannot be obtained.  Consumer Action Law Centre agrees with the Commission's proposed drafting changes.  UED submits that access is still required to fix failed meters or where due to communications failure metering data needs to be collected manually and the retailer still should have a role to assist with access.  JEN submitted that the proposed	<b>This clause is only concerned with establishing a trigger for disconnection based on the customer continually denying access for meter reading; it is applicable to accumulation meters, not smart meters. There is no disconnection trigger associated with customers generally denying access in the ERC or EDC; the situation that will apply with smart meters where routine access is not required for reading.</b>  <b>Eliminating smart meters from this clause does not change the customer's obligation to provide general access to a smart meter under ERC clause 25 or EDC clause 3.3.2..</b>  <b>The Commission's draft decision is to retain the clause as was proposed in</b>

<b>ENERGY RETAIL CODE REGULATION UNDER REVIEW</b>				
<b>Clause</b>	<b>Summary of Obligation</b>	<b>Issue for operation of smart meters and ESC preliminary view in Issues Paper</b>	<b>Other information/submissions</b>	<b>ESC Draft Decision</b>
			clause sets a precedent of not requirement the customer to give access to a smart meter. This is not welcomed by JEN.	<b>the issues paper (see column 3).</b>
<b>NO DISCONNECTION</b>				
<b>14 No disconnection</b>	Circumstances and time frames when retailers cannot disconnect	We did not propose changes to these obligations, but noted that the times associated with disconnection and reconnection could be subject to new prompt disconnection and reconnection services being available that utilise the smart meter.	<b>Submissions set out in Background Paper</b>	<b>Commission's substantive consideration of this matter has been set out in section 6.1.</b>
<b>RECONNECTION</b>				
<b>15.1 – 15.2 Customer's right to reconnection</b>	Circumstances and timing for customer's reconnection	We did not propose changes to these obligations, but noted that the times associated with disconnection and reconnection could be subject to new prompt disconnection and reconnection services being available that utilise the smart meter.	<b>Submissions set out in Background Paper</b>	<b>Commission's substantive consideration of this matter has been set out in section 6.1.</b>
<b>PART 6 - MARKET CONTRACTS AND VARIATION</b>				
<b>20 Variations requiring customer's agreement</b>	How variations to tariff and other terms and conditions can be effected	We considered that any changes to the regulation on the notification of tariff variations should wait for the outcomes of the Victorian Government's deliberations, so that there is consistency between customers on market contracts and those on standing contracts. Nevertheless, interested parties may wish to submit their comments in regard to this matter	<b>Submissions set out in Background Paper</b>	<b>Commission's substantive consideration of this matter has been set out in section 4.2.3.</b>



ENERGY RETAIL CODE REGULATION UNDER REVIEW				
Clause	Summary of Obligation	Issue for operation of smart meters and ESC preliminary view in Issues Paper	Other information/submissions	ESC Draft Decision
21 Gazette based variations	How variations to standing offers take effect	As above	As above	As above
<b>PART 7 – TERM AND TERMINATION</b>				
22.1 – 24.6 Term, termination and expiry of contracts	Sets out when contracts take effect, how they can be terminated, procedures applying if a customer breaches the contract and termination in a retailer of last resort event	<p>SVDP considered that a market contract should have no effect to the extent that it requires a customer to give more than 12 business days notice to terminate the contract. Further, the 10 day cooling off period should not commence until the customer has received the contract and that customers should be given a prescribed form explaining their cooling off rights before the cooling off period starts.</p> <p>Our preliminary views were:  <b>Customer’s termination notification</b>  Customers are currently required to give 28 days notice if they wish to terminate a contract. Under smart meters, customers’ meters can be read more quickly, enabling a quicker transfer if necessary, but there are other processes which impact on the timing of transfers. Comments are sought on whether the notification time should be reduced and why.</p> <b>Cooling-off period</b> It is agreed that attention should be given to marketing conduct in a TOU environment, at least for the first 2-3 years (refer to some discussion in	<p>CUAC One of the benefits of smart meters is an easier transfer process. Therefore, we believe that the termination period required of customers should be reduced.</p> <p>CALC supports a reduction in notification times for customers advising of their wish to terminate a contract. This is reflective of the capacity for monthly reconciliation and billing and reduced risk for retailers.</p> <p>While we strongly believe a consumer must receive core contract information prior to entering into a contract, we understand that in the case of a telephone sale, a copy of the full contract will not be given to the consumer at the time of entering into the contract. We support the obligation for retailers to ensure that a contract is provided within 2 business days, and for them to be able to demonstrate this. We support the retention of the clause that ensures the cooling off period</p>	<p><b>We consider it too early to review regulation against a monthly billing cycle for customers. This matter should be revisited when the Government’s legislative and policy positions are clear.</b></p> <p><b>We note CALC’s support to retain the current regulation relating to cooling-off periods and provision on contractual information to customers.</b></p>

ENERGY RETAIL CODE REGULATION UNDER REVIEW				
Clause	Summary of Obligation	Issue for operation of smart meters and ESC preliminary view in Issues Paper	Other information/submissions	ESC Draft Decision
		section 3.2). However, the proposal by SDVP is externally-driven and impossible to enforce (eg postage late, customer says didn't receive, etc). The obligation must be on the retailer to demonstrate that the material was given to a customer within 2 business days, and the cooling-off commences from that date (see clause 3.5 of Marketing Code). No change to the regulation is proposed	does not commence until the contract has been received by the customer	
<b>PART 8 - GENERAL</b>				
<b>PROVISION OF INFORMATION</b>				
<b>26.2 Charter</b>	Circumstances in which retailer must provide a customer charter and information to be provided	We indicated our intention to review the Charter requirements once the regulatory review has been completed.	CUAC noted its support for the revision of the Charter requirements, and that retailers should provide in their Charter, information on smart meters, billing requirements and how customers will be impacted	<b>The Charter requirements will be reviewed prior to the final decision.</b>
<b>26.4 Advice on available tariffs</b>	Information which must be provided to customer on available tariffs and notification of tariff variations	We considered that any changes to the regulation on the notification of tariff variations should wait for the outcomes of the Victorian Government's deliberations, so that there is consistency between customers on market contracts and those on standing contracts. Nevertheless, interested parties may wish to submit their comments in regard to this matter	Submissions set out in Background Paper	<b>Commission's substantive consideration of this matter has been set out in section 4.2.3.</b>
	Maintenance of life support register and information from retailer to distributor	We indicated that we had reviewed this matter in the Review of Distribution	CUAC expressed its disappointment that the review did not result in the	<b>This matter has been addressed further in section 6.2 of the draft</b>

ENERGY RETAIL CODE REGULATION UNDER REVIEW				
Clause	Summary of Obligation	Issue for operation of smart meters and ESC preliminary view in Issues Paper	Other information/submissions	ESC Draft Decision
		Communications in Widespread Supply Events and made changes to the regulations to provide greater protections to persons with special needs. No further changes to the regulation were proposed	creation of a priority register of people who have legitimate health reasons for continuous electricity supply reliability and we reiterate our concerns.	<b>decision. No further amendments proposed.</b>
HISTORICAL BILLING INFORMATION				
<b>27.2 Historical billing data</b>	Information to be provided to the customer and charges which may be imposed	We looked at whether the regulation of the provision of billing level data continue to meet the needs of customers to allow them to reconstruct their historical bills in a smart metering environment for ad-hoc or occasional purposes.	<b>Submissions set out in Background Paper</b>	<b>Commission's substantive consideration of this matter has been set out in section 5.1.</b>

ENERGY RETAIL CODE REGULATION UNDER REVIEW				
Clause	Summary of Obligation	Issue for operation of smart meters and ESC preliminary view in Issues Paper	Other information/submissions	ESC Draft Decision
ELECTRICITY DISTRIBUTION CODE REGULATION UNDER REVIEW				
Clause	Summary of Obligation	Issue for operation of smart meters and ESC preliminary view in Issues Paper	Other information/submissions	ESC Draft Decision

<b>2.5 Previous connection</b>	That the distributors must use best endeavours to energise a customer's supply within one business day	Energisation by smart meter may be new service that can be carried out is less than one day.	Submissions set out in Background Paper	<b>Commission's substantive consideration of this matter has been set out in section 6.1.</b>
<b>9 Provision of information Clause 9.1.13</b>	When disconnecting supply the distributor must leave information at the site about reconnection including a list of retailers	Under remote deenergisation the site will not be visited hence it is unclear how this information currently provided under clause 9.1.13 would be provided under remote reenergisation.	Submissions set out in Background Paper	<b>Commission's substantive consideration of this matter has been set out in section 6.3.</b>
<b>Clause 9.1.14 9 Provision of information</b>	This clause sets out the advice that the distributor must given the customers when a smart meter is to be installed.	<p>This clause was especially inserted so that customers would know when a smart meter was to be installed under the rollout.</p> <p>Clause 9.1.14 has been operational for a few months and this review is an opportunity in the light of experience to review this clause. The Commission seeks views on the operation of clause 9.1.14.</p>	<p>CitiPower believes that clause 9.1.14 should be redrafted to make it specific only to smart meters. Currently it is drafted to apply to any meter exchange.</p> <p>CALC support the retention of the clause and recommend that the Code also instruct the distributors about the information necessary when a meter installation does not take place at the original planned time.</p>	<b>The Commission consulted on this after the AER's final decision. The AER was that this provision related to both interval and smart meters. The clause will be retained at this time, but may be subject to review once the Government's legislative and policy developments are clarified.</b>
<b>12 Disconnection of Supply</b>	Sets out the conditions under which the distributor may and may not disconnect	While the issues of disconnection and/or deenergisation by fuse pull or the meter	Submissions set out in Background Paper	<b>Commission's substantive consideration of this matter has been</b>

ENERGY RETAIL CODE REGULATION UNDER REVIEW				
Clause	Summary of Obligation	Issue for operation of smart meters and ESC preliminary view in Issues Paper	Other information/submissions	ESC Draft Decision
ELECTRICITY DISTRIBUTION CODE REGULATION UNDER REVIEW				
Clause	Summary of Obligation	Issue for operation of smart meters and ESC preliminary view in Issues Paper	Other information/submissions	ESC Draft Decision

	the customer, including at a retailer's request and at the customer's request	is an issue for smart meters it is likely most of the conditions associated with disconnection will not be impacted. However, there should be a quicker disconnection at the request of the customer.		set out in section 6.1.
<b>13 Reconnection</b>	Sets out the conditions under which the distributor must reconnect a customer	As above	As above	As above.
<b>14, 15, 16, 17, 18 and 19</b>	Compliance with metering code, additional charges Liability, indemnity, force majeure and definitions	No smart meter issues however subject to the resolution of other matters a definition of smart meter based connection and/or disconnection may be required in clause 19.		Subject to the resolution of other matters a definition of smart meter based connection and/or disconnection may be required.

CODE OF CONDUCT FOR MARKETING RETAIL ENERGY IN VICTORIA				
REGULATION UNDER REVIEW				
Clause	Summary of Obligation	Issue for operation of smart meters and ESC preliminary view in Issues Paper	Other information/submissions	ESC Draft Decision
Training	<p>Sets out requirements on retailers to provide initial and ongoing training and testing of marketing representatives, including:</p> <ul style="list-style-type: none"> <li>• Consumer laws</li> <li>• misleading, deceptive or unconscionable conduct</li> <li>• basic contractual rights and the meaning of explicit informed consent to a contract</li> <li>• the ability to clearly explain the arrangements for competition in energy supply, including the right to freely choose a retailer</li> <li>• product knowledge, including tariffs, billing procedures and payment options (and any other areas stipulated by the Commission)</li> </ul>	<p>Comments are sought on whether, and how, there can be consistent training by retailers. How prescriptive should the Commission be in stipulating training areas?</p>	<p>CUAC We agree with the ESC’s view at Appendix A that with the rollout of smart meters; “customers will want to know about the role of smart meters and how ToU tariffs will impact their bills, how they will be able to benefit from ToU pricing, why they have to pay for meters, etc. Retailers will have to adapt their marketing practices.” However, it is not merely retailers who will be engaged in marketing in the future. We submit that the Marketing Code needs to be expanded to cover marketing by distributors. Smart meters are expected to result in more innovative products and services being offered by industry. There is the potential for distributors to market products and services to customers. We also support the ESC’s view to include marketing conduct in independent audits of retailers’ compliance with Marketing Code obligations.<sup>12</sup></p>	<p><b>We agree with CUAC’s concerns and consider that the review of the marketing provisions could be incorporated in the review of the Guideline No 19 – see discussion in section 4.3.</b></p> <p><b>This regulation should be revisited when the Government’s legislative and policy positions regarding smart meter tariffs are clear.</b></p>

CODE OF CONDUCT FOR MARKETING RETAIL ENERGY IN VICTORIA				
REGULATION UNDER REVIEW				
Clause	Summary of Obligation	Issue for operation of smart meters and ESC preliminary view in Issues Paper	Other information/submissions	ESC Draft Decision
<b>3.3 Pre-contractual information</b>	A retailer must provide the information to a consumer before entering into a contract, including: details of all applicable prices, charges <sup>92</sup> , tariffs and service levels that will apply to the consumer, where the retailer must declare that the price offered is inclusive of all costs, including GST; and the type, frequency of bills and payment methods the consumer will receive; cancellation rights and any termination fees that might apply; all relevant information about any difference between the contract's terms and conditions and the basic terms and conditions under the Energy Retail Code	The tariffs which the retailer must disclose will be dependent on the tariff structure ultimately determined by the Government. There will be implications, but it is difficult to be definitive at this time	CUAC - We submit that the pre-contractual information provided to customers must include information on all new tariff structures, products and services (for example, dynamic/critical peak pricing, direct load control etc) offered by retailers or distributors. Consumers need to be able to make an informed decision as to whether the energy offer they are presented with is in their interest. It is essential that information is presented in a manner which is easily understood by consumers.  CALC reserves the right to provide future comments on this issue, subsequent to decisions made by the government.	<b>This regulation should be revisited when the Government's legislative and policy positions regarding smart meter tariffs are clear.</b>
<b>3.4 Cooling off</b>	Sets out the consumer's cooling-off rights: <ul style="list-style-type: none"> <li>▪ 5 business days from and including the relevant date if the customer requires energisation; and</li> <li>▪ otherwise, 10 business days from</li> </ul>	SVDP submits that the 10 day cooling off period should not commence until the customer has received the contract and that customers should be given a prescribed form explaining their cooling off rights before the cooling off period	CUAC - There appears to be some confusion as to when the cooling-off period commences. The ESC has stated in Appendix A that "[t]he obligation must be on the retailer to demonstrate that the material was	<b>The intention of the regulation is that the relevant date is when the customer gives their explicit informed consent (EIC). This is defined in the regulation. It was recognised that some customers will</b>

<sup>92</sup> Subject to the retailer being aware of all charges which may apply to that consumer or the consumer's premises.

CODE OF CONDUCT FOR MARKETING RETAIL ENERGY IN VICTORIA				
REGULATION UNDER REVIEW				
Clause	Summary of Obligation	Issue for operation of smart meters and ESC preliminary view in Issues Paper	Other information/submissions	ESC Draft Decision
	and including the relevant date	starts. We believed that the proposal by SDVP is externally-driven and impossible to enforce (eg postage late, customer says didn't receive, etc). The obligation must be on the retailer to demonstrate that the material was given to a customer within 2 business days, and the cooling-off commences from that date (see clause 3.5 of Marketing Code). No implications assumed because of smart meters	given to a customer within 2 business days, and the cooling-off commences from that date (see Clause 3.5 of Marketing Code)." (emphasis ours) This is incorrect as under the Marketing Code, the cooling-off period commences from the "relevant date" and not when the customer obtains a copy of the contract. Clause 3.4(b) of the Marketing Code allows a customer to cancel a market contract within "5 business days from and including the relevant date" if the customer requested energisation, or "10 business days from and including the relevant date." "Relevant date" is defined in Clause 8 of the Marketing Code as; "(a) the date on which the consumer and the retailer agree to enter into the contract ; or (b) if the consumer's explicit informed consent is required before the contract can commence to be effective, the date on which the explicit informed consent is given." Our view is that the cooling off period should only commence once the customer has actually received a copy of the contract and a notice advising the customer about his/her	<b>give their EIC by telephone and it is up to the retailer to demonstrate that they provided the customer with sufficient information to ensure that consent was informed. Retailers then must then demonstrate that they have sent the relevant documentation to the customers within the 2 business days' period. The 5 day cooling off period for energisation was to protect those customers who wanted their premises energised and, if they waited for 10 businesses days, it may disadvantage them. If this provision was seen to be disadvantaging these customers, then the regulation could be reviewed. The Commission has not had customer complaints to this effect. No change to the regulation is proposed.</b>



**CODE OF CONDUCT FOR MARKETING RETAIL ENERGY IN VICTORIA**

**REGULATION UNDER REVIEW**

<b>Clause</b>	<b>Summary of Obligation</b>	<b>Issue for operation of smart meters and ESC preliminary view in Issues Paper</b>	<b>Other information/submissions</b>	<b>ESC Draft Decision</b>
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			<p>cooling-off rights. As to the ESC's comment that "the proposal by SDVP is externally driven and impossible to enforce (e.g. postage late, customer says didn't receive, etc)," there are ways to circumvent this. For example, sending the contract by registered mail; emailing a copy of the contract with return receipt.</p> <p>CALC supports the Commission's position and the retention of current protections relating to cooling off periods. We reiterate our comments above however, that the cooling off period should not commence until the contract has been received by the customer.</p>	
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ELECTRICITY CUSTOMER TRANSFER CODE REGULATION UNDER REVIEW				
Clause	Summary of Obligation	Issue for operation of smart meters and ESC preliminary view	Other information/submissions	ESC Draft Decision
<p><b>4.2 and 4.3 Process for customer transfer - Proposed transfer date and meter read method</b></p>	<p>These sections are concerned with establishing the transfer date and the need for an appropriate meter reading at that time for the purpose of transfer.</p>	<p>A meter read is required for transfer, this traditionally has been from a scheduled read (up to a quarter apart) or a special read which would incur additional costs. Smart meters allow reading daily and daily remote readings may become a “scheduled read” and a transfer the next day could be achieved without a special read being required.</p> <p>The principle that a transfer must take place based on actual meter data should be retained.</p> <p>Smart meters will provide more transfer flexibly as reading will occur more often with daily reads being proposed. With the approach proposed section 4.3 will not require amendment.</p> <p>Clause 4.2(b)(2) allows a retrospective date to be applied (AEMO’s MSATS provides for this date to be up to 10 days earlier than the date a transfer is “requested”) provided that date was a reading date.</p> <p>The Commission considers that with smart meters it is not necessary to have retrospectivity to align to a reading date (see discussion above) and that retrospectivity provisions were not intended to allow arbitrary retrospective transfer dates.</p> <p>For customers with smart meters retrospectivity could continue to be used in the case of a move-in (sub paragraph</p>	<p>Consumer Action Law Centre supports the Commission's proposed drafting for this clause.</p>	<p><b>The Commission’s draft decision is the same as its preliminary view set out in the issues paper (see column 3).</b></p>

ELECTRICITY CUSTOMER TRANSFER CODE REGULATION UNDER REVIEW				
Clause	Summary of Obligation	Issue for operation of smart meters and ESC preliminary view	Other information/submissions	ESC Draft Decision
		<p>(1)). This allows a single contract to be established from the move-in date.</p> <p>The existing arrangements for the manual reading of accumulation meters will need to stay in place for some time. The Commission proposes to add the following clause 4.1A to section 4 to allows for the readings from smart meters;</p> <p><b>4.1A Smart meters</b> For the purposes of clauses 4.2 and 4.3, if a <i>customer</i> has a <i>smart meter</i> that is remotely read, a reading of the <i>customer's</i> meter and the processing of the consumption data in accordance with the <i>Electricity Customer Metering Code</i> or <i>Metrology Procedure</i>, as the case may be, is considered to be an actual read and a scheduled meter read.</p> <p>The Commission proposes the following amendment to clause 4.2(b)(2) which would read; “was an actual meter reading date for a <i>relevant customer</i> with other than a <i>smart meter</i> occurring after the <i>retrospectivity start date (CATS code 1010 or 1081)</i>; or”</p>		

ELECTRICITY CUSTOMER TRANSFER CODE REGULATION UNDER REVIEW				
Clause	Summary of Obligation	Issue for operation of smart meters and ESC preliminary view	Other information/submissions	ESC Draft Decision
AGL			There may be a need to give consideration to whether it would be appropriate to extend the transfer period (say, to 30 days, allowing for a 10 day cool-off plus 20 day block on transfers). This will increase the likelihood won and lost in errors will be discovered and resolved, ensure customers fully understand that they are transferring retailers and the impacts of this (for example, early termination fees), and fulfil the notice period of contracts (where they apply).	<b>This regulation should be reviewed after experience in the market.</b>

ELECTRICITY CUSTOMER METERING CODE REGULATION UNDER REVIEW				
Clause	Summary of Obligation	Issue for operation of smart meters and ESC preliminary view	Other information/submissions	ESC Draft Decision
2.4 Impulse Output	Allows the customer to request an "impulse output" from the meter and that the customer must pay for the provision of such facilities.	<p>Prior to smart metering such an impulse output would have been the only way customers, particularly large customers, could obtain detailed metering data to assist in monitoring its consumption. Under smart metering more methods of obtaining detailed data from the meter are possible, these include information passed directly to a display device in the premises or a web based provision of data that is available to the customer each day after the meter is remotely read. The Commission's understanding is that the Victorian smart metering specification does not include the mandatory provision of pulse outputs.</p> <p>The Commission proposes that clause 2.4(a) be varied to read;</p> <p>"(a) A <i>customer</i>, other than a <i>customer</i> with <i>smart metering</i>, may request a <i>distributor</i>, a <i>retailer</i> or a <i>responsible person</i> (as the case may be) to provide it with impulse outputs representing the quantities of electricity measured."</p> <p>Smart meter would be defined as; "A <i>metering installation</i> installed at a <i>customer's</i> premises where the annual electricity consumption is 160 MWh or less that meets the requirements of</p>	<p>UED said care will need to be taken with the use of the proposed term. A smart meter installed but not yet operating as a smart meter could be construed to be included in this definition.</p> <p>Consumer Action Law Centre supports the Commission's proposed drafting for paragraph (a).</p> <p>CUAC also submitted that it is too early to propose drafting, and we are concerned that a definition of a smart meter, which would be far-reaching in its application, is being proposed in an Appendix to the Issues Paper in regard to a specific feature such as consumer access to impulse output from meters. This definition requires wider and open consultation before it is adopted.</p>	<p><b>The Commission confirms its view that smart meters are not intended to have impulse outputs which allow physical access to consumption data. For smart meters such access is intended to be via the IHD or web portal. Hence our draft decision is to retain the proposed drafting for clause 2.4(a) in the issues paper.</b></p> <p><b>The Commission's proposal for a definition of a smart meter would be needed throughout the Commission's regulatory framework including in the ESC, not just for the purpose of an impulse output.</b></p> <p><b>The Commission notes that generally the regulatory requirements relate to when the metering data is being remotely collected. Smart meter and smart metering have the same meaning.</b></p> <p><b>The Commission's draft decision for the definition of a smart meter is to include that metering data is remotely collected;</b></p> <p><b>"A <i>metering installation</i> installed at a <i>customer's</i> premises where the <i>metering data</i> is collected by remote acquisition and the annual electricity</b></p>

ELECTRICITY CUSTOMER METERING CODE REGULATION UNDER REVIEW				
Clause	Summary of Obligation	Issue for operation of smart meters and ESC preliminary view	Other information/submissions	ESC Draft Decision
		Division 6A (“advanced metering infrastructure”) and relevant Orders under Division 6A of the Electricity Industry Act (2000).”		consumption is 160 MWh or less that meets the requirements of Division 6A (“advanced metering infrastructure”) and relevant Orders under Division 6A of the Electricity Industry Act (2000).”
<b>2.6 Information for Customers</b>	Requires information to be left with the customer showing how the meter can be read by the customer from the accessible display. Currently this clause only applies to type 5 meters (interval meters that are manually read)	Smart meters can display more information than accumulation meters and it is important that customers are able to read the meter display.  The requirement that information about accessing the meter display be provided should be now extended to include smart meters. Due to the major change-over program the Commission considers that this requirement should be extended to include the provision of this information at a customer’s request.  Proposed drafting: <i>“A distributor, retailer or responsible person must provide sufficient written information to the customer so that the customer can access, at a minimum, the cumulative total energy measured by an interval meter or smart meter at the customer’s premises when;</i> <ul style="list-style-type: none"> <li>the meter is installed at a customer’s premises, and</li> <li>requested by the customer.”</li> </ul>	UED said the requirement that information about accessing the meter display should now be extended to all customers as it currently sets out.  CitiPower said the draft could be interpreted as indicating the information should only be left when the meter is installed and if requested by the customer.  CALC supports the Commission's proposed drafting for this clause.	<b>The Commission agrees that that drafting could be clearer and proposes for the Draft decision;</b>  <i>“A distributor, retailer or responsible person must provide sufficient written information to the customer so that the customer can access, at a minimum, the cumulative total energy measured by an interval meter or smart meter at the customer’s premises;</i> <ul style="list-style-type: none"> <li>when the meter is installed at a customer’s premises, and</li> <li>anytime the information is requested by the customer.”</li> </ul>
<b>3 Changing tariffs</b>	Requires the distributor or retailer who	It is unlikely that such a new tariff would		<b>In principle the requirement for such</b>

ELECTRICITY CUSTOMER METERING CODE REGULATION UNDER REVIEW				
Clause	Summary of Obligation	Issue for operation of smart meters and ESC preliminary view	Other information/submissions	ESC Draft Decision
	requires a different meter or the meter to be operated differently, or request a new tariff to seek the agreement of the distributor or retailer	require a smart meter to be changed or operated differently.		agreement should be retained. No change is proposed.
<b>6 Installation</b>	The clause is concerned with the cost of installing different meters	<p>Prior to smart metering, the clause has assumed that customers may request only higher cost metering. Under smart metering the clause could be interpreted as allowing customers to request a reversion to basic metering.</p> <p>The clause must continue to operate for &gt;160 MWh customers with type 4 metering who may wish to request higher standard metering.</p> <p>The clause must recognise that smart meters are to become the minimum standard for small customers and that this standard is established currently by Victorian law rather than the NER or metrology procedures. Currently the NER and metrology procedures do not specifically include smart meters.</p> <p>The Commission proposes that a new paragraph (aa) be inserted at the beginning of the clause;</p> <p>“This clause 6.1 is subject to the minimum standard of <b>metering equipment</b> being <b>smart metering</b> following the initial installation of <b>smart metering</b> at a <b>customer’s</b> premises.”</p>	UED supports the proposal that smart meters will be the minimum standard and that customers cannot revert back to basic metering.	<b>The Commission’s draft decision is to confirm the proposal and drafting in the issues paper (column 3).</b>

ELECTRICITY CUSTOMER METERING CODE REGULATION UNDER REVIEW				
Clause	Summary of Obligation	Issue for operation of smart meters and ESC preliminary view	Other information/submissions	ESC Draft Decision
		Additionally, this clause should apply to all customers, not just first tier customers as it currently sets out.		
<b>7.1 Access to data</b>	Sets out rights of the customer to access data electronically directly from the meter at the customer's cost	<p>This clause was previously designed to allow large customers with electronic metering direct access to the meter data and did not contemplate smart meters. As noted above smart meters provide more methods of obtaining detailed data from the meter, including information passed directly to a display device in the premises or a web based provision of data that is available to the customer each day after the meter is remotely read.</p> <p>The Commission's understanding is that it is intended customers use these methods rather than direct electronic access to obtain data.</p> <p>It is proposed that paragraph (a) be varied as follows;  <i>"A distributor, a retailer or a responsible person (as the case may be) must, on written request from a customer, other than a customer with a smart meter, provide facilities to enable the customer to electronically access data stored in metering equipment provided by the distributor, the retailer or the responsible person."</i></p>	<p>Consumer Action supports the Commission's proposed drafting for this clause.</p> <p>UED said the proposed amendment is not required and could constrain options. Customers may require electronic access via an IHD.</p> <p>DPI in their submission that the residual rights contained in the information provision (metering code clause 7) to be of on going relevance to customers with smart meters. There is merit in these provisions enabling the customers or retailer to access metering data.</p>	<p><b>Clause 7.1(a) of the metering code is concerned with direct access to data by physical means which is not available to customers with smart meters. Clause 7.1(d) and (e) allows customers to obtain metering data from their retailer.</b></p> <p><b>The Commission's draft decision is to confirm its view of paragraph (a) but to clarify that this is concerned with physical access;</b></p> <p><b>It is proposed that paragraph (a) be varied as follows;</b></p> <p><i>"A distributor, a retailer or a responsible person (as the case may be) must, on written request from a customer, other than a customer with a smart meter, provide facilities to enable the customer direct physical access to the metering equipment to electronically access data stored in metering equipment provided by the distributor, the retailer or the responsible person."</i></p>
<b>8 Collection of metering data</b>	Sets out that the customer may arrange how the data will be collected.	This clause did not anticipate smart meters. Where smart metering data is	UED supports the ESC proposal.	<b>The Commission's draft decision is to insert a new paragraph 8(aa) as</b>



ELECTRICITY CUSTOMER METERING CODE REGULATION UNDER REVIEW				
Clause	Summary of Obligation	Issue for operation of smart meters and ESC preliminary view	Other information/submissions	ESC Draft Decision
		<p>collected by remote means there does need to be choice of an alternative method which was intended to be remote collection.</p> <p>Furthermore it needs to be clear that a customer cannot request that data from a smart meter be alternatively manually collected.</p> <p>This clause would need to continue to apply to &gt; 160 MWh customers where it is not mandatory that smart meters be installed and where some customers may not have data collected remotely. The Commission proposes a new paragraph 8 (aa) be inserted;</p> <p><b><i>"This clause 8 does not apply to customers with smart meters."</i></b></p>	<p>Consumer Action supports the Commission's proposed drafting for this clause.</p>	<p><b>follows;</b></p> <p><b><i>"This clause 8 does not apply to customers with smart meters."</i></b></p>
<b>9 Definitions</b>		<p>There should be a definition of smart metering</p>	<p>CUAC is concerned that a definition of a smart meter, which would be far-reaching in its application, is being proposed in an Appendix to the Issues Paper in regard to a specific feature such as consumer access to impulse output from meters. This definition requires wider and open consultation before it is adopted.</p>	<p><b>A definition of a smart meters will be included in the drafted regulation for consultation.</b></p>

USE OF SYSTEM AGREEMENTS REGULATION UNDER REVIEW				
Clause	Summary of Obligation	Issue for operation of smart meters and ESC preliminary view	Other information/submissions	ESC Draft Decision
<b>6.3 Disconnection at the request of the retailer</b>	Sets out the arrangements for the retailer to notify the distributor of a disconnection, the timing of the disconnection and the distributor's associated conditions. The clause, which is subject to the electricity law, allows the distributor up to 2 business days to effect the disconnection.	Disconnection refers to deenergisation. Smart meters allow deenergisation in shorter time frames and by remote rather than on-site means. Under this clause distributor must disconnect the customer within two business days. The UoSA requirements would necessarily follow any regulatory amendments in providing for retailer requests to distributors and the service that is offered by the distributor taking into account smart meters enabled services.	These services requested by industry based B2B arrangements are established under the national regulation which are being reviewed for smart meters.	<b>The final decision will decide the matters referred to in section 6.1. Relevant amendments to the UoSA will be consequential to that final decision.</b>
<b>6.4 Disconnection at the request of a customer</b>	This clause provides for the distributor to disconnect the customer in accordance with the distribution code based on a request by the customer.	For smart meters the issue is what method does the distributor use for the disconnection and is the customer given choice.	CALC - supports the ability for consumers to directly request disconnection with the distributor. The costs would need to be reviewed to reflect the change from manual disconnections to remote disconnections.	<b>Customers should continue to be able to request a disconnection directly with a distributor. The effective operational arrangements for this would be set out in the distribution code. The drafting of the clause will be reviewed and it may not be necessary to amend this clause. Cost recovery is a matter for the AER.</b>
<b>6.5 Reconnection of supply</b>	Sets out that the distributor must reconnect supply when required to do so under the electricity law or when a proper request is received from a retailer.	The clause does not indicate times that must apply instead indicating that the reconnection (reenergisation) shall be carried out in accordance with the electricity law. It is the electricity law that will set out any new arrangements for customers with smart meters.		<b>No change is proposed; other codes will set out any changed requirements for reenergisation for customers with smart meters.</b>
<b>7.4 &amp; 7.5 Invoices and Metering Data</b>	Obligations to parties to meet their financial obligations	Key issue as the distributors are seeking monthly network billing for all	Submissions set out in Background Paper	<b>Commission's substantive consideration of this matter has been</b>

USE OF SYSTEM AGREEMENTS REGULATION UNDER REVIEW				
Clause	Summary of Obligation	Issue for operation of smart meters and ESC preliminary view	Other information/submissions	ESC Draft Decision
		customers, whereas it is quarterly currently for most customers	<p>CitiPower/Powercor submitted that this clause could be amended to allow monthly network billing:-</p> <p>For all Supply Points connected to the Distribution System as at the Commencement Date, existing meter reading frequency will continue.</p> <p>For all new Customers, once every 3 calendar months or as otherwise reasonably determined by the Distributor.</p>	<b>set out in section 7.</b>
<b>8.1 &amp; 8.3 Compliance with Privacy Laws</b>	Obligations on parties to comply with applicable Privacy Laws in relation to privacy, disclosure, use or confidentiality of information	There should not be implications because of smart meters, but there are concerns by consumer groups that information will be misused	<p>CitiPower/Powercor submits that The concerns of the customer groups are not made clear, however, it is worth noting that metering data is confidential under the National Electricity Rules.</p> <p>CALC - the current obligations on businesses to comply with Privacy Laws, provided they are sufficiently enforced, will be adequate.</p> <p>Other submissions set out in Background Paper</p>	<b>Commission's substantive consideration of this matter has been set out in section 5.</b>
<b>8.2 Provision of Information</b>	Obligations on each party to ensure it provides relevant information at no cost and in a timely manner information that it needs to comply with its obligations	The operations of smart meters should not impact this obligation, but views of relevant parties are required	CitiPower/Powercor submits that there is no obvious need for amendment due to AMI	<b>No change.</b>

<b>USE OF SYSTEM AGREEMENTS REGULATION UNDER REVIEW</b>				
<b>Clause</b>	<b>Summary of Obligation</b>	<b>Issue for operation of smart meters and ESC preliminary view</b>	<b>Other information/submissions</b>	<b>ESC Draft Decision</b>
<b>8.4 Information Exchange Protocols</b>	Obligations to participate in B2B processes	VECCI submitted that the review should include an exploration of whether the present customer protection framework needs to be altered to reflect smart meter technology changes and data exchange practices between distribution and retail businesses. The operations of smart meters should not impact this obligation, but views of relevant parties are required	CitiPower/Powercor submits that there is no obvious need for amendment due to AMI	<b>No change.</b>
<b>8.5 &amp; 8.6 Accuracy and changes in information</b>	Obligations to ensure information is accurate and up-to-date	The operations of smart meters should not impact this obligation, but views of relevant parties are required	CitiPower/Powercor submits that there is no obvious need for amendment due to AMI	<b>No change.</b>
<b>9.4 Customer Details</b>	Customer information to be provided by the retailer to the distributor	Obligations appear to be the same irrespective of smart meters, but views of the parties are required	CitiPower/Powercor submits that there is no obvious need for amendment due to AMI	<b>No change.</b>
<b>9.8 Changes in Network Tariffs or Distribution Services</b>	Obligations and procedures in relation to changes to network tariffs	Will be critical in the operation of smart meters	CitiPower/Powercor - t may be necessary to consider changes following policy decisions flowing from the recommendations of the AMI Governance and Advisory Structure. CALC has considerable concerns regarding the way the Use of system agreement has worked with the introduction of smart meters, and the reallocation of consumers on off peak and peak rates, to simply a peak rate. This has caused significant issues for a number of consumers and has been caused by a failure of distributor/retailer communication	<b>Commission's substantive consideration of this matter has been set out in section 4.2.3.</b>

## APPENDIX B | EXAMPLES OF GRAPHS AND BILLS

Figure 2 Example of an EnergyAustralia bill

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

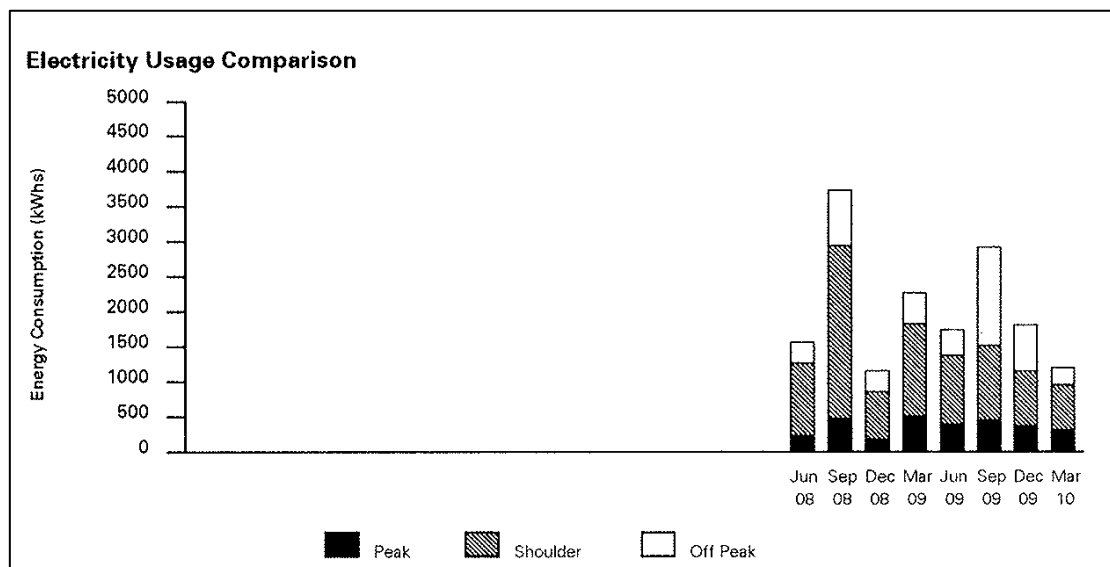
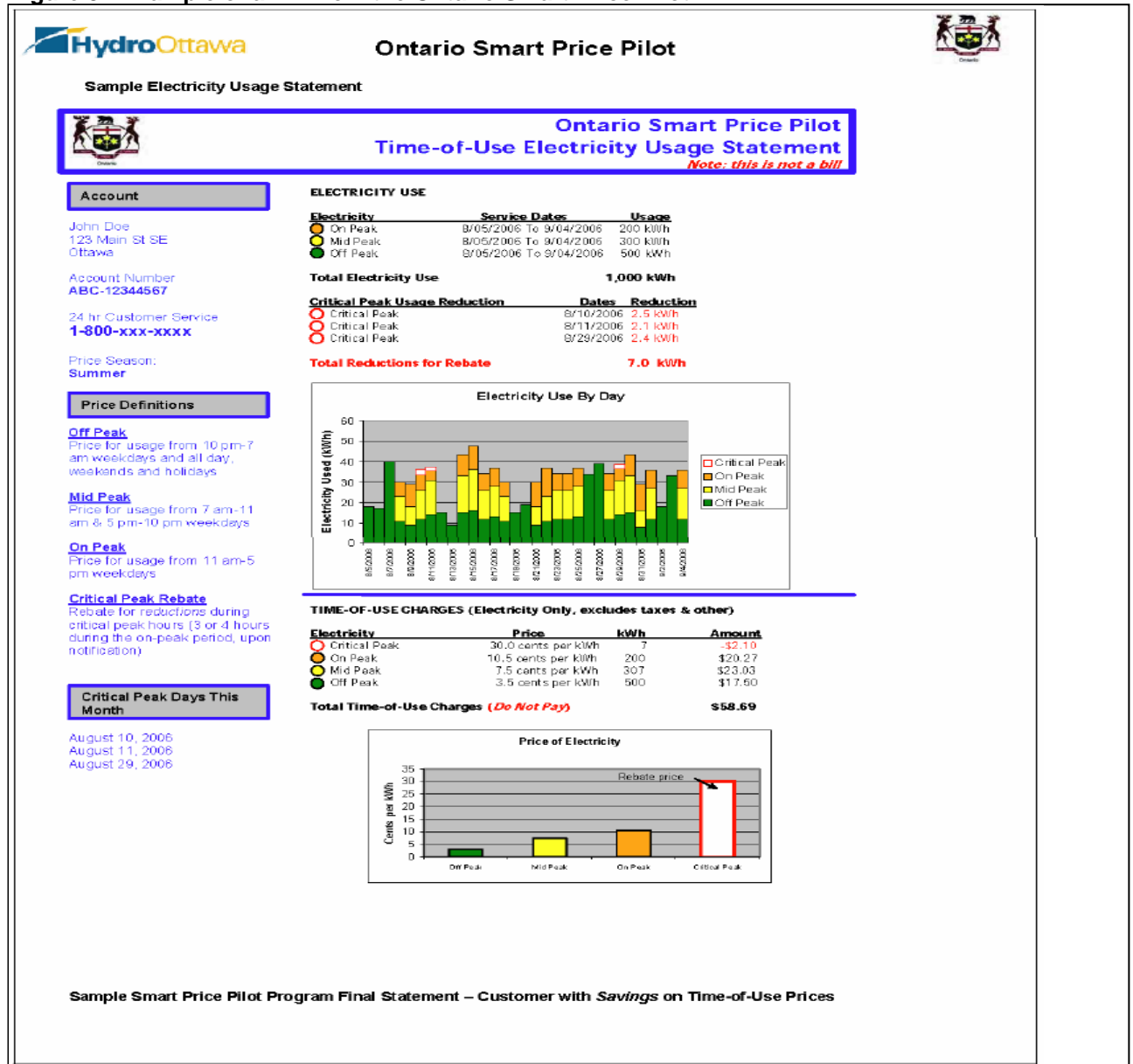


Figure 3 - Example of a Bill from the Ontario Smart Price Pilot<sup>93</sup>



<sup>93</sup> Ontario Energy Board Smart Price Pilot Final Report, July 2007