



**Australian Power & Gas™**  
*Simply smarter energy*

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Review of Regulatory Instruments  
Essential Services Commission  
2nd Floor, 35 Spring St  
MELBOURNE VIC 3000

12<sup>th</sup> September 2008

## **RE: REVIEW OF REGULATORY INSTRUMENTS: DRAFT DECISION**

Australian Power & Gas welcomes the opportunity to provide comment on the above draft decision released by the Essential Services Commission (“ESC”). We understand that there is significant gain to be made from improving and streamlining the regulatory framework in Victoria to reduce compliance costs for energy retail businesses.

While we are supportive of the objectives to streamline and simplify the regulations to a reduced number of instruments, we are mindful of impacts from potential changes to the legislative requirements in Victoria and of the transition to a national regime.

We believe the ESC should delay the timeframe of “Stage 1” implementation to take account of any prospective legislative changes and developments in the National Retail Framework. As such, we believe March 2009 may be a more ideal timeframe for the completion of Stage 1, as there will be more certainty with respect to the legislative requirements and the development of the National Energy Retail Framework.

Notwithstanding, Australian Power & Gas wishes to comment on specific regulations proposed in the draft decision below:

### 4.3.1 Energy Retail Code

#### **(a) Faults number on the bill**

Australian Power & Gas strongly objects to the proposal that retailers include the Distributors’ name with the faults number on retailers’ bills for the following reasons:

- We are unconvinced that having the Distributor’s name alongside the fault number will reduce the number of misplaced calls to the Distributor. The Distributor’s number on retailers’ bills is presently clearly labelled as a fault or an emergency number. It seems likely that if customers are calling this number when they do not have a fault or an emergency, it is intentional. Customers, if unable to immediately get through to the retailer will seek any number on the bill, regardless of whether the Distributor’s name is there or not.



As a retailer we witnessed a similar occurrence during the storm events in April this year. When faced with extreme difficulties in speaking to an operator on the Distributor's faults line (which is clearly flagged as such in our IVR), customers knowingly sought their perceived next best option, to ring us for assistance.

*If there is an issue with customers understanding the defined responsibility and role of Distributors within the market, Distributors should seek to educate their customers or the ESC should undertake a public education program to inform customers of what services are available from where.*

- If customers ring the faults and emergencies number because they fail to read that the phone number is clearly labelled as 'faults and emergencies', then it is likely that they will also fail to read the Distributor's name. Hence in this scenario, we are again sceptical that the proposal will reduce the number of misplaced calls to the Distributor.

*Misplaced calls can be resolved by processing the call through the Distributor's IVR. When calling the faults line, customers can be informed through an IVR that retailer related enquiries such as billing etc should be made through their retailer.*

- We are unconvinced by the ESC's suggestion that putting the Distributor's name on the bill will in any way benefit 'move in' customers under a Financially Responsible Retailer Model for the obligation to offer supply. If a move in customer needs to view the Distributor's name on the retailer's bill to determine who their current retailer is for their new location, they have identified their current retailer through that bill.

*If customers need to understand the role of the Distributor under the Financially Responsible Retailer Model for obligation to offer supply, then this is best addressed through a targeted education program to all customers.*

The proposed change to clause 4.2(o) will cost retailers significantly with billing system and bill print changes when it is highly doubtful that the change will provide the outcome sought by Distributors. We encourage the Distributors and the ESC to look at less costly alternatives such as those suggested above.

#### **(d) Overcharging**

Australian Power & Gas supports the move to introduce a threshold to inform customers of overcharging within 10 business days. However, Australian Power & Gas would be supportive of a threshold of \$75 as being reasonable to suggest the customer may want action other than a credit on the next bill.

In the case of where the threshold has been exceeded, we believe the regulation should also stipulate that if no direction has been received from the customer within 10 business days of the notice of overcharge, the retailer will credit the overcharge to the customer's account.

**(f) Variations requiring a customer's agreement.**

Australian Power & Gas disputes that variation clauses in retail contracts are “unfair” and are obscure, misleading the customer into entering the contract without full knowledge of the variation terms and conditions.

Variations clauses are clearly marked in our terms and conditions as are changes in the regulated tariff that may impact a customer's tariff. This is also reinforced with the customer during the contract verification process. The customer is questioned during the verification call as to whether they have been informed about potential changes to tariffs.

We are of the view that the Fair Trading Act and Trade Practices Act provides sufficient protection against customers being misled into contracts without their full knowledge of the content and ensuring retailers provide full disclosure of the terms.

Any redrafting of clause 20 contemplated by the ESC should be fully consulted with retailers.

**Repeal of Guidelines 1 & 4 - Credit Assessment**

While we do not have an objection to the proposed increase in the minimum debt amount we strongly oppose publishing this amount in the Retail Energy Code. Publishing this information will not add to the protection nor “serve the interests” of small customers, but will only serve to undermine retailers' credit management.

If you have any queries in relation to our comments, please do not hesitate to contact me on 0419 350 533.

Yours sincerely

Libby Hawker

**Regulation and Compliance Manager Victoria**