

13 August 2010

Ms Wendy Heath  
Regulatory Review - Smart Meters  
Essential Services Commission  
Level 2, 35 Spring Street,  
Melbourne VIC 3000

By email: [smartmeters@esc.vic.gov.au](mailto:smartmeters@esc.vic.gov.au)

Dear Ms Heath,

### **Smart Meters Regulatory Review Draft Decision**

The Consumer Utilities Advocacy Centre Ltd (CUAC) is an independent consumer advocacy organisation. It was established to ensure the representation of Victorian consumers in policy and regulatory debates on electricity, gas and water. In informing these debates, CUAC monitors grass roots consumer utilities issues with particular regard to low income, disadvantaged and rural consumers.

CUAC welcomes the opportunity to comment on the Essential Services Commission's (ESC)'s Smart Meters Regulatory Review Draft Decision (Draft Decision). CUAC is generally supportive of the Draft Decision.

However, CUAC is particularly concerned with the ESC's Draft Decision in relation to supply capacity control. CUAC is opposed to the use of supply capacity control as a credit or debt management tool. In the context of rising energy prices, the use of supply capacity control products may result in a "two-tier" electricity supply system; one for customers who can afford energy and the other, for those who cannot. This is covered in the section on "Assisting vulnerable customers."

CUAC notes that the smart meter regulatory review has deferred consideration of some matters (such as monthly billing) pending Government clarification of its legislative and policy positions. While CUAC supports an ongoing regulatory review, it is important for the ESC to further engage with stakeholders on these outstanding issues and address these in the regulatory framework once the Government's legislative and policy positions are clarified.

Ofgem has recently released a series of documents relating to its Smart Metering Implementation Program.<sup>1</sup> The documents relating to Consumer Protection, In-Home

Display, Data Privacy and Security are particularly relevant to the ESC's smart meters regulatory review. CUAC believes that the ESC's regulatory review can, and should be, informed by Ofgem's work on smart meters. CUAC urges the ESC to review these documents with a view towards incorporating relevant learnings into its Final Decision.

### **Assisting vulnerable customers**

#### **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.

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

CUAC strongly supports the proposed approach to assist customers experiencing hardship who are on a smart meter tariff. Monitoring of participant's behaviour and consumption should, however, be on a regular basis to capture changes in the personal circumstances of these customers.

#### *Supply capacity control as a credit/debt management tool (retailers):*

CUAC is pleased to see that at least, in the interim, there will be no supply capacity control products offered to customers who are experiencing hardship. However, CUAC believes that the prohibition on the use of supply capacity control as a credit/debt management tool should extend to all customers, not just those customers on a retailers' hardship program.

In principle, CUAC believes that supply capacity control, should never be used as a debt or credit management tool or as a punitive measure. CUAC refers the ESC to the Committee for Melbourne's Utility Debt Spiral Project. This report, which was partly funded by CUAC, sets out the experiences of customers experiencing hardship.<sup>2</sup> Controlling the amount of kilowatts households consume is an extreme form of intervention. CUAC believes that retailers' hardship programs should offer more meaningful assistance such as free energy audits to assist customers minimise usage and hence, mitigate the impact of rising energy prices.

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<sup>1</sup> Ofgem, Smart Meter Implementation Program – Prospectus. See <http://www.ofgem.gov.uk/Pages/MoreInformation.aspx?docid=40&refer=e-serve/sm/Documentation>

<sup>2</sup> Committee for Melbourne, Utility Debt Spiral Project (2004). See <http://www.cuac.org.au/database-files/view-file/2264/>

*Supply capacity control for systems management or load shedding (distributors):*

CUAC accepts the need for distributors to use supply capacity control (load limiting) via the meter for systems management (for example: limiting supply to households to prevent complete blackouts).

*Non-credit/ debt related supply capacity control products (retailers):*

Retailers, however, do not have a role in systems management and if allowed access to this functionality, should be required to develop contractual agreements with customers. While the explicit informed consent of customers should be a pre-requisite before entering into any contract, currently, there is information asymmetry and customers do not all have the same bargaining power when dealing with retailers. Energy offers are also complex and customers already find it a challenge to make the best choice.

Already, there are serious concerns regarding marketing practices. Misleading and unconscionable marketing practices (especially door-to-door) have resulted in inappropriate customer transfers and confusion for customers who in some instances receive overlapping bills from a few energy companies. This is a matter which CUAC has heard repeatedly in its various stakeholder engagements. Vulnerable customers (for example: the aged, those from non-English speaking backgrounds, those with low literacy, newly arrived immigrants etc) are often targeted by marketers. If supply capacity control products are to be marketed, CUAC is concerned that customers will sign up for them without the information necessary to make an informed decision.

CUAC strongly takes the view that permitting retailer access to supply capacity control via the meter sets a dangerous precedent and undermines universal access to an essential service.

CUAC recommends that the ESC undertake further research to understand consumer acceptability of supply capacity control products, the extent in which such products can be used as an incentive for customers to reduce consumption, and the consumer protections that must be attached to such products. This is essential before non-credit/debt related supply capacity control products are actually contemplated for customers.

## **Providing information and informed consent**

### **Reviewing the bill**

#### ***Verifying the accuracy of the bill***

##### **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 to 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.

CUAC supports the ESC's views above.

Including the total accumulated consumption read would assist customers to reconcile, to some extent, what is registered on their meter to what is recorded on their bills.

Apart from information on the bill itself, CUAC believes that there should be an information campaign to explain the new billing formats. Explaining the new billing formats to customers is essential and the explanation needs to be simple, easily understood and assisted by an information or education campaign. Some customers may not understand a written explanation and may need more assistance in understanding new billing formats. For example, customers who are from non-English speaking backgrounds, those with low literacy or learning disabilities etc. Information on new billing formats should be available in multiple languages. An explanation which is visual rather than text-based would be useful for some customer groups. A dedicated information line on the new billing formats and the use of billing inserts would also be useful.

Customers also need to understand that there will be some divergence between the total accumulated consumption reading on the bill and what they see on their smart meter upon receipt of the bill. It would be useful to include this information in the explanation to be given by retailers about the new billing formats. CUAC notes that the Energy and Water Ombudsman (Victoria) (EWOV) has a fact sheet on smart meters which includes information on how to read the different registers on the smart meter.<sup>3</sup>

CUAC notes that the proposed ESC amendment would take effect from 1 April 2011. CUAC understands that remote reads are already occurring in some networks and some

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<sup>3</sup> See <http://www.ewov.com.au/site/DefaultSite/filesystem/documents/PDF/Fact%20sheets/EWOV-FactSheet-15-Smart-Electricity-Meters-www.pdf>

customers may therefore be receiving a bill which they are unable to verify. CUAC suggests that the ESC work with the distributors to provide an interim solution for these affected customers.

***Estimated and substituted data on bills***

**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.

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.

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.

CUAC reiterates its concerns regarding estimated and substituted data expressed in its submission to the ESC's Smart Meter Regulatory Review Issues Paper (April 2010) (Issues Paper).

Estimates

CUAC does not support the 5 percent materiality threshold for informing customers when their bill is estimated. CUAC notes that this is two times higher than the 2 percent materiality threshold proposed in the Issues Paper. There is no basis as to why the threshold should not be lower than 2 per cent. Consumers are paying upfront for the advanced metering infrastructure (AMI); they must have confidence that the smart meter performance standards are able to deliver the benefits of smart meters.

The ESC has explained the various scenarios in which estimated billing might arise (for example: storm damage resulting in communications failure, systems breakdown etc), and

has noted that such instances are likely to “be minimal and fall as experience is gained” (page 21, Draft Decision). The ESC has also stated that it is difficult to ascertain, “the likely extent of estimated bills....until further experience in the business processes is gained” (page 21, Draft Decision). While this might be the case for the interim period, CUAC submits that, any materiality threshold for informing customers as to when their bill is estimated must be as low as possible to start with, and then be reduced accordingly once the capability of the smart meters and systems become more fully understood. CUAC believes that the 5 per cent materiality threshold is too high. It does not incentivise industry to ensure that estimates in billing are kept to a minimum. It also does not instil confidence amongst consumers that the technology they are paying for is able to deliver more accurate billing.

### Substitutes

CUAC supports the ESC’s approach to substituted billing. That is, “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.”

However, in the event that the retailer chooses to bill the customer on substituted data, CUAC submits that the customer should be charged a default tariff which should be the lowest possible rate. For example, if the customer has a three part time of use tariff (ToU) with a peak, shoulder and off-peak rate, he/she should be billed at the off-peak rate for any data which is substituted. As the ESC has stated that the incidence of substituted bills “should be quite low”, this would not be unreasonable for retailers.

In relation to the other aspects of the Draft Decision on estimates and substitutes, CUAC supports the expansion of the performance indicators to include the number and proportion of bills issued with substituted data. CUAC agrees with the ESC, that the AER should monitor the extent to which the distributors substitute data in the interval data provided to the retailers.

CUAC notes that the ESC intends to review clause 6.2 of the Energy Retail Code (ERC), which permits retailers to recover between 9-12 months of undercharging, once smart meters become fully operational and monthly billing more prevalent. CUAC supports a review of this provision. As mentioned in CUAC’s submission to the Issues Paper, in a smart meter environment, particularly, with remote daily readings, retailers are well placed to avoid undercharging scenarios. There is no incentive for industry to reduce incidents of undercharging if they are allowed to back-bill a customer for up to 9-12 months. A shorter period is warranted if there are estimated bills in a smart meter environment.

### ***Methodology for determining bill smoothing arrangements and for reconciling bills***

In the Issues Paper, the ESC sought stakeholders’ views on whether retailers should be required to reassess the amount of energy a customer under a bill smoothing arrangement

consumes over 12 months, every three months rather than the current six months, in the context of smart meters . CUAC submitted that as there are daily reads with a smart meter, a three month reassessment may provide customers under a bill smoothing arrangement with a more accurate estimate taking into account the daily meter reads and seasonal factors.

CUAC requests the ESC to clarify what the outcome of this is as it is not mentioned in the Draft Decision (Draft Decision, Appendix A, clause 5.3 of the ERC).

### **Managing consumption and costs**

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

##### **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.

CUAC supports graphical representation of consumption. However, there needs to be further refinement to the wording used in the above Draft Decision. The consumption graph for each monthly period should not be the *total* consumption for that month. The consumption graph should show the usage data for each tariff component aggregated for each month of the billing period. For example, if the customer is on a three-part ToU, the consumption graph should reflect the amount of consumption used at peak, shoulder and off-peak periods for that particular month. The choice of wording used in the above Draft Decision does not convey this.

During the ESC's workshop on 27 July 2010, the ESC clarified that the average daily cost for each smart meter tariff over the billing period, need not be included on the consumption graph itself and that it could be included in the bill. Given that there is already quite a lot of information to be included in the consumption graph, it might be less confusing to customers if the average daily cost for each smart meter tariff over the billing period is included in the bill rather than on the consumption graph.

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

##### **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.

CUAC recognises that while unbundling would result in greater transparency in energy charges, it would also contribute to greater confusion amongst consumers, especially in a ToU environment. With the current moratorium on ToU pricing, CUAC suggests that this

issue be deferred till the Government's policy position is clarified. More consumer focused research is also required to understand consumer response towards unbundling.

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

#### **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.

CUAC supports the ESC's position above.

CUAC agrees with the ESC that there should be a uniform approach to notifying customers about tariff changes. CUAC notes that the proposed amendments to clause 26.4(b) of the ERC would only affect customers who are on market contracts. It would not affect customers on standing offers or deemed contracts as they are covered by the *Electricity Industry Act 2000*.

CUAC submits that equivalent notification requirements (as per the ESC's Draft Decision) should also be required of retailers for customers who are on standing offers and deemed contracts. CUAC will work towards ensuring that the Government provides for equivalent notification requirements to customers who are on standing offers and deemed contracts. CUAC notes that the heads of power granted under the *Energy and Resources Legislation Amendment Bill 2010* allows for the Government to make an order about tariff notifications.

CUAC also submits that the ESC's proposed amendments to clause 26.4(b) of the ERC should provide for written notification to customers about tariff variations. It is unclear from the above Draft Decision what form notification will take.

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

#### **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.

CUAC supports the ESC's approach.



## Enabling access to billing and metering data

### **Access to historical billing data**

### **Access to metering data**

#### **Draft Decision**

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.

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.

### Historical billing data

CUAC supports the ESC's views above regarding historical billing data. CUAC agrees with the ESC that there is a need to clarify what historical billing data means in drafting clause 27 of the ERC (footnote 69, Draft Decision). In its submission to the Issues Paper, CUAC stated that "billing data" should be defined to be the same whether it covers billing data on an actual bill when it is issued or "billing data" in the form of "historical billing data" when data is provided to cover the case of a missing bill.

### Metering data

Consumer access to their consumption data is central to ensuring that they benefit as much as possible from smart metering. Consumers should be able to access their consumption information from their smart meter easily, securely, in an appropriate format and at an appropriate level of detail.

CUAC agrees with the need to ensure that there are strong privacy principles in place before in-home displays (IHDs) are used to disseminate consumption information. CUAC also

agrees that consumers need information on how the consumption and cost information displayed on their IHDs compares to the consumption and cost details on their energy bills.

The ESC's Draft Decision suggests that customers access metering data through IHDs provided by their retailer or distributor (though, as far as CUAC is aware, there are none currently on offer). Some customers, such as those with a particular concern with energy efficiency, might wish to access metering data directly from their meter. Data stored in a smart meter could, for example, be accessed through a home area network (HAN) subject to appropriate security arrangements. Ofgem has proposed that suppliers have an enduring obligation to provide a defined data set to customers via the HAN if they request access to it.<sup>4</sup> One of the advertised benefits of smart meters is the ability to receive real time data about usage. CUAC believes that if the full benefits of smart meters are to be realised, the customer's ability to access metering data independently from retailers and distributors, through a variety of mechanisms should be facilitated.

Ofgem has acknowledged that it is inappropriate for consumers to rely exclusively on their supplier to gain access to consumption data:

In terms of how consumers access their data, to compare tariffs or obtain energy advice, the supplier is clearly one potential channel. We are of the view, however, that it would not be appropriate for consumers to rely solely on their supplier to gain access. Such reliance could give rise to privacy concerns because consumers may not want to provide their supplier with access to their detailed data. Furthermore, there are competition concerns because suppliers are already competing to offer tariffs for energy supply and may be competing with third parties to offer broader energy management services.<sup>5</sup>

Some consumers do not have computer or internet access or may not want to access the metering data themselves. For these consumers, an alternative option would be to authorise a third party to collect the data on their behalf. Consumers may appoint and authorise third parties such as financial counsellors, social workers, energy auditors or family/friends, to receive consumption data on their behalf. With the advent of smart meter technology, third parties receiving metering data have expanded to include commercial third party solution providers operating various applications such as Google PowerMeter or Microsoft Hohm. There are security and privacy concerns regarding the use of third party applications. These issues have not been addressed in the Draft Decision. As mentioned in our submission to the Issues Paper, there is also a need to ensure that data is appropriately labelled so that third parties receiving data from multiple consumers are able to distinguish between data belonging to different consumers.

CUAC notes the ESC's views regarding third party access to information on page 39 of the Draft Decision:

[t]he 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>4</sup> Ofgem, Smart Metering Implementation Programme: Consumer Protection (27 July 2010), at 14.

<sup>5</sup> Ofgem, Smart Metering Implementation Programme: Consumer Protection (27 July 2010), at 13.

CUAC agrees that data control rests with the customer and that the explicit informed consent of a customer should always be a pre-requisite before data is passed on to third parties. But in addition to this, other matters CUAC raised on page 17 of its submission to the Issues Paper are left unaddressed:

- Will the data provider (retailer or distributor) or the ESC have a role in vetting the security and privacy arrangements of the data receiver? Will there be an accreditation procedure or policy for commercial organisations that offer to provide services based on receipt of consumers' data? Will it be appropriate for retailers or distributors to refuse to hand data to third parties that are not accredited?
- Given that the data receiver will likely not be an entity licensed by the ESC, what safeguards will there be to maintain the security and privacy of the consumer's data once it has been provided to a third party? Will the National Privacy Principles apply to metering data? What safeguards are there if the data is taken offshore? Will consumers be warned if there are security or privacy issues with handing their data to a third party?

CUAC is concerned that there appears to be no indication from the Draft Decision that these issues will be examined in time either by the ESC or by another regulatory body. CUAC requests that the ESC clarify this in its Final Decision.

**Remote connection, disconnection and reconnection**  
**Prompt connection, disconnection and reconnection service**

**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, and
- clarify the terms associated with connection and energisation taking into account smart meters to remove any ambiguity.

CUAC notes the ESC's commitment (footnote 78, Draft Decision) to ensure that:

These time frames 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 time frames for credit management purposes will be adhered to.

It is vital that retailers adhere to proper disconnection and reconnection procedures and the requisite time frames for credit management purposes. With the remote functionality, it is reasonable to expect faster remote connection, disconnection and reconnection times. However, these should apply only to customer requests and not used to circumvent the regulatory procedures required before disconnecting customers for non-payment.

During the ESC's workshop on 27 July 2010, Citipower/Powercor's representative submitted that the AMI Industry Steering Committee (ISC) was best placed to decide how

fast remote connection, disconnection or reconnection should be performed as there is a process model in place. CUAC strongly submits that the AMI ISC is an inappropriate forum. The AMI ISC is dominated by industry; CUAC is the sole consumer representative on the AMI ISC. The Victorian Auditor-General's report of November 2009 identified issues around AMI governance which resulted in a revamping of the whole governance structure for the AMI rollout.

It is important that the provisions regulating the times where a retailer or distributor cannot disconnect a customer, continue to apply (clause 14, ERC; clause 12.6.1, Electricity Distribution Code - EDC) with remote connection, disconnection and reconnection. There are also safety issues which are to be addressed by Energy Safe Victoria.

The default standard use of system agreement may need amendment in regard to the time allowed for a distributor to effect disconnection at the request of a retailer (see page 22, CUAC's submission on the Issues Paper).

The Issues Paper sought stakeholders' views as to whether amendments are required to clause 7.6 of the ERC (vacating a supply address). This provision can require a customer to pay for energy for up to three business days after the customer notifies the retailer that he/she is vacating the supply address. The ERC is silent on the reason for this period of time, but CUAC expects it is to allow sufficient time for the retailer to request the distributor to send personnel to the site to disconnect supply. The ESC had in its Issues Paper considered this provision "quite fair in relation to customer payment." However, the Draft Decision does not mention what the outcome relating to this is (see Appendix A, Draft Decision).

CUAC reiterates its views expressed in its submission to the Issues Paper (page 22):

The distributor's ability to undertake remote disconnection reduces the elapsed time required between a customer requesting disconnection and actual disconnection occurring, and the maximum time for the customer to be responsible to pay for energy at the premises that they are vacating should correspondingly be reduced.

### **Customer protection under disconnection**

#### **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. This communication must set out all the options for the customer.

CUAC supports the proposed amendment to clause 13.1 of the ERC requiring retailers to state on all disconnection warnings that the disconnection could occur remotely.

During the ESC workshop on 27 July 2010, the ESC stated that the proposed clause 13.2 of the ERC is to be read such that it covers customers experiencing financial difficulties and not merely customers who are participating in hardship programs. While this is a positive step, CUAC remains concerned that the proposed amendment is inadequate coverage for customers facing remote disconnection.

CUAC submits that clause 13.2 should be extended to all customers, and not merely to customers experiencing financial difficulties. It is unclear whether the reference in clause 13.2 of the ERC to customers accepting an instalment plan will be retained. CUAC believes that this must be retained in the context of customers experiencing financial difficulties.

CUAC disagrees with the ESC's view that it is unreasonable to expect retailers to undertake two site visits to a customer's premises prior to remote disconnection (page 46, Draft Decision). CUAC believes that site visits would provide greater opportunity for engagement with customers, thereby prompting the customer to take the necessary steps to avoid disconnection.

Further, there may be health and safety risks associated with remote disconnections which could be identified if personal visits are made prior to remote disconnection. Ofgem is currently consulting stakeholders on additional protections required in the context of remote disconnections. Ofgem has suggested that additional protections, including an obligation to undertake a site visit, could be appropriate so as to identify vulnerable customers prior to remote disconnection. CUAC supports this. According to Ofgem:

In terms of additional protection, one potential additional measure could be an explicit requirement for a site visit prior to the disconnection. While this could be seen to remove one of the benefits of being able to disconnect remotely, it is possible that non-engineering staff could be used for the visit.<sup>6</sup>

CUAC supports removing the reference to using "best endeavours to contact" the customer in clause 13.2 of the ERC and replacing it with the word "must contact" to make it an absolute obligation on the part of retailers to contact the customer prior to disconnection for non-payment. However, the proposed amendment alone is insufficient protection for customers facing remote disconnection.

In CUAC's view, retailers should be obliged to contact the customer using at least two different methods, one of which must be a site visit. The proposed amendment to clause 13.2 of the ERC, however, provides the retailer with the option of avoiding any site visit to the customer's premises so long as two telephone calls are made, and a letter subsequently sent, prior to disconnection. The ESC has stated 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" (footnote 82, Draft Decision). This is unacceptable. CUAC submits that clause 13.2 of the ERC must be amended to require retailers to contact the customer using different methods, one of which must be a site visit. That is, retailers should make a site visit; make two telephone calls at different times on different days, and to different

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<sup>6</sup> Ofgem, Smart Metering Implementation Programme: Consumer Protection (27 July 2010), at 22.

contact numbers if available. Two telephone calls do not impose too onerous an obligation on retailers. If contact by site visit and telephone is unsuccessful, a letter can be sent. During site visits, highly visible disconnection warnings should be left at the premises advising the customer of the impending remote disconnection and who to contact, if the customer is not home.

CUAC recommends that the ESC monitors implementation of these ERC provisions. If there is evidence of continuous breach or systemic failures, it falls upon the ESC, as regulator, to institute stronger regulatory requirements to ensure that customers are adequately protected from remote disconnections.

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

#### **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.

CUAC supports the inclusion of a sticker on all smart meters installed in customers' premises. CUAC notes that the ESC has stated that it is inappropriate for the regulatory obligation to be retrospective. This regulatory obligation should, however, be implemented as soon as possible (not from 1 January 2011) since the rollout has already commenced.

In addition, as some meter boxes are remote from customers' attention (for example: located in basements of apartment buildings), it would be helpful to include another location for the sticker, such as on the customer's main board. This was raised in CUAC submission to the Issues Paper (page 28).

### **Safety considerations**

As mentioned in CUAC's submission to the Issues Paper, all safety issues surrounding remote disconnection needs to be adequately addressed before this is activated. CUAC understands from the Draft Decision that Energy Safe Victoria (ESV) is addressing this.

### **Frequency of network billing of retailers by distributors**

#### **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;
- 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.

CUAC supports the ESC's approach to allow distributors to bill monthly but retaining the payment terms associated with the customer's billing cycles, particularly until the policy positions are clarified.

### **Code of Conduct for Marketing Retail Energy in Victoria**

CUAC notes that the ESC will be reviewing the above code once the Government's legislative and policy position regarding smart meter tariffs are clear (Appendix A of the Draft Decision).

In CUAC's view, the review should also cover marketing arising from IHDs. IHDs will provide consumers with real-time information on their energy consumption in a readily accessible form; IHDS also could provide useful information about new energy saving products, services and tips. However, there is the potential for retailers, distributors and third parties to use the IHD to transmit unwelcome marketing messages to customers. Ofgem has identified this as an issue in its document, Smart Metering Implementation Programme: Consumer Protection (27 July 2010). Although IHDs are not included as part of the AMI

rollout, the same marketing concern arises since IHDs could be provided by industry or third parties. According to Ofgem:

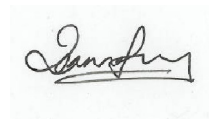
Subject to views from respondents, we are minded to regulate to prevent the IHD provided during rollout from being used to transmit unwelcome marketing messages. In our view, such messages could lead to consumers ignoring their IHD, thus undermining the benefits achieved through consumers receiving real-time consumption information. We are looking at the coverage provided by existing protections to assess what further action we can and should take to achieve this objective.<sup>7</sup>

CUAC urges the ESC to consider this issue in its review of the Code of Conduct for Marketing Retail Energy in Victoria.

Again, CUAC thanks the ESC for the opportunity to participate in its consultation process. If you have any queries, please do not hesitate to contact the undersigned.



Jo Benvenuti  
Executive Officer



Deanna Foong  
Senior Policy Officer

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<sup>7</sup> Ofgem, Smart Metering Implementation Programme: Consumer Protection (27 July 2010), at 11.