

Utilities Commission of the Northern Territory

Electricity Retail Supply Code Review

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Submission in Response to Electricity Retail Supply Code Review—Draft Decision Paper

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Thank you for the opportunity to make a submission in response to the Utilities Commission ('the Commission') of the Northern Territory's *Electricity Retail Supply Code Review—Draft Decision Paper* dated 31 October 2022 ('Draft Decision'). We commend the Commission on its commitment to engage stakeholders in the process of moving toward fit-for-purpose obligations for the regulation of electricity entities and to strengthening available rights and protections for electricity customers in the Northern Territory. Our comments on the Draft Decision relate to the following:

Clause 10 | Life Support Equipment

Clause 11 | Dispute Resolution

Clause 12 | Hardship Support – Standard Meter

Clause 13 | Hardship Support – Prepay Meter

Clause 14 | Family Violence Policy

Other Matters

- i. | Solar
- ii. | Temperature based protections
- iii. | Broadening those groups eligible for support

10 | Life Support Equipment

10.6 | We agree with the Commission's decision not to allow for exceptions to clause 10.6

whereby a customer could provide their written explicit informed consent to retain a prepayment meter despite requiring life support equipment at their premises.

Clause 10.6 of the Electricity Retail Supply Code ('Code') was introduced in 2019 to ensure that registered life support customers do not utilise a prepay meter, thus avoiding the potentially life-threatening impacts of disconnecting from energy services. While recognizing that some customers requiring life support still retain a strong preference for prepay, in the absence of remedial efforts to reduce the risks of disconnection for prepay customers there is little justification for any position other than the Commission's decision not to amend the Code to allow for exceptions to Clause 10.6.

We wish to draw the Commission's attention to the contrary position taken by the South Australian Government's Department of Energy and Mining ('DEM'), which recently introduced prepay metering on a mandatory basis within remote Aboriginal communities of the Anangu Pitjantjatjara Yankunytjatjara (APY) Lands, Yalata, and Maralinga Tjarutja (Oak Valley). A localised definition of 'life support system' was introduced in South Australia to recognise the specific health needs within affected communities, coupled with National Energy Customer Framework (NECF)-aligned registration requirements to acknowledge the additional burden medical confirmation processes place on local health services. A clear prohibition from disconnecting life support customers has also been included for registered life support customers and DEM has elected to disable the self-disconnection functionality of prepay meters, while maintaining prepay as the default and only method of payment for households shifting to a user pays system for electricity.

We have no evidence or insights to offer at this time as to the efficacy or otherwise of this approach, but simply highlight it as a counterpoint that may potentially provide new information and better inform both jurisdictions on this critical issue. Understanding the relative risks and any potential advantage to DEM's approach would seem to warrant immediate investigation and dialogue between the relevant parties.

10.7 | We recommend an additional explicit requirement within the Code for retailers and network providers to publish life support equipment procedures.

Pursuant to Clause 10.7.2 of the Code, any retailer and network provider operating in non-regulated areas (i.e., Power and Water Corporation (PWC) via the subsidiary Indigenous Essential Services (IES)) is required to develop and submit life support equipment procedures that *seek to achieve similar outcomes* to those captured at Clauses 10.3, 10.4, 10.5 and 10.6. The stated provisions are those applicable to operators within the larger regulated networks.

We note the relevant retailer websites provide information for customers about *who* can be a life support customer and *how* to register - including by making available the Medical confirmation/Life Support Application and renewal forms, outlining relevant steps to complete them and supplying relevant contact details. However, the Code requirements do not currently expect of retailers nor network providers operating in either regulated or non-regulated areas to make publicly available

their life support equipment procedures by publishing them online. Concurrently, through our previous submissions to this process and via correspondence requesting life support procedures from the Commission, we have been made aware that these documents are considered as belonging to the relevant retailer or network provider. Is it the case that the Commission views life support procedures as being internal documents rather than public facing? Is there a reason for this? We note other policies and procedures within the Code (including hardship, dispute resolution and family violence) are each required to be published online. These procedures necessarily identify protections for vulnerable customers. Without the procedures being visible it is not possible to understand if life support procedures in the non-regulated, remote networks are substantially similar or different to requirements within the regulated networks. Given the Code extends only to requiring of providers in non-regulated networks that they *seek to achieve similar outcomes* to the identified provisions within regulated networks, it is relevant to insist that accessible and updated statements of expected rights and protections be made available online for registered and potential life support customers and community-based supporting organizations. Vulnerable customers cannot be certain of their rights and protections without easy access to these approved procedures and in ways that are most relevant to them.

We recommend the Commission add an explicit requirement that life support equipment procedures be published on the retailer and network providers website, to be updated annually. For example, we note that the amended requirements for dispute resolution procedures (Clause 11.4) require of retailers and network providers that they “develop, make and *publish on its website*” (emphasis ours) those procedures. This approach could easily be adopted for life support equipment procedures.

11 | Dispute resolution

11.4 | We agree with the Commission’s proposed changes to create an obligation for retailers and network providers to have in place and publish customer complaint dispute resolution procedures in line with Australian standards and electricity industry best practice, as substantially consistent with the Australian Standard AS ISO 10002 2006.

The addition of obligations to have and to publish customer dispute resolution procedures is a significant improvement to the Code. We observe that the intent of Clauses 11.4 and 11.5 are that they apply both within and outside of the regulated networks, given that “every retailer and every network provider” must comply with the new obligations. We raise again the issue of information accessibility and transparency for customers in non-regulated networks (as identified at 10.7 above) and recommend the Commission explicitly confirm the expectation that retailers and network providers *develop, make and publish on its website standard complaints and dispute resolution procedures* for all non-regulated networks, without relying on subsidiarity.

We also seek clarification from the Commission whether the proposed amendments are intended to apply to exempt retailers (for example, Alcan Gove Pty Ltd/Rio Tinto in Nhulunbuy). Our interpretation of the Code is that amendments to exemption documents (or other instruments) would be required to achieve this outcome, as the Commission has done in relation to life support protections. We recommend that the Commission do all that is necessary to achieve consistency across the Territory

and to prevent the undesirable outcome of disparities in the available protections and dispute resolution pathways available to customers based on their service provider and place of residence.

12 | Hardship policy - Standard meter customers

12.1.1 – 13.1.9 | We recommend that maintaining the intent of Clauses 12 & 13 will in practice require considerable scrutiny by the Commission. The addition of requirements for retailers to offer payment plans to customers self-identifying as having financial difficulties would align the Code more closely with the NECF.

The proposed Code amendments focus on hardship, yet earlier interventions such as access to payment plans are equally important customer protections, as shown during the COVID-19 pandemic. The NECF requires payment plans to be available to all customers with financial difficulties, regardless of whether the difficulties derive from hardship—see National Energy Retail Law (NERL), s 50 and National Energy Retail Rule (NERR) 33. Payment plans provide an early intervention and support to help customers avoid accruing unsustainable energy debts and may assist in preventing circumstances of hardship. The addition of requirements for retailers to offer payment plans to customers self-identifying as having financial difficulties would align the Code more closely with the NECF and offer customers assistance when it is most needed. As payment plans primarily assist post-pay customers we recommend the Commission concurrently consider obligatory forms of financial and other assistance for prepay customers who self-identify to their retailer as experiencing financial difficulties.

Further, it remains unclear from our reading of the Code whether the proposed amendments are intended to be practically applicable to exempt retailers including Alcan Gove Pty Ltd/Rio Tinto in Nhulunbuy, as raised in relation to dispute resolution procedures above. It appears to us that the same additional steps i.e., amendment of the exemption document or other relevant instrument would need to be undertaken by the Commission to ensure exempt retailer compliance with the hardship protections.

13 | Hardship policy - Prepayment meter customers

13.1.1 – 13.1.7 | We recommend that the Commission incorporate hardship provisions that are compatible with the operational realities of prepay and implement public reporting and data availability as a priority requirement of the Code.

A comprehensive estimate of the efficacy of Clause 13 in relation to the stated aims and intent of Clause 12, to which it is intended to relate, is particularly challenging due to the inconsistencies inherent in the operational logic of prepay. We recognize the narrow focus in Australian energy markets on price as signal to manage energy demand is complicated within the context of remote high-cost networks, where the differing capacities to pay for energy services experienced by communities and households is rarely acknowledged. We also recognize that currently there is no regulatory framework for prepayment metering arrangements in the Territory. Hence the proposed amendments necessarily represent a significant improvement over the status quo - nonetheless we make the following submissions:

Nowhere is the anomalous and inequitable position of prepay customers more apparent than in the circular scheme provided by Clauses 13.1.1 through 13.1.7 in relation to Clauses 12.1.1 through 12.1.9, with which they necessarily operate. On the one hand under Clause 12.1.7 the Commission must, in considering whether to approve a hardship policy for Standard Meter customers under Clause 12.1.7, have regard to the following principles (*emphasis as per the Code*):

- (a) that the *supply* of electricity is an essential service for *residential customers*;
- (b) that *retailers* should assist hardship *residential customers* by means of programs and strategies to avoid disconnection solely due to an inability to pay electricity bills;
- (c) that disconnection of premises of a hardship *residential customer* due to inability to pay electricity bills should be a last resort option;
- (d) that *residential customers* should have equitable access to hardship policies and that those policies should be transparent and applied consistently.

In addition to these principles the Commission clarifies on page 35 of the *Draft Decision* that it “agrees with stakeholders that the Code should provide generally equivalent (to the extent possible) consumer protections for prepayment meter customers compared to post payment customers”. This “means a proposed obligation for electricity retailers to have an approved customer hardship policy (or policies) that covers prepayment meter customers” and “which may be located within a retailer’s broader hardship policy that meets minimum requirements specified in the Code”.

Yet, prepay is obviously incompatible with and meets none of the principles articulated at 12.1.7, nor can it necessarily abide by those “located within a retailer’s broader hardship policy that meets minimum requirements,” for the following reasons:

1. Rather than b) *assisting hardship residential customers to avoid disconnection solely due to an inability to pay electricity bills*, prepay has the practical effect of being a program or strategy specifically designed to facilitate immediate disconnection of electricity supply upon a household’s failure to pay, presumed based on the known possibility of frequent (if foreseeably shorter) ‘self’ disconnections being seen as a lesser risk than the possibility of accumulating energy debt that can attend post-pay within the context of low-income households.
2. Prepay is self-evidently inconsistent with principle c) *disconnection of premises of a hardship residential customer due to inability to pay electricity bills should be a last resort option*, as operationally its chief feature is the immediate disconnection of those homes experiencing difficulty in meeting household energy costs.
3. Further, 1. and 2. (above) clearly have the combined practical effect of undermining the intent expressed at principle d) that *equitable access to hardship policies and that those policies should be transparent and applied consistently*.

As discussed above (12.1.1) payment plans are equally incompatible with prepay metering, which further emphasises the disparities in rights and protections between pre and post paying electricity customers. We urge the Commission to consider diverse forms of assistance for prepay customers who self-identify to their retailer with financial difficulties. For example, in a relevant but comparable jurisdiction, the Essential Services Commission of South Australia (ESCOSA) acknowledges that:

“[t]he majority of prescribed (mandatory prepay) customers are low wage individuals on income support, who are more likely than average to suffer financial hardship”.¹

Significantly, payment options available to mandatory prepay customers in South Australia include Centrelink direct deductions (CentrePay)², enabling regular, agreed deductions to be made from a customer’s Centrelink payments towards their prepaid electricity account. Further, energy concessions are directly and proportionally credited to the meter, and a reduced tariff of 10 cents / kWh operates in recognition of the resource constraints facing households in many of the communities in which (mandatory) prepay operates.

As the system is relatively new there is currently no qualitative evidence about household experiences upon which to draw, but theoretically these changes may offer benefits to households by reducing the risk of self-disconnection, provided costs of energy consumption are within the credited amount and CentrePay deductions are sustainable for individual circumstances.

As proposed, it is hard to see how the new hardship protections at Clause 13 will be capable of assisting prepay customers avoid self-disconnection in any meaningful or equivalent way to protections offered post pay customers. The Commission should investigate fit-for-purpose hardship protections for prepay customers in consultation with affected communities and their supporting community-based organisation and based on metrics relating to the frequency and duration of self-disconnection events.

Given a) there is currently no regulatory framework for prepay metering arrangements in the Territory, and b) the known harms associated with disconnecting from energy services, we recommend public reporting and data availability should be a priority requirement of the Code.

Data relating to the frequency and duration of self-disconnection for the more than 9,000 households either mandated or electing to use prepay in the Northern Territory should not be at the discretion of retailers but rather an explicit requirement that is clearly articulated within the Code. Fundamental to understanding the impacts of prepay for regional and remote First Nations households is access to data, including public reporting of self-disconnection levels for households. In its Draft Decision, the Commission acknowledges that while there are relevant reporting obligations for retailers in the Territory’s regulated networks (Darwin-Katherine, Alice Springs and Tennant Creek) under the

¹ ESCOSA, Cowell Electric Supply Pty Ltd licence amendment: Prepayment by default consumer protections. Final decision – June 2022, available at: < <https://www.escosa.sa.gov.au/ArticleDocuments/21889/20220620-Electricity-CowellElectricLicenceAmendment-PrepaymentDefault-FinalDecision.pdf.aspx?Embed=Y>>.

² See DEM, Community Pre-Pay Customer (CPC) Written Disclosure Statement, available at: < <https://www.cowellelectric.com.au/wp-content/uploads/2022/07/20220705-Community-Pre-pay-WDS-Final-ESCOSA-Approved.pdf>>

Electricity Industry Performance Code (EIP Code), these obligations do not extend to retailers outside the regulated networks, where prepay is often the predominant form of metering, and where its use is “generally not a customer choice but rather a government or other decision body’s policy” (p. 39 Draft Decision).

Reporting obligations are clearly within the Commission’s remit and responsibility, and we recommend formalizing reporting requirements outside of the regulated networks within the EIP Code. Data is crucial to understanding and addressing energy insecurity and its visibility should be a matter of public policy not licensee discretion. Accuracy, certainty and transparency for customers and their community-based advocates are critical to identify, monitor, and address these essential areas for policy change. A clearer example of reporting frameworks in the off-grid context may be found in South Australia where the relevant licensee is required to provide data to ESCOSA against identified reporting metrics on a quarterly basis; including prepay customer numbers, the number of times emergency credit was accessed, the number of times friendly credit was accessed, the number of self-disconnections per prepay meter and the average duration of self-disconnections. Additional metrics associated with life support customers include reporting the number of life support customers notified to the retailer.

14 | Family violence policy

14.1.1 | We recommend introducing further clarity for both customers and providers as to the definition of “family violence” in support of the new requirements.

We commend the Commission for introducing family violence protections in the proposed amendments to the Code. However, we observe that there is no definition of “family violence” to support the new requirements. We suggest that the Commission adopt the definition used in AEMC’s final rule, which applies the definition of domestic abuse in the *South Australian Intervention Orders (Prevention of Abuse) Act 2009, s 8(8)*. As noted in the Commission’s Draft Decision “[this definition] provides broad coverage of the types of relationships within which abuse may occur”. Broad coverage is warranted given the prevalence of family and domestic violence in the NT made plain in the Draft Decision.

We note that the AEMC’s intention in adopting a broad definition was to “give customers certainty that they are entitled to protections” including by relying “on a definition of family violence that includes important relationships such as carers and Aboriginal and Torres Strait Islander kinship relationships”³. We also recommend that the Commission strengthen the wording in 14.1.6(d)(iv) that the retailer “[consider] the provision of financial assistance to a prepayment meter customer that may be affected by family violence”. This wording enables broad discretion on the part of the retailer in supporting vulnerable prepay customers and we urge stronger and clearly articulated parameters for such customers to access assistance in such circumstances, particularly given that financial stress related to electricity services can itself be a trigger for violence. For example, new family violence

³ AEMC, 2022, Protecting Customers Affected by Domestic Violence Information Sheet, available at <https://www.aemc.gov.au/sites/default/files/2022-09/RRC%200042%20Information%20Sheet_Protecting%20customers%20affected%20by%20family%20violence_clean%20copy..pdf>.

provisions of the Economic Regulation Authority (ERA) WA's Code of Conduct for the Supply of Electricity to Small Use Customers (which come into effect on 20 February 2023) require the retailer to undertake clearly specified steps for vulnerable prepay customers including:

- Providing advice to the customer about —
 - (i) the different types of meters available to the customer; and
 - (ii) the advantages and disadvantages that may be associated with each type of meter to a customer in their situation; and
 - (iii) the process for requesting a different meter; and
 - (iv) the fact that there would not be a charge to replace the pre-payment meter with a standard meter if the customer were to choose that option;
- Considering the provision of financial assistance; and
- Having arrangements in place to assist a vulnerable customer who is a pre-payment meter customer to avoid disconnection.

See ERA WA's Code of Conduct for the Supply of Electricity to Small Use Customers 2022, Part 13 – Protections relating to family violence, s 91 (Family Violence Policy).

We also seek clarification on the application of the family violence protections to exempt retailers, as noted in relation to the dispute resolution and hardship amendments in the Code above.

Other matters

i. | Solar

In the Draft Decision, the Commission states:

Relevantly the Commission is aware of progress on one issue raised in Purple House's submission, in relation to allowing prepayment meter customers to have rooftop solar photovoltaic (PV) systems. In December 2021, a house in Tennant Creek with a rooftop solar PV system and a prepayment meter was successfully connected to the Tennant Creek power system as part of a technical trial, which the Commission understands will be used to inform Jacana Energy's, and the broader Territory Government's renewable energy policy relating to prepayment meter customers.

A variety of renewable energy buyback schemes aimed at incentivizing uptake of clean energy technologies, many of them with very generous feed-in tariff and buyback arrangements, have been in place in most jurisdictions in Australia, starting in 1997. These incentives have been regularly made available in the NT, where for example;

Territory homeowners and businesses can access a \$6,000 grant for the purchase and installation of solar PV systems with eligible batteries and inverters, and for those who already have solar, for batteries and inverters.

While a single example of rooftop solar PV and a prepay meter connected to the Tennant Creek power system in 2022 as part of a technical trial is encouraging, there is nothing in the Code ensuring continued access to connection agreements for prepay customers are codified. Moreover,

Tennant Creek is a regulated network, where the National Electricity Rules (NER) (NT) apply, including the requirement for the network provider to have model standing offer to provide basic connection services for retail customers who are micro embedded generators (see NER (NT) clause 5A.B.1). The absence of a regulatory framework and supportive policy for solar connections in remote communities where prepay is prevalent and known levels of energy insecurity high curtails opportunities for this cohort.

We urge the Commission to consider (a) codifying basic requirements for network providers concerning solar connections in the non-regulated networks to support customer certainty and promote equity of solar uptake (b) appropriate regulation can reduce systemic barriers to solar uptake for prepay customers in the Territory.

ii. | **Temperature based protections**

In previous submissions, we noted that disconnections occur more often during extreme temperatures.

Preventing these temperature-related disconnections should be a feature of customer protection frameworks within the Northern Territory. Our publication in Nature Energy provides example temperature thresholds of a maximum temperature of 35°C/40°C and a minimum temperature of 0°C.

Please refer to Table 2 in the following research on the relationship between temperature extremes and energy insecurity - <https://rdcu.be/c06TG>.

iii. | **Broadening those groups eligible for support**

Consistent with Regulation 2A of the Utilities Commission Regulations 2001 which does not limit the matters the Code may deal with, we recommend broadening those considered as eligible for regulatory protections from disconnection or financial support so as to include certain health conditions, age and other relevant issues. Moreover, it is generally accepted that the necessity of refrigeration for medicines and healthy food is a key concern in relation to the health and wellbeing of priority populations in the Territory, including the elderly, the unwell or the very young. We recognize that commitments have been made by all levels of federal, state and territory governments to closing the gap in Indigenous health inequality together and in partnership with Aboriginal community-controlled organizations. These issues are not directly addressed in the proposed changes to the Code. We are cognizant that the Commission is operating within the context of timelines for proposed review of energy policy by the Office of Sustainable Energy and wish to draw attention to specific examples from other jurisdictions as being instructive. They provide evidence of both scope and precedence for regulatory bodies to identify groups that are vulnerable to the known adverse effects of de-energisation of the home within the context of a broad range of health inequities. For example, in the UK both energy suppliers and DNSP's are required to keep a Priority Services Register (PSR). The UK Office of Gas and Electricity Markets (Ofgem) provides a list of those who should be eligible to be on the Priority Services Register (PSR). This includes those who:

- have reached state pension age,
- are disabled or have a long-term medical condition,

- are recovering from an injury,
- have a hearing or sight condition,
- have a mental health condition,
- are pregnant or have young children,
- have extra communication needs (such as if you don't speak or read English well),
- need to use medical equipment that requires a power supply,
- have poor or no sense of smell,
- would struggle to answer the door or get help in an emergency.

Another example provided are those who need short-term support after a stay in hospital. For more details refer to: Get help from your supplier - Priority Services Register - The Priority Services Register is a free support service that makes sure extra help is available to people in vulnerable situations <https://www.ofgem.gov.uk/get-help-your-supplier-priority-services-register>

In some jurisdictions, (including South Australia and Western Australia) support schemes that provide financial assistance can be directly credited to the accounts of prepay customers. International examples include the UK Winter Fuel Payments which are credited directly to the accounts of those eligible. <https://www.gov.uk/winter-fuel-payment>.

The Warm Home Prescription trial is an innovative new service being piloted by Energy Systems Catapult and the National Health Service (UK) helping vulnerable people with both cold-sensitive health conditions and low incomes, to stay warm and well at home, and out of hospital – by supporting energy bills for heating over winter. Millions of people in the UK have health conditions – such as respiratory and cardiovascular illnesses – that are made worse by living in a cold home. This pilot study aims to determine whether it is more cost-effective overall to help pay the heating costs of vulnerable people than it is to pay for their health care if they fall ill – saving the NHS money and reducing pressure on frontline staff. <https://es.catapult.org.uk/news/warm-home-prescription-trial-aims-to-save-nhs-time-and-money/>

Thank you for the opportunity to make a submission in response to the *Electricity Retail Supply Code Review—Draft Decision Paper* dated 31 October 2022 ('Draft Decision'). The review represents a significant step toward fit-for-purpose obligations and strengthening available rights and protections for electricity customers in the Northern Territory and we've appreciated the opportunity to provide input to this important process.