

Electricity Retail Supply Code Review

Final Decision Paper

8 June 2023

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Abbreviations and acronyms

AER	Australian Energy Regulator
AEMC	Australian Energy Market Commission
Alcan Gove	Alcan Gove Pty Ltd
ANU	Australian National University (particularly the researchers who provided a submission to the Issues Paper)
Code	Northern Territory Electricity Retail Supply Code
Commission	Utilities Commission of the Northern Territory
ERA	Economic Regulation Authority of Western Australia
ER Act	Electricity Reform Act 2000
ESC	Essential Services Commission of Victoria
ESCOSA	Essential Services Commission of South Australia
Generator	an entity holding a generation licence granted by the Commission under the ER Act
IES	Indigenous Essential Services Pty Ltd, a not-for-profit subsidiary of PWC
Issues Paper	Electricity Retail Supply Code Review Issues Paper (June 2021)
MSATS	Market Settlement and Transfer Solutions
NECF	National Energy Customer Framework
NER	National Electricity Rules
NER (NT)	National Electricity Rules as amended for the Northern Territory
NERL	National Energy Retail Law
NERR	National Energy Retail Rules
Network provider	an entity holding a network licence granted by the Commission under the ER Act
NTEM	Northern Territory Electricity Market
NTERR	Northern Territory Electricity Retail Review
NTESMO	Northern Territory Electricity System and Market Operator
PV	photovoltaic
PWC	Power and Water Corporation
QEnergy	QEnergy Limited
Retailer	an entity holding a retail licence granted by the Commission under the ER Act
Rimfire Energy	Rimfire Energy Pty Ltd
RoLR	retailer of last resort
Territory Generation	Power Generation Corporation, trading as Territory Generation
the Researchers	A group of researchers associated with the Australian National University, Tangentyere Council, University of Newcastle and Julalikari Council Aboriginal Corporation
UC Act	Utilities Commission Act 2000
WA Code	Western Australia Code of Conduct for the Supply of Electricity to Small Use Customers

Final decision

In accordance with section 24(1) and (3) of the *Utilities Commission Act 2000* and regulation 2A of the *Utilities Commission Regulations 2001*, the Commission has decided to amend the Commission's Electricity Retail Supply Code (the Code) as detailed in this Final Decision document. The Final Decision outlines the Commission's reasoning for the amendments to the Code.

A summary of the final decisions, set out by chapter, follows:

Relevance of the Code (Chapter 2)

The Commission has decided to retain the Code and make amendments as set out in this Final Decision.

Credit support requirements (Chapter 3)

The Commission has decided to amend the Code to:

- allow generators to request a retailer to provide credit support if they have a poor payment history, even if they have an acceptable credit rating as defined in the Code
- define 'poor payment history' similar to that in clause 6B.B2.1 of the National Electricity Rules (NER), but modified to apply to a generator and retailer
- require return of the credit support similar to that in clause 6B.B4.2 of the NER, but modified to apply to a generator and retailer.

Coordination agreement (Chapter 4)

The Commission has decided to amend the Code to:

- provide a high level list of matters that must be included in a coordination agreement and approved by the Commission, and include a definition for 'coordination agreement' in Schedule 1 that will refer to the updated clause
- amend the Code to make it clear that a retailer that does not supply electricity to customers is not required to enter into a coordination agreement.

Metrology (Chapter 5)

The Commission has decided not to amend the Code to remove clause 5.1.1 and not to amend the interval meter obligation to Type 1-4 meter.

Adoption of MSATS system (Chapter 6)

The Commission has decided to amend the Code to include:

- a new clause stating clauses 7.2.1 and 7.2.2, in relation to making Service Order Procedures, expire on the date of commencement of the Northern Territory Electricity System and Market Operator (NTESMO) Communications Guideline
- a new clause stating clauses 7.2.3 to 7.2.7, in relation to amending Service Order Procedures, expire on commencement of NTESMO's Communications Guideline
- a new clause stating clauses 8.2.1 to 8.2.19 and clause 8.2.21, in relation to customer transfer procedures, expire on the date of commencement of the NTESMO Communications Guideline
- new definitions in relation to NTESMO and NTESMO Communications Guideline, and an amendment to the definition of customer transfer request form and Service Order Procedures.

Retailer of Last Resort (Chapter 7)

The Commission has decided to revoke the current clause 9 (Retailer of Last Resort arrangements) and insert a new clause 9, which provides a modified Retailer of Last Resort (RoLR) scheme. The Commission has also decided to amend the current clause 8.3.2 to remove a redundant reference to a RoLR event.

Life support equipment (Chapter 8)

The Commission has decided not to amend the Code to allow for exceptions to clause 10.6.

The Commission has decided to amend the Code to:

- require retailers and network providers to comply with their approved life support equipment procedures for outside major centres
- require retailers and network providers to review their life support equipment procedures for outside major centres at least once every three years and following a breach of approved life support equipment procedures
- require retailers and network providers to publish basic life support equipment customer information on their websites, in relation to their customers in major centres and outside major centres as applicable
- include a three-month transitional provision to provide time for retailers and network providers to update any necessary life support equipment documents and their respective websites.

Dispute resolution process (Chapter 9)

The Commission has decided to:

- amend clause 11 of the Code to include retailer and network provider internal dispute resolution obligations generally consistent with that in sections 81 and 82 of the National Energy Retail Law (NERL), with modification to the terminology used and the dispute resolution service referred to
- include a three-month transitional provision to provide time for retailers and network providers to develop, make and publish standard complaints and dispute resolution procedures and make any necessary updates to their websites
- add associated definitions in Schedule 1 of the Code for government owned corporation, NT Consumer Affairs, NT Ombudsman and standard complaints and dispute resolution procedures.

Potential hardship policy obligations (Chapter 10)

The Commission has decided to amend the Code to:

- require retailers to develop, implement and comply with a Commission approved customer hardship policy for their residential customers that meets minimum requirements specified in the Code
- add new definitions in Schedule 1 of the Code for prepayment meter, residential customer and standard meter
- include a transitional provision whereby the retailer must submit its proposed customer hardship policy to the Commission for approval within six months of commencement of the new obligation.

Other matters identified through consultation (Chapter 11)

Prepayment meter customer hardship policy

The Commission has decided to amend the Code to:

- require a retailer with one or more prepayment meter customers to develop, implement and comply with a Commission approved customer hardship policy for its prepayment meter customers (which may be located within a retailer's broader hardship policy) that meets minimum requirements specified in the Code
- enable a retailer to request an exemption from complying with its hardship policy for certain prepayment meter customers
- provide a transitional provision whereby the retailer must submit its proposed customer hardship policy in relation to its prepayment meter customers to the Commission for approval within six months of commencement of the new obligation.

Prepayment meter regulation

The Commission has decided not to amend the Code to further regulate the use of prepayment meter systems, other than that discussed above in relation to new obligations requiring retailers to have an approved hardship policy for their prepayment meter customers.

Family violence policy

The Commission has decided to amend the Code to:

- require retailers to develop a family violence policy, submit it to the Commission for approval, and publish, implement and comply with the policy as approved
- include a definition for the term 'family violence', which relies on the Northern Territory definition of 'domestic violence' in the *Domestic and Family Violence Act 2007*
- include a transitional provision whereby the retailer must submit its proposed family violence policy to the Commission for approval within six months of commencement of the new obligation.

Metering requirements

The Commission has decided not to amend the Code to put in place additional metering requirements.

Correction of account errors

The Commission has decided not to amend the Code in relation to the correction of account errors.

Distributed energy resources – NER and NERR access and pricing incentives

The Commission has decided not to amend the Code to reflect outcomes under the Australian Energy Market Commission's (AEMC) distributed energy resources access and pricing rule change.

Clarification of roles and responsibilities related to solar PV export

The Commission has decided not to amend the Code to define the responsibility of market participants in relation to solar photovoltaic (PV) export and feed-in-tariffs.

Definition of verifiable consent

The Commission has decided to:

- amend the definition of verifiable consent in the Code to provide for the instances contemplated in clause 10.4B.1(d)(ii) of the Code in relation to life support equipment required at a premises and clause 8.3.5(c) of the Code in relation to greenfield and other exit points
- amend the Code to allow verifiable consent to be obtained verbally, as long as the verbal consent can be verified, such as through a recorded phone call or by electronic communication generated by a customer.

Broadening those groups eligible for support

The Commission has decided not to amend the Code in relation to this matter.

Transitional arrangements (Chapter 12)

The Commission has decided to amend the Code to provide transitional provisions for the following new obligations:

- a retailer and network provider to publish basic life support equipment customer information on their websites, in relation to their customers in major centres and outside major centres as applicable, three months from commencement of the provision
- a retailer and network provider to develop, make and publish standard complaints and dispute resolution procedures, and publish contact details for NT Consumer Affairs or NT Ombudsman as applicable, three months from commencement of the provision
- a retailer to develop and submit to the Commission a hardship policy for its residential customers six months from commencement of the provision
- a retailer to develop and submit to the Commission a hardship policy in relation to its prepayment meter customers six months from commencement of the provision
- a retailer to develop and submit to the Commission a family violence policy six months from commencement of the provision.

1 | Introduction

Background

In the Northern Territory, the Commission is authorised to make codes or rules (including varying or revoking codes) relating to the conduct or operations of a regulated industry or licensed entities, which includes retail supply in the electricity supply industry¹.

In 2011, the Commission made the Electricity Retail Supply Code (the Code) in accordance with the *Utilities Commission Act 2000* (UC Act) and regulation 2A of the *Utilities Commission Regulations 2001*.

Regulation 2A of the *Utilities Commission Regulations 2001* states a code in relation to retail supply may deal with the following:

- transfer of customers between retailers
- credit support arrangements
- billing
- metrology
- service order arrangements
- retailer of last resort arrangements
- dispute resolution.

The Code was most recently amended in November 2019, following a lengthy review process that included significant consultation with stakeholders. Due to the urgency of some matters, the Commission was not able to address all potential issues with the Code during the 2019 review and committed to a stage 2 review of the Code (this review).

On 9 June 2021, the Commission published the Electricity Retail Supply Code Review Issues Paper (Issues Paper), seeking submissions from interested stakeholders. Submissions were received from the following stakeholders:

- Australian National University (ANU) researchers
- EDL NGD (NT) Pty Ltd
- Jacana Energy
- Purple House
- Power and Water Corporation (PWC)
- QEnergy Limited (QEnergy)
- Rimfire Energy Pty Ltd (Rimfire Energy)
- Territory Generation.

Following receipt and consideration of the submissions, the Commission met with a number of stakeholders to discuss their submissions and or to seek their views on aspects of the Code and related matters.

Stakeholders who met with the Commission include:

- ANU researchers
- Jacana Energy
- Northern Territory Council of Social Service
- PWC

¹ Section 24(1) and (3) of the *Utilities Commission Act 2000* and Regulation 2A of the *Utilities Commission Regulations 2001*

- QEnergy
- Rimfire Energy.

The Commission considered stakeholders' feedback and previous submissions in making its Draft Decision, which was published along with a draft amended Code on 31 October 2022. The Commission received written feedback from the following stakeholders regarding its Draft Decision:

- A group of researchers associated with the Australian National University, Tangentyere Council, University of Newcastle and Julalikari Council Aboriginal Corporation (the Researchers)
- Jacana Energy
- Minister for Renewables and Energy
- PWC.

Further, informal feedback was received from the Office of Sustainable Energy in relation to the Draft Decision, and EDL NGD (NT) Pty Ltd and Rimfire Energy wrote to the Commission advising they have no further comments in relation to the Code review, including the Draft Decision.

As part of considering stakeholder feedback and making its associated decisions, the Commission met with the Office of Sustainable Energy and PWC to discuss feedback and gather further information. The Commission also engaged with Northern Territory Consumer Affairs and the Office of the Ombudsman.

For further information on the stage 2 Electricity Retail Supply Code Review, and the previous 2019 review, please visit the Commission's website at <http://www.utilicom.nt.gov.au>.

Purpose of this review

The Commission reviewed the Code to ensure its content and operation is of continued relevance and effectiveness for the electricity supply industry in the Territory.²

Terms of reference and scope of inquiry

The November 2019 amendment to the Code followed a lengthy review process that included significant consultation with stakeholders. Nonetheless, the Commission acknowledged in its 2019 Statement of Reasons that due to the urgency of some matters, primarily the need to provide for life support equipment customer protections, it was not able to address all potential issues or gaps in the Code at that time. As such, the Commission committed to a subsequent review of the Code from a first principles approach (this review).

Relevantly, the Commission committed to considering amendments to the Code in its last four Northern Territory Electricity Retail Reviews (NTERR), in relation to a gap whereby there is no obligation on retailers to have internal dispute resolution procedures in line with Australian standards and electricity industry best practice. Further, in the absence of a broad customer protection framework applying in the Territory, such as that in place in other jurisdictions, the Commission advised it would consider putting in place fit-for-purpose obligations on retailers to have an approved hardship policy.

This review considered the known issues discussed above and other matters raised by stakeholders during consultation, as appropriate.

Purpose of this paper

This paper sets out the Commission's amendments to the Code, following consideration of submissions and other feedback to its June 2021 Issues Paper and October 2022 Draft Decision.

² Section 24(9) of the UC Act.

Timetable for review

The relevant timeframes for commencement of the amended Code are outlined below:

Action	Timing
Final Decision to amend Code, including Notice of Variation in Gazette	8 June 2023
Amended Code commences	1 July 2023

2 | Relevance of the Code

Background

The Code was made by the Commission in 2011 to address a gap in the Territory's electricity supply regulatory framework whereby the framework did not contain any specific requirements to facilitate retail supply activities between electricity entities.

The Commission has previously acknowledged that the Code would be further developed over time, based on industry practice and the entry of retail competition.

As discussed in the Issues Paper, electricity retail supply regulatory arrangements are in place in all other jurisdictions, and are more comprehensive than what is in place in the Territory, particularly from a customer protection perspective. Relevantly, regulation 2A of the Utilities Commission Regulations 2001 does not limit the matters the Code may deal with, other than that they relate to retail supply in the electricity supply industry.

Following consideration of stakeholder feedback to the Issues Paper, the Commission's Draft Decision was to retain the Code and make amendments to ensure relevance for the Territory's electricity supply industry.

Submissions

Stakeholder feedback to the Draft Decision on this matter was received from Jacana Energy. Jacana Energy's submission supports the Commission's position to retain the Code and advises it has no further comments on the issue.

No other submissions were received on this matter.

Commission's decision and reasons

In the absence of an alternative, comprehensive, regulatory instrument or instruments, such as a fulsome customer protection framework implemented by government through legislation, the Commission considers the Code is necessary and should be retained, although amended as set out in this Final Decision, to ensure relevance for the Territory's electricity supply industry.

The Commission intends to undertake further review of the Code in the future, as required.

Final decision

The Commission has decided to retain the Code and make amendments as set out in this Final Decision.

3 | Credit support requirements

Background

In 2017, Territory Generation proposed amendments to the Code that would require retailers that are late on payments to be obliged to provide credit support to the relevant generator, regardless of the retailer's credit rating.

The Commission previously consulted with stakeholders on Territory Generation's proposal and stated that a generator can address the risk of late payment from a retailer through its private contract arrangements. Nonetheless, the Commission committed to undertake further consultation with stakeholders on the matter as part of this review.

The Issues Paper sought feedback from stakeholders on whether the Code should include a clause to allow generators to request a retailer to provide credit support if they have poor payment history, even if the retailer has an acceptable credit rating as defined in the Code.

The Issues Paper also sought stakeholder feedback on what an appropriate definition for 'poor payment history' might be and how the credit support amount should be determined.

Following consideration of stakeholder feedback to the Issues Paper, the Commission's Draft Decision was to amend the Code to

- allow generators to request a retailer to provide credit support if they have a poor payment history, even if they have an acceptable credit rating as defined in the Code
- define 'poor payment history' similar to that in clause 6B.B2.1 of the NER, but modified to apply to a generator and retailer
- require return of the credit support similar to that in clause 6B.B4.2 of the NER, but modified to apply to a generator and retailer.

Submissions

Stakeholder feedback in support of the Draft Decision on this matter was received from Jacana Energy and Territory Generation. No other submissions were received on this matter.

Commission's decision and reasons

While a generator should be able to deal with a retailer's late or non-payment through agreed contractual terms, the Commission accepts that in reality, it is unlikely a generator would be able to disconnect a retailer's customers to stem its losses. This presents a risk of generator failure that the Commission considers should be addressed in the Code, noting the Territory does not have electricity market arrangements to ensure liquidity in the market like in the other jurisdictions.

Final decision

The Commission has decided to amend the Code to:

- allow generators to request a retailer to provide credit support if they have a poor payment history, even if they have an acceptable credit rating as defined in the Code
- define 'poor payment history' similar to that in clause 6B.B2.1 of the NER, but modified to apply to a generator and retailer
- require return of the credit support similar to that in clause 6B.B4.2 of the NER, but modified to apply to a generator and retailer.

Approved amendments:

- 3.2.6 Despite clause 3.2.2, a **generator** may require a **retailer** to provide **credit support** if within the previous 12 months, the **retailer** has failed to pay in full:
- (a) the charges contained in 3 **statements of charges** by the due date for payment; or
 - (b) the charges contained in 2 consecutive **statements of charges** by the due date for payment; or
 - (c) the charges contained in 1 **statement of charges** within 15 **business days** of the due date for payment.
- 3.2.7 If a **retailer** fails to pay charges contained in a **statement of charges**, but the charges are disputed, and the **retailer** has complied with the requirements of clause 11 in respect of the dispute, the **retailer** will not be considered in default in payment of the disputed charges and the **generator** will not be entitled to require the **retailer** to provide **credit support**.
- 3.2.8 A **retailer** must, on request by a **generator**, under clause 3.2.6 provide **credit support** to a **generator** in accordance with clause 3.2.6.
- 3.2.9 The **credit support** provided by a **retailer** under clause 3.2.8 must be:
- (a) for an amount requested by the **generator**, not exceeding an amount equal to the charges contained in the most recent **statement of charges** that gave rise to the requirement for the **retailer** to provide **credit support** under clause 3.2.6; and
 - (b) provided within 5 **business days** of the **generator's** request; and
 - (c) an acceptable form of **credit support** in favour of the **generator** (see clause 3.4).
- 3.2.10 A **retailer** must ensure that at all times the aggregate undrawn amount of the **credit support** is not less than the amount requested by the **generator** in accordance with clause 3.2.9.
- 3.2.11 A **generator** may only set off from, apply or draw on the **credit support** (as the case may be) if:
- (a) the **generator** has given not less than 3 **business days'** notice to a **retailer** that it intends to set off, apply or draw on the **credit support** in respect of an amount due and payable by the **retailer** to the **generator**, and that amount remains outstanding at the end of that period; and
 - (b) there is no dispute outstanding in relation to the **retailer's** liability to pay that amount.
- 3.2.12 If:
- (a) a **generator** and a **retailer** no longer have any shared **customers**; or
 - (b) in the 12 months since the **credit support** was provided, the **retailer** has paid in full the charges contained in each **statement of charges** issued in that 12 month period by the due date for payment,
- the **generator** must pay, cancel or return to a **retailer** as appropriate, any balance of **credit support** outstanding after payment of all amounts owing by the **retailer** to the **generator**.

Schedule 1 Definitions and interpretations

Statement of charges - means the statement of **network charges** provided by a **network provider** to a **retailer**, or the **statement of charges** for **generation services** provided by a **generator** to a **retailer**.

4 | Coordination agreement

Background

Clause 4.1 of the Code sets out the requirements for a coordination agreement between a retailer and network provider.

Under clause 4.1.1 of the Code, where Network Access Legislation applies, the retailer and network provider must enter into a coordination agreement for the provision of network access services and the coordination of various matters specified by the Commission in accordance with the network provider's licence, including, without limitation: customer billing, fault reporting, and notification of interruptions.

Clause 26 of PWC's network licence, in relation to a coordination agreement, requires it to enter into, and comply with, an agreement, on terms agreed by the Commission, with each electricity entity holding a retail licence or generation licence which provides services to the licensee's customers as to the coordination of the provision of services to those customers. This includes arrangements whereby the retailer has responsibility for taking up customer complaints about the quality of services being supplied. A corresponding condition is contained in retail licences.

The Issues Paper asked stakeholders to consider whether the matters (or terms) specified in clause 4.1.1 of the Code, which are to be included in a coordination agreement and approved by the Commission, are clear and appropriate.

The Issues Paper also asked stakeholders to consider whether there are any additional matters (or terms) that should be specified in clause 4.1.1 of the Code to be included in a coordination agreement and approved by the Commission.

Following consideration of stakeholder feedback to the Issues Paper, the Commission's Draft Decision was to amend the Code to provide a high level list of matters that must be included in a coordination agreement and approved by the Commission, and include a definition for coordination agreement in Schedule 1 that will refer to the updated clause. The Commission also proposed to amend the Code to make it clear that a retailer that does not supply electricity to customers is not required to enter into a coordination agreement.

Submissions

Stakeholder feedback to the Draft Decision regarding this matter was received from Jacana Energy only.

Jacana Energy's submission supports the Commission's proposed amendments to clause 4.1.1(b) of the Code to provide greater clarity on what should be included in a coordination agreement. However, Jacana Energy's submission maintains the position that the alternative model in Part 5 of the National Energy Retail Rules (NERR) and Chapter 6B of the NER (with necessary amendments) is preferable and notes that if that model was adopted and implemented, a coordination agreement between PWC and the retailer would not be required.

Commission's decision and reasons

The Commission notes Jacana Energy's support for the proposed coordination agreement related amendments in the Draft Decision, but preference for an alternative model.

As discussed in the Draft Decision, the Commission considers the approach of requiring the parties to negotiate and agree on detailed coordination matters where there is a shared customer provides more flexibility to accord for the parties' and the Territory's circumstances, as opposed to adopting (and modifying) the prescriptive provisions in Part 5 of the NERR and Chapter 6B of the NER. Further, the potential adoption of the national energy customer framework (NECF) and further application of the NER is a policy decision for the Territory Government.

Final decision

The Commission has decided to amend the Code to:

- provide a high level list of matters that must be included in a coordination agreement and approved by the Commission, and include a definition for ‘coordination agreement’ in Schedule 1 that will refer to the updated clause.
- amend the Code to make it clear that a retailer that does not supply electricity to customers is not required to enter into a coordination agreement.

Approved amendments:

4.1 Coordination Agreement

4.1.1 Where *Network Access Legislation* applies the *retailer* and *network provider* must enter into a *Coordination Agreement* for the:

(a) provision of network access services; and

~~(b) the coordination of various matters specified by the *Commission* in accordance with the *network provider’s* licence including without limitation, customer billing, fault reporting and notification of *interruptions*.~~

(b) the coordination of the following matters:

(i) assistance and cooperation between a *retailer* and *network provider*

(ii) provision of information between a *retailer* and *network provider*;

(iii) shared *customer* enquiries and complaints, and provision of information to shared *customers*;

(iv) new connections, disconnections and reconnections;

(v) notification of faults, and planned and unplanned *interruptions*; and

(vi) *meter* data, varied charges, adjustments and billing.

4.1.1A The provisions of the *Coordination Agreement* relating to the matters specified in clause 4.1.1(b) must be approved by the *Commission* prior to entering into the *Coordination Agreement*.

4.1.1B For the avoidance of doubt, a *Coordination Agreement* may include additional matters that are not specified in clause 4.1.1.

4.1.1C A *retailer* and *network provider* are not required to enter into a *Coordination Agreement* where the *retailer* has no *customers*.

Schedule 1 Definitions and interpretations

Coordination Agreement means an agreement entered into between a *retailer* and *network provider* in accordance with clause 4.1.1.

5 | Metrology

Background

Clause 5.1.1 of the Code states that a retailer must not initiate a transfer (to another retailer) unless the customer's exit point has an interval meter installed. For the avoidance of doubt, a customer with an accumulation meter or unmetered installations may not be transferred to another retailer.

The requirement for an interval meter to transfer to another retailer was originally included in the Code on the basis that PWC did not have the capability at the time to accommodate the transfer of customers with accumulation meters. The requirement was not intended to be a permanent solution, but rather a temporary one to enable a more suitable solution to be developed.

The Commission has previously acknowledged that requiring an interval meter to transfer retailers is a potential barrier to retail competition. The Commission also previously noted PWC's advice that removing the requirement for an interval meter to switch retailer would trigger the requirement for a complex settlement system that would be significantly more expensive than the current solution. Further, the Department of Treasury and Finance expressed concern with the costs for PWC to develop a Territory-specific system, which would likely flow to electricity consumers.

Under clause 5.1.2 of the Code, the interval meter may be either manually or remotely read. PWC previously proposed that the term 'interval meter' be revised to require a 'Type 1-4 meter' to align the language and terms used in the Code with Chapter 7A of the NER (NT). This would in effect mandate that a customer must have a remotely-read smart meter and could not have a Type 5 manually-read interval meter.

The Issues Paper asked stakeholders to consider whether the Code should be amended to allow a customer with an accumulation meter to be able to transfer to a new retailer without replacing their accumulation meter with an interval meter (i.e., removal of clauses 5.1.1 and 5.1.2 of the Code).

The Issues Paper also asked stakeholders to consider whether the requirement for an interval meter to switch retailers should be amended to require a Type 1-4 meter as defined in the NER (NT).

Following consideration of stakeholder feedback to the Issues Paper, the Commission's Draft Decision was not to amend the Code to remove clause 5.1.1 and not to amend the interval meter obligation to Type 1-4 meter.

Submissions

Stakeholder feedback to the Draft Decision on this matter was received from Jacana Energy and PWC.

Jacana Energy's view is that potential solutions to competition barriers should not be to incentivise customers to change retailers but rather to ensure that the regulatory framework supports customer choice. Jacana Energy states that prioritising the rollout of smart meters to customers seeking to switch retailers is likely to lead to perverse outcomes, is administratively complex and does not facilitate an efficient delivery of smart meters to the broader community. Further, Jacana Energy states that while recognising the above, customers should not be discouraged from seeking better retail outcomes for themselves because of prohibitively high new metering costs. Jacana Energy states a potential way to alleviate the competition restriction issues may be, for example, a customer who installs their own meter at their own cost will be reimbursed by the scheme 11 months from installation date.

PWC's submission notes the comments made by the Commission in relation to metrology and supports the Commission's proposal to make no alterations to this part of the Code.

Commission's decision and reasons

The Commission notes the submissions to its Draft Decision are not opposed to retaining clause 5.1.1 and not amending the interval meter obligation to Type 1-4 meter. It is the discussion encouraging PWC to consider a potential solution to the barrier to competition that has caused Jacana Energy concern.

Consistent with that discussed in the Draft Decision, the Commission acknowledges that requiring a customer to have an interval meter in order to switch retailer is a barrier to competition and ultimately limits customer choice in the retail market. However, the costs associated with removing clause 5.1.1 would likely exceed the benefits at this time due to current PWC metering and market settlement system limitations.

Relevantly, PWC's 2024-29 regulatory proposal,³ which was submitted to the Australian Energy Regulator (AER) in January 2023, proposes to continue its roll-out of smart meters. If PWC's proposal is approved, PWC estimates >70% of customers in the Darwin-Katherine, Alice Springs and Tennant Creek power systems will have smart meters by 2029. Further, PWC states by 2034, it will have moved its entire customer base on to smart meters. As more customers have their older meters replaced, either through PWC's new and replacement smart meter program or as part of installing rooftop solar and batteries on their property, the number of customers impacted by the clause 5.1.1 obligation will reduce. Ultimately, it is an efficient roll out of smart meters by PWC that is needed to address this barrier to competition.

In terms of the interval meter definition in the Code not aligning with that in the NER (NT), the Commission is still of the view that the term 'interval meter' is clear and achieves the Commission's intent, and amending the Code to align with the NER (NT) could result in unnecessary costs for customers that wish to change retailer.

Final decision

The Commission has decided not to amend the Code to remove clause 5.1.1 and not to amend the interval meter obligation to Type 1-4 meter.

³ [Power and Water Corporation Regulatory Proposal for the 2024-29 regulatory period](#)

6 | Adoption of market settlement and transfer solution (MSATS) system

Background

PWC made a late submission to the Code review requesting the Commission consider making changes to the Code in relation to business-to-business arrangements and customer transfers. Specifically, to:

- provide an end date to clauses 7.2.1 and 7.2.2 on the requirement for the network provider to publish a service order procedure (of 30 June 2023)
- include a clause 7.2.12 stating that from 1 July 2023 onwards all service orders are to occur as per the published NTESMO Communications Guideline
- cease clause 8.2.2 effective from 30 June 2023
- amend clause 8.2.2 to state that from 1 July 2023 all customer transfers are to be processed as per the NTESMO Communications Guideline
- replace 'customer transfer request form' with the phrase 'customer transfer request' throughout clause 8.

PWC's request was on the basis of its role as NTESMO and its associated obligations under the NER (NT) to publish a communications guideline. PWC advised it intended to adopt the Australian Energy Market Operator's MSATS system for business-to-business communication and customer transactions.

As part of making its Draft Decision, the Commission considered PWC's requested amendments to the Code. The Commission also considered PWC's consultation documents on its proposed communications guideline and MSATS procedures as required under a Rules Consultation Procedure defined in clause 8.9 of the NER (NT). The Commission agreed there were inconsistencies between the Code and NTESMO's obligation to develop a communications guideline that warranted amendments to the Code, including appropriate transitional provisions.

On review of PWC's requested amendments to the Code, the Commission identified further changes that it considered necessary to ensure no overlap or inconsistencies. These were discussed in the Draft Decision. For example, the Commission considered some changes to definitions were required and there would no longer be a need to retain provisions in relation to amending Service Order Procedures (clauses 7.2.3 to 7.2.7) or customer transfer procedures (clauses 8.2.1 to 8.2.19 and 8.2.21) in the Code, once NTESMO's communications guideline commenced. This is because most of the matters in these clauses are covered in the communications guideline and MSATS procedures and those that are not, may no longer be necessary.

In relation to life support equipment obligations in the Code and concerns raised by Jacana Energy about inconsistencies with NTESMO's proposed communications guideline and MSATS procedures, the Commission agreed these were valid concerns and made it clear in its Draft Decision that the Commission did not intend to make any amendments to the Code in relation to life support equipment provisions.

Relevantly, on 6 October 2022, the Commission made a submission to NTESMO⁴ advising that it supports removing duplication or potential inconsistencies from the Code as appropriate, but that it has concerns in relation to life support obligations and processes, and identified two matters in the MSATS guidance notes that may cause confusion regarding life support equipment Code obligations. The Commission's submission reiterated that it did not intend to make any amendments to the Code to account for NTESMO's communications guideline and MSATS procedures in relation to life support equipment requirements. Further, it strongly recommended NTESMO work closely with market participants and put in place an agreed risk mitigation strategy, including a plan on how Code compliance (and thus life support equipment customer protections) can be maintained should issues be identified during and directly following the transition.

⁴ [Utilities Commission of the NT submission to NTESMO Communication Guideline and MSATS procedures V1.0 Draft Report and Determination.](#)

The Commission's Draft Decision proposed the following amendments to resolve the inconsistency between the Code and NTESMO's obligations under the NER (NT):

- a new clause stating clauses 7.2.1 and 7.2.2, in relation to making Service Order Procedures, expire on the date of commencement of the NTESMO Communications Guideline
- a new clause stating clauses 7.2.3 to 7.2.7, in relation to amending Service Order Procedures, expire on commencement of NTESMO's Communications Guideline
- a new clause stating clauses 8.2.1 to 8.2.19 and clause 8.2.21, in relation to customer transfer procedures, expire on the date of commencement of the NTESMO Communications Guideline
- new definitions be added in relation to NTESMO and NTESMO Communications Guideline, and an amendment to the definition of customer transfer request form and Service Order Procedures.

Submissions

PWC was the only stakeholder to provide feedback to the Draft Decision on this matter.

PWC's submission supports the comments and changes proposed by the Commission in relation to the adoption of MSATS in the Territory. PWC states the proposed changes align with the NTESMO Communications Guideline and will ensure there are no conflicting requirements between the Code and the Communications Guideline for market participants in the areas of customer transfers and business-to-business transactions.

Commission's decision and reasons

NTESMO completed its consultation and finalised its communications guideline and MSATS procedures in November 2022, noting the Commission has no role in approving these under the NER (NT). According to NTESMO's associated final report and determination,⁵ NTESMO's communications guideline and MSATS procedures are effective from 2 October 2023.

NTESMO's communications guideline and MSATS procedures incorporate changes (compared to the draft) made in response to the Commission's submission. Further, NTESMO's associated final report and determination states it will assess the final revised Code and if there are inconsistencies regarding information exchange, it will convene a forum open to all NT market participants to determine the method moving forward for managing any inconsistencies which may exist. The Commission considers this an appropriate response.

The Commission notes the only submission received in relation to its Draft Decision to amend to the Code to address inconsistencies between the current Code provisions and NTESMO's proposed (at the time) communications guideline and MSATS procedures was supportive. As such, and consistent with that discussed above, the Commission has decided to amend the Code consistent with that proposed in the Draft Decision.

Final decision

The Commission has decided to amend the Code to include:

- a new clause stating clauses 7.2.1 and 7.2.2, in relation to making Service Order Procedures, expire on the date of commencement of the NTESMO Communications Guideline
- a new clause stating clauses 7.2.3 to 7.2.7, in relation to amending Service Order Procedures, expire on commencement of NTESMO's Communications Guideline
- a new clause stating clauses 8.2.1 to 8.2.19 and clause 8.2.21, in relation to customer transfer procedures, expire on the date of commencement of the NTESMO Communications Guideline

⁵ [NTESMO Communications Guideline and MSATS Procedures v1.0 Final Report and Determination](#).

- new definitions in relation to NTESMO and NTESMO Communications Guideline, and an amendment to the definition of customer transfer request form and Service Order Procedures.

Approved amendments:

7.2 Service Orders

Making Service Order Procedures

7.2.2A Clauses 7.2.1 and 7.2.2 expire on the date the *NTESMO Communications Guideline* commences.

Amending Service Order Procedures

7.2.7A Clauses 7.2.3 to 7.2.7 expire on the date the *NTESMO Communications Guideline* commences.

Retailer requests for business-to-business services

7.2.12 From the date of commencement of the *NTESMO Communications Guideline*, the *NTESMO Communications Guideline* is deemed to be the *Service Order Procedures*.

7.2.13 For the avoidance of doubt, from the date of commencement of the *NTESMO Communications Guideline*, all *Service Order Requests* are to be made in accordance with the *NTESMO Communications Guideline*.

8.2 Customer transfer procedures

8.2.24 Clauses 8.2.1 to 8.2.19 and clause 8.2.21 expire on the date the *NTESMO Communications Guideline* commences.

Schedule 1 Definitions and interpretations

Customer transfer request form – means:

- (a) until the date of commencement of the *NTESMO Communications Guideline*, the form published by a *network provider* under clause 8.2.2 in accordance with Annexure 3;
- (b) from the date of commencement of the *NTESMO Communications Guideline*, a change request as required by the *NTESMO Communications Guideline* to action a *customer* transfer.

NTESMO – has the meaning given in the *National Electricity (NT) Rules*

NTESMO Communications Guideline – means the communications guideline developed and maintained by *NTESMO* as required by clause S7A.1.3 of the *National Electricity (NT) Rules*

Service Order Procedures – means procedures of that name prepared by a *network provider* and approved by the *Commission* in accordance with clause 7.2 until the date of commencement of the *NTESMO Communications Guideline* at which time the definition changes to the *NTESMO Communications Guideline*.

7 | Retailer of last resort

Background

The purpose of retailer of last resort provisions is to ensure that in the event of an electricity retailer failure, arrangements are in place to ensure that relevant customers continue to receive electricity supply. A RoLR scheme is in place in the eastern and southern jurisdictions through the NERL and a Supplier of Last Resort arrangement is in place in Western Australia through the *Electricity Industry Act 2004*.

In the Territory, there is no RoLR arrangement provided for in legislation; however, regulation 2A(2)(f) of the Utilities Commission Regulations 2001 authorises the Commission to make a code about retail supply in the electricity supply industry that may deal with RoLR arrangements. Accordingly, the Code includes RoLR provisions at clause 9, with Jacana Energy the designated RoLR.

The Commission discussed in its Issues Paper and Draft Decision that as the current RoLR provisions are not contained in or authorised by legislation, they are ineffective, noting some aspects may be unenforceable on the basis of inconsistency with relevant Commonwealth legislation.

The Commission's Draft Decision acknowledged that the Office of Sustainable Energy is progressing work to address this issue, and stakeholders' feedback that the Commission should retain the RoLR provisions despite the issues. Nonetheless, the Commission's Draft Decision was to amend the Code to remove clause 9 in its entirety on the basis that the RoLR provisions cannot be amended under the current legislative framework to be effective, and retaining ineffective provisions in the Code creates confusion and risk.

Submissions

Five stakeholders provided feedback to the Draft Decision in relation to this matter.

Jacana Energy states it is difficult to see how there will not be a gap until alternative provisions are included in the Code and removing the RoLR scheme from the Code will mean that there are no RoLR provisions at all until alternative legislative arrangements are in place. In Jacana's view, it would be preferable for the existing RoLR provisions to remain in the Code but for the Code to make it clear that they will only apply until alternative legislative arrangements are in force.

PWC acknowledges there are legality concerns and that the Commission is working with the Office of Sustainable Energy, however states that until the legislation is amended, NTESMO does not support removal of the RoLR provisions. PWC states there could be a potential impact on NTESMO's ability to meet its obligations under System Control Technical Code which requires it to calculate amounts owing by retailers to generators. As an example, PWC states that if a retailer ceases trading, there can be active customers and through settlement by difference, charges will be allocated to Jacana Energy, however without the RoLR mechanism, Jacana Energy will not be able to recover money from the end use customers via default tariffs.

Territory Generation states it is of concern the abolishment of the RoLR provisions is intended in the absence of ensuring the proposed legislative replacement is enacted and in effect. It notes the Commission has not stipulated what Commonwealth laws are potentially contravened nor elaborated on the issues. Territory Generation also notes the Commission has not indicated on what basis the Commission is not vested with responsibility for drafting the necessary legislation (and in the interim, amendments to the Code) and does not provide the Office of Sustainable Energy's timeframe to enact legislation. Territory Generation states removal of the RoLR provisions over amending clause 9 of the Code or not amending the Code until relevant RoLR legislation is in operation is a greater risk of causing confusion and risk, and that an interim arrangement would ensure stakeholders are not left without any RoLR provisions for the time required to establish a legislative model. Territory Generation states abolishing the RoLR in the Code is not consistent with the Utilities Commission Regulations 2001, suggesting the Commission will step away from its role to promote security of supply and give preference to commercial parties. Territory Generation advises existing contractual obligations on commercial parties in relation to end use customers will be diminished. If the Commission proceeds as proposed, Territory Generation states it requires a sufficient consultation

timeframe to allow all parties to existing contracts the ability to renegotiate existing key contract clauses such as default and termination.

The Minister for Renewables and Energy wrote to the Commission on 28 December 2023 requesting the Commission continue to work with the Office of Sustainable Energy to develop suitable RoLR and customer protection arrangements. The Minister's letter states the Northern Territory Government considers the RoLR scheme is best placed in the Code and that government will progress legislative amendments to provide the Commission with the appropriate authority as a matter of urgency.

The Office of Sustainable Energy provided its views to the Commission informally, including that while the RoLR provisions cannot currently be amended to create a RoLR regime with all the features of the NERL regime, it would seem possible to retain some elements while the legislative reform process is underway and the Commission develops its revised RoLR model for the Code.

Commission's decision and reasons

The Commission acknowledges the feedback received from stakeholders, all of which do not support the complete removal of clause 9 of the Code in the absence of alternative arrangements.

Based on some of the feedback received, it appears the Commission has not communicated clearly enough that the current RoLR provisions are not legally effective to the extent that they cannot be relied on to provide guidance or assurance.

It is the *Corporations Act 2001* that aspects of the current ineffective RoLR framework are likely inconsistent with, particularly in terms of purporting to transfer customers' contracts from the failed retailer to Jacana Energy (as the RoLR). The *Corporations Act 2001* restricts the types of transactions, dealings or dispositions of a company's property that can occur during an insolvency event, such as contracts. Further, the Commission cannot effect the contractual rights of customers, who are not bound by the Code, and the Commission does not have the legislative power to determine RoLR tariffs or a RoLR recovery scheme, regardless of such provisions being in the Code.

Legislative reform is the only way to facilitate an effective RoLR framework. While the Commission can advise government on what amendments it considers are needed to enable an effective RoLR framework, the Commission does not have the power to amend legislation. As such, the Commission continues to work with the Office of Sustainable Energy.

Given the significant concerns communicated by stakeholders and the Territory Government's commitment to make legislative changes as a priority, the Commission has considered the issues further and developed a modified RoLR scheme as an interim solution. In simplified terms, the modified RoLR scheme removes current provisions that are inconsistent with the *Corporations Act 2001* and the Commission's powers. Instead it provides the Commission discretion to require:

- the failed retailer to provide information to the Commission, including details of its customers and customer contracts
- the failed retailer and Jacana Energy to work together in good faith and take all steps reasonably required to transfer customers
- the failed retailer to write to the customers informing them of the RoLR Event and, to the extent legally permissible, terminate any supply contract with a customer
- Jacana Energy to write to customers of the failed retailer and make them an offer to supply electricity
- the network operator to transfer existing customers of the failed retailer to Jacana Energy where the circumstances allow.

These powers are discretionary. The Commission will determine which, if any, of these actions is appropriate and legally permissible to take depending on the circumstances of the particular RoLR event.

The modified RoLR scheme omits provisions in relation to determining RoLR tariffs and for a cost recovery scheme. It also does not purport to effect a transfer of the contracts of customers of the failed retailer to Jacana Energy. The Commission notes that, depending on the circumstances, customers of the failed retailer

could become customers of Jacana Energy by entering into an agreement with Jacana Energy or by operation of section 91 of the *Electricity Reform Act 2000*.

The modified RoLR scheme does not provide for the Commission to make guidelines, noting the modified RoLR scheme is intended to be an interim solution until the Territory Government makes the necessary legislative amendments to enable the Commission to put in place a comprehensive, legally effective RoLR scheme in the Code. The Commission understands government is aiming for this to be completed by late 2023.

In clause 8.3.2, which pertains to the responsible retailer for an exit point, the Commission has also identified a reference to a RoLR event, which is redundant and should be removed.

Final decision

The Commission has decided to revoke the current clause 9 (Retailer of Last Resort arrangements) and insert a new clause 9, which provides a modified RoLR scheme. The Commission has also decided to amend the current clause 8.3.2 to remove a redundant reference to a RoLR event.

Approved amendments:

Amend the current clause 8.3.2(a) to remove reference to the RoLR arrangements:

8.3 Responsible retailers for greenfield and other exist points

8.3.2 A *retailer* is the *responsible retailer* with respect to an *exit point* until:

- (a) another *retailer* becomes the *responsible retailer* at the *exit point* as a result of a *valid transfer* of a ~~*Retailer of Last Resort Event*~~;
- (b) the *exit point* is physically removed; or
- (c) the *NMI* is retired.

Revoke the current clause 9 and insert the following new clause 9:

9 Retailer of Last Resort

9.1 Retailer of Last Resort Event

A Retailer of Last Resort Event occurs when:

- (a) a *retailer's retail licence* has been suspended or cancelled; or
- (b) a *retailer* has not met its credit support requirements as specified under clause 3; or
- (c) a *retailer* ceases to be a registered or licensed participant in relation to the sale of electricity to *customers*; or
- (d) an insolvency official is appointed in respect of the *retailer* or any property of the *retailer*; or
- (e) an application is made to or an order is made by a *court of competent jurisdiction* for the winding up or dissolution or a resolution is passed or any steps are taken to pass a resolution for the winding up or dissolution of the retailer in accordance with relevant legislation including the *Bankruptcy Act 1996 (Cth)* or *Corporations Act 2001*; or
- (f) anything occurs that has a substantially similar effect to any of the events set out in clauses 9.1 (a) – (e).

9.2 Jacana Energy to be the Retailer of Last Resort

Jacana Energy is the Retailer of Last Resort for the purposes of this clause 9.

9.3 The Commission may give notice of expected Retailer of Last Resort Event

If the *Commission* becomes aware of any acts, omissions or circumstances that in the *Commission's* opinion may lead to a Retailer of Last Resort Event, the *Commission* may notify *Jacana Energy*, the *network provider*, the *system controller* and any other relevant person in *writing*.

9.4 The Commission may request information

If the **Commission** becomes aware of any acts, omissions or circumstances that in the **Commission's** opinion may lead to a Retailer of Last Resort Event, or if the **Commission** believes on reasonable grounds that a Retailer of Last Resort Event has occurred, the **Commission** may by notice to the relevant **retailer** require the **retailer** to provide the **Commission** with specified information and documents, including details of that **retailer's customers** and copies of customer contracts. The **retailer** must comply with any such request by the date specified by the **Commission**.

9.5 Declaration of Retailer of Last Resort Event

When the **Commission** believes on reasonable grounds that a Retailer of Last Resort Event has occurred in relation to a **retailer** (the '**failed retailer**'), the **Commission** may issue a notice declaring that a Retailer of Last Resort Event has occurred and provide that notice to **Jacana Energy**, the **network provider**, the **system controller** and any other relevant person (a '**ROLR Notice**').

For the avoidance of doubt, the **Commission** is not required to issue a **ROLR Notice** following the occurrence of a Retailer of Last Resort Event if it does not wish clause 9.6 to apply.

9.6 Retailer of Last Resort arrangements

9.6.1 This clause 9.6 applies only if the **Commission** has issued a **ROLR Notice**.

9.6.2 The **Commission** may by notice in **writing** require the **failed retailer** and **Jacana Energy** to work together in good faith, and to take all steps reasonably required by the **Commission**, to seek to transfer **customers** of the **failed retailer** to **Jacana Energy** as soon as reasonably practicable.

9.6.3 Without limiting clause 9.6.2, the **Commission** may require the **failed retailer**:

- (a) to write to **customers** informing them of the Retailer of Last Resort Event and providing such other information as specified by the **Commission**; and
- (b) to the extent legally permissible, to terminate any supply contract with a **customer** or, if the contract has already terminated, to advise the **customer** of that fact.

9.6.4 Without limiting clause 9.6.2, the **Commission** may require **Jacana Energy** to write to **customers** of the **failed retailer**:

- (a) making them an offer to supply electricity, which offer may be conditional on termination of the **failed retailer's** supply contracts with the **customers** concerned; and
- (b) providing such other information as specified by the **Commission**.

9.6.5 The **Commission** may by notice in **writing** require the **network operator** to transfer existing **customers** of the **failed retailer** to **Jacana Energy** upon a date or upon the occurrence of events specified by the **Commission**.

[Note the Commission's intention is that if Jacana Energy sells electricity to the failed retailer's customers:

- (a) under a written agreement, the sale would be on the terms specified by that written agreement; or*
- (b) without a written agreement, the sale would be on standard terms and conditions governing the sale of electricity by Jacana Energy fixed under section 91 of the ERA.]*

9.6.6 Upon notice in **writing** from the **Commission** to the **failed retailer**, **Jacana Energy** and the **network operator**, the requirements of clause 8.2 will not apply to a transfer of a **customer** from the **failed retailer** to **Jacana Energy**.

8 | Life support equipment

Prepayment meters

Background

The Issues Paper asked stakeholders to consider whether the Code should 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, noting the Commission has been made aware of circumstances where a customer requiring life support equipment at their premises strongly preferred to retain a prepayment meter, indicating that it would cause hardship if they were forced to have a standard post-paid meter.

Following consideration of feedback from stakeholders, the Commission's Draft Decision was not to amend the Code to allow for exceptions to clause 10.6. The Commission's view was that the risks of allowing a customer to retain a prepayment meter when life support equipment is required at their premises, including the risk of significant harm and death if the life support equipment is disconnected from electricity due to lack of credit, was too great to proceed.

Submissions

The Commission received two submissions in relation to the Draft Decision on this matter, from Jacana Energy and the Researchers.

Jacana Energy supports the Commission's proposal not to amend the Code to allow clause 10.6 exceptions.

The Researchers agree with the Commission's Draft Decision in relation to this matter. The Researchers' submission states that while recognising 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 not to amend the Code to allow for exceptions to clause 10.6.

Notwithstanding the Researchers' support for the Commission's Draft Decision, the Researchers' submission highlights South Australia's alternative approach whereby the South Australian Department of Energy and Mining introduced prepay metering on a mandatory basis within some remote Aboriginal communities, but among other things, prohibits disconnection of registered life support customers.

Commission's decision and reasons

There were no concerns raised by stakeholders regarding the Commission's Draft Decision not to amend the Code to allow for exceptions to clause 10.6.

As stated in the Draft Decision, the Commission acknowledges there is a risk the requirement for a post-paid meter may detrimentally effect some customers' financial security, but considers that this is outweighed by the potential for harm including death to the person requiring the life support equipment following from disconnection of electricity when their prepayment credit runs out.

The Commission agrees there are alternative approaches to protecting customers that require life support equipment where prepayment meters are in place, such as mandating that these customers cannot be disconnected even if they have no credit on the meter. However, the Commission does not consider an alternative approach is necessary given the Commission is only aware of a very few instances where a customer requiring life support equipment at their premises strongly preferred to retain a prepayment meter, and in these cases, the retailer was able to engage and support the customer in the transition.

Final decision

The Commission has decided not to amend the Code to allow for exceptions to clause 10.6.

Life support equipment procedures for outside major centres

Background

The Issues Paper asked stakeholders to consider if the Code:

- should be amended to explicitly state that retailers and network providers must comply with their approved life support equipment procedures for outside major centres
- should include an obligation on retailers and network providers to regularly review their life support equipment procedures for outside major centres.

Clause 10.7 of the Code sets out provisions to protect customers requiring life support equipment outside the major centres of Darwin-Katherine, Alice Springs and Tennant Creek (where Network Access Legislation does not apply).

Clause 10.7.2 of the Code requires a retailer and a network provider to develop and submit to the Commission for approval life support equipment procedures for each geographical area in which it sells electricity to customers for domestic use, or operates an electricity network that provides connection services to customers for domestic use, that seek to achieve similar outcomes to the life support equipment provisions in place for customers connected to the Darwin-Katherine, Alice Springs and Tennant Creek power systems.

Following the most recent update to the Code in 2019, the Commission became aware that while all relevant licensees must comply with the Code in accordance with their respective licence conditions, the Code does not explicitly state that a retailer or network provider must comply with its approved life support equipment procedures. Further, there is no obligation to regularly review approved life support equipment procedures.

The Commission considered stakeholder feedback to the Issues Paper and its Draft Decision was to amend the Code to include obligations on retailers and network providers to comply with their approved life support equipment procedures for outside major centres, and for retailers and network providers to review their life support equipment procedures at least once every three years and following a breach of the approved life support equipment procedures.

Submissions

The Commission received two submissions in relation to the Draft Decision on this matter, from Jacana Energy and the Researchers.

Jacana Energy's submission supports the proposed Code amendments in the Draft Decision.

The Researchers' submission does not comment on the proposed amendments set out in the Draft Decision specifically, but recommends related additional Code amendments, to explicitly require retailers and network providers to publish life support procedures, for both regulated (Darwin, Katherine and Alice Springs) and non-regulated (outside major centres) areas.

The Researchers state relevant retailer websites provide information for customers about who can be a life support customer and how to register, including publishing the forms and steps, but no life support equipment procedures are published. The Researchers ask if it is correct that the Commission considers these internal documents rather than public facing and if so, why. The Researchers state other policies and procedures must be published under the Code (hardship, dispute resolution and family violence) and visibility is necessary to identify protections for vulnerable customers, and that for outside major centres in particular it is not possible to understand if life support procedures in the non-regulated, remote networks are substantially similar or different to the regulated networks.

Commission's decision and reasons

There were no concerns raised by any stakeholder regarding the Commission's Draft Decision to include obligations on retailers and network providers to comply with their approved life support equipment procedures for outside major centres, and for retailers and network providers to review their life support

equipment procedures at least once every three years and following a breach of approved life support equipment procedures. The Commission considers the amendments to the Code will address the current regulatory gaps in relation to compliance and help to ensure approved life support procedures for outside major centres remain fit for purpose.

In relation to the Researchers' recommendation that the Code explicitly require retailers and network providers to publish life support procedures, for both regulated (Darwin, Katherine and Alice Springs) and non-regulated (outside major centres) areas, the Commission considers the detailed life support equipment obligations that retailers and network providers must comply with are published in the Code and publishing internal procedures on how compliance is met from an internal systems (people and process) perspective is not necessary or appropriate.

The Commission agrees with the Researchers that other documents, in relation to hardship, dispute resolution and family violence, are to be published under the Code. However, this is because detailed hardship, dispute resolution and family violence policy obligations are not specified in the Code. As such, each retailer and network provider will need to publish their policies once approved by the Commission. Internal procedures on how they comply with their respective policies will not need to be published.

Final decision

The Commission has decided to amend the Code to:

- require retailers and network providers to comply with their approved life support equipment procedures for outside major centres
- require retailers and network providers to review their life support equipment procedures for outside major centres at least once every three years and following a breach of approved life support equipment procedures.

Approved amendments:

10.7.10 A **retailer** and **network provider** must comply with its approved **life support equipment** procedures.

10.7.11 A **retailer** and **network provider** must review its **life support equipment** procedures at least once every three years and following a breach of approved **life support equipment** procedures.

Obligation to publish life support equipment customer protection information

Background

In considering the Researchers' feedback in relation to life support equipment procedures, particularly the Researchers' observation that retailers publish information for customers about who can be a life support customer and how to register, the Commission reviewed retailers' and network providers' websites and found inconsistencies, with some providing comprehensive information for customers and others, no information.

Relevantly, there is no current obligation in the Code for retailers and network providers to publish life support equipment registration information on their websites.

Commission's decision and reasons

Although there is no regulatory obligation to do so, the Commission notes that Jacana Energy and PWC publish comprehensive life support equipment customer information and documents on dedicated webpages. In contrast, Rimfire Energy and Nhulunbuy Corporation (service provider for Alcan Gove Pty Ltd (Alcan Gove) in relation to Nhulunbuy) provide limited information that is contained within broader documents, such as terms and conditions documents and the application for electricity supply.

The Commission considers the Code's life support equipment customer protection provisions are comprehensive from the point in time where the retailer or network provider is advised that life support

equipment is required at a customer's residence. However, there is a clear gap whereby those customers may not know there are life support protections available to them.

The Commission considers that retailers and network providers should provide basic, clear and accessible life support equipment customer information on their websites, in relation to their customers in major centres and outside major centres. At a minimum, this information should be on a webpage and not 'hidden' within a document or form and include that there are life support equipment protections available to eligible customers, how the customer should advise their retailer or network provider that life support equipment is required at their premises (such as a phone number or email address and what information the customer needs to provide) and an emergency telephone contact number for the network provider.

Final decision

The Commission has decided to amend the Code to:

- require retailers and network providers to publish basic life support equipment customer information on their websites, in relation to their customers in major centres and outside major centres as applicable
- include a three-month transitional provision to provide time for retailers and network providers to update any necessary life support equipment documents and their respective websites.

Approved amendments:

10.4A.2 A **retailer** must publish on its website within 3 months of commencement of this clause 10.4A.2, information:

- explaining that **life support equipment** customer protections are available to eligible customers;
- describing how the **customer** should advise the **retailer** that a person residing or intending to reside at the **customer's** premises requires **life support equipment**;
- providing an emergency telephone contact number for the **network provider** (the charge for which is no more than the cost of a local call).

10.4B.3 A **network provider** must publish on its website within 3 months of commencement of this clause 10.4B.3 information:

- explaining that **life support equipment** customer protections are available to eligible customers;
- describing how the **customer** should advise the **network provider** that a person residing or intending to reside at the **customer's** premises requires **life support equipment**;
- providing an emergency telephone contact number for the **network provider** (the charge for which is no more than the cost of a local call).

10.7.12 A **retailer** or **network provider** must publish on its website within 3 months of commencement of this clause 10.7.12 information:

- explaining that **life support equipment** customer protections are available to eligible customers;
- describing how the **customer** should advise their **retailer** or **network provider** that a person residing or intending to reside at the **customer's** premises requires **life support equipment**;
- providing an emergency telephone contact number for the **network provider** (the charge for which is no more than the cost of a local call).

9 | Dispute resolution process

Background

Clause 11.1 of the Code sets out a dispute resolution process for disputes between retailers; a network provider and a retailer; a network provider and the system controller; a retailer and the system controller; and a retailer and a generator. However, the Code does not set out a dispute resolution process for disputes between a customer and their retailer or network provider, nor is this provided for in any other Territory code, rule, regulation or act. Therefore retailers are left to determine what is appropriate regarding the handling of disputes, which may not be in the best interests of consumers.

The Issues Paper asked stakeholders to consider whether the Code should be amended to include internal dispute resolution obligations on retailers and or network providers that are similar to that in the NERL, amended for the Territory's circumstances.

Submissions to the Issues Paper were supportive of including internal dispute resolution obligations on retailers and or network providers in the Code, and generally supportive of adopting the national approach as set out in the NERL.

The Commission's Draft Decision proposed to:

- amend clause 11 of the Code to include retailer and network provider internal dispute resolution obligations generally consistent with that in sections 81 and 82 of the NERL, amended for the Territory's circumstances
- add associated definitions in Schedule 1 of the Code for government owned corporation, NT Ombudsman and standard complaints and dispute resolution procedures.

Submissions

The Commission received two submissions to the Draft Decision in relation to this matter, from Jacana Energy and the Researchers. The Commission also consulted with the NT Ombudsman and NT Consumer Affairs.

Jacana Energy supports the Commission's proposed amendments, however, states it is not clear why the obligation to inform a customer of their rights and details relating to the NT Ombudsman is only expressed to apply to retailers and network providers that are government owned corporations. It is Jacana's view that this obligation should apply to all retailers and network service providers.

The Researchers state the proposed obligations are a significant improvement to the Code. It is recommended, however, that for information, accessibility and transparency in non-regulated networks (outside Darwin, Katherine, Alice Springs and Tennant Creek), the Commission explicitly confirm the expectation that retailers and network providers develop, make and publish on their websites standard complaints and dispute resolution procedures for all non-regulated networks, without relying on subsidiary instruments. The Researchers also seek clarification on whether the obligations are intended to apply to exempt retailers, and recommended the Commission does all things necessary to achieve consistency across the Territory.

Commission's decision and reasons

The Commission notes stakeholder feedback was positive in relation to its Draft Decision to amend the Code to include internal dispute resolution obligations on retailers and network providers for handling customer complaints and disputes consistent with that in the NERL, amended for the Territory's circumstances. Putting in place obligations to have internal dispute resolution procedures in line with Australian standards and electricity industry best practice will provide a level of consistency across retailers and help ensure customer interests are protected in the dispute resolution process.

In terms of Jacana Energy's feedback that it is not clear why the obligation to inform a customer of their rights and details relating to the NT Ombudsman is only expressed to apply to retailers and network

providers that are government owned corporations, the reason is because under the *Ombudsman Act 2009*, the NT Ombudsman can only investigate and deal with complaints about administrative actions of public authorities and the conduct of police officers, not privately owned businesses. This contrasts with other jurisdictions that have a dedicated energy ombudsman, such as the Energy and Water Ombudsman of South Australia and the Energy and Water Ombudsman of Victoria, or as is the case in Western Australia and Tasmania, a broader ombudsman scheme (compared to Ombudsman NT) that enables provision of associated services to customers of all electricity retailers, regardless of ownership.

Although it is not appropriate for the Commission to amend the Code to include an obligation for private retailers and network providers to provide NT Ombudsman details to its customers (for the reason discussed above), the Commission has considered the matter further and decided to require privately owned retailers and network providers to inform customers of their rights and the details of NT Consumer Affairs. While NT Consumer Affairs is not equivalent to the NT Ombudsman or an interstate energy ombudsman, the Commission considers it is an appropriate alternative, as it is an independent consumer protection body that provides education and conflict resolution services in relation to complaints and disputes between traders and consumers.⁶

The Commission has considered the Researchers' recommendation that it explicitly confirm the obligation includes all non-regulated networks without relying on subsidiary instruments. The Commission believes clause 1.4.2 of the Code, which states the Code applies in relation to an electricity network regardless of whether that network is regulated by Network Access Legislation, makes it clear the Code applies across the Territory. It is noted some Code obligations will inherently not apply in regional or remote networks, for example, obligations relating to the transfer of customers between retailers where there is no choice of retailer.

In relation to exempt retailers, the Researchers are correct that amendments to exemption documents would be required for the new dispute resolution process obligations in the Code to apply. Relevantly, Alcan Gove's current licence exemption (in relation to the Nhulunbuy township) requires review every three years, and the Commission will consider this issue as part of its next review.

Final decision

The Commission has decided to:

- amend clause 11 of the Code to include retailer and network provider internal dispute resolution obligations generally consistent with that in sections 81 and 82 of the NERL, with modification to the terminology used and the dispute resolution service referred to
- include a three-month transitional provision to provide time for retailers and network providers to develop, make and publish standard complaints and dispute resolution procedures and make any necessary updates to their websites
- add associated definitions in Schedule 1 of the Code for government owned corporation, NT Consumer Affairs, NT Ombudsman and standard complaints and dispute resolution procedures.

Approved amendments:

11.4 Standard complaints and dispute resolution procedures

- 11.4.1 Within 3 months of commencement of clause 11.4, every **retailer** and every **network provider** must develop, make and publish on its website a set of procedures detailing the **retailer's** or **network provider's** procedures for handling **customer** complaints and disputes, to be known as its **standard complaints and dispute resolution procedures**.
- 11.4.2 The procedures must be regularly reviewed and kept up to date.
- 11.4.3 The procedures must be substantially consistent with the Australian Standard AS ISO 10002-2022 (*Customer satisfaction – Guidelines for complaints handling in organizations*) as amended and updated from time to time.

⁶ [NT Consumer Affairs, Complaints and disputes](#)

11.5 Complaints made to retailer or network provider for internal resolution

- 11.5.1 A **customer** may make a complaint to a **retailer** or **network provider** about a relevant matter, or any aspect of a relevant matter, concerning the **customer** and the **retailer** or the **network provider**.
- 11.5.2 The **retailer** or **network provider** must deal with the complaint if it is made in accordance with the **retailer's** or **network provider's standard complaints and dispute resolution procedures**, including any time limits applicable under those procedures for making a complaint.
- 11.5.3 The complaint must be handled in accordance with the **retailer's** or **network provider's standard complaints and dispute resolution procedures**, including any time limits applicable under those procedures for handling a complaint.
- 11.5.4 The **retailer** or **network provider** must inform the **customer** of the outcome of the complaint process, and of the **retailer's** or **network provider's** reasons for the decision regarding the outcome, as soon as reasonably possible but, in any event, within any time limits applicable under the **retailer's** or **network provider's standard complaints and dispute resolution procedures**.
- 11.5.5 A **retailer** or **network provider** that is a **government owned corporation** must inform a **customer**:
- (a) that, if the **customer** is not satisfied with the outcome, the **customer** may make a complaint or take a dispute to the **NT Ombudsman**; and
 - (b) of the telephone number and other contact details of the **NT Ombudsman**.
- 11.5.6 A **retailer** or **network provider** that is not a **government owned corporation** must inform a **customer**:
- (a) that, if the **customer** is not satisfied with the outcome, the **customer** may make a complaint or take a dispute to **NT Consumer Affairs**; and
 - (b) of the telephone number and other contact details of the **NT Consumer Affairs**.

Schedule 1 Definitions and interpretations

government owned corporation – means a statutory corporation that is declared to be a government owned corporation by its constituting Act.

NT Consumer Affairs – means the person appointed Commissioner of Consumer Affairs under section 6 of the *Consumer Affairs and Fair Trading Act 1990*.

NT Ombudsman – means the person holding or occupying the office of Ombudsman for the Northern Territory established under section 9 of the *Ombudsman Act 2009*.

standard complaints and dispute resolution procedures – means the procedures developed, made and published by the **retailer** or **network provider** under clause 11.4.1.

10 | Potential hardship policy obligations

Background

Despite the Electricity Industry Performance Code requiring retailers to report to the Commission on indicators regarding debt, payment plans, hardship, disconnections for non-payment and prepayment meters for small customers, there is no legislative requirement for a retailer to have a hardship policy in place. Retailers in the Territory are therefore left to determine what is appropriate regarding hardship provisions, which may not align with best practice or be in the best interest of customers.

The Issues Paper discussed that all jurisdictions except the Territory have customer protection obligations in relation to hardship, and asked stakeholders to consider whether the Code should be amended to include an obligation on retailers to have an approved hardship policy for small customers, and if so, should the Commission consider and approve a retailer's proposed hardship policy based on alignment with the AER's Customer Hardship Policy Guideline, but with flexibility to provide for the Territory's circumstances.

Stakeholders provided responses to this issue, and all agreed at a high level that the Code should be amended to require retailers to have an approved hardship policy for small customers. Some stakeholders suggested the obligations go further, including that they should apply equally regardless of where the customer lives, should not be based on income levels, should include procedures for prepayment meter customers and should specify minimum standards based on the AER's customer hardship guideline. The Commission's Draft Decision responded to stakeholders' feedback and advised of its proposed amendments to the Code to:

- require retailers to develop, implement and comply with a Commission approved customer hardship policy for residential customers that meets minimum requirements specified in the Code
- add new definitions in Schedule 1 of the Code for prepayment meter, residential customer and standard meter
- include a transitional provision whereby the retailer must submit its proposed customer hardship policy to the Commission for approval within six months of commencement of the new obligation.

Submissions

The Commission received two submissions to the Draft Decision in relation to this matter, from Jacana Energy and the Researchers.

Jacana Energy notes proposed clause 12 of the Code is largely consistent with sections 43 to 47 of the NERL with the exception of including provisions equivalent to sections 45(1) and (2), which set out the process for approval of the hardship policies (and what happens if a policy is not approved). Jacana Energy is of the view that proposed clause 12 should be amended to set out the process for approval of hardship policies. Jacana Energy supports the Commission's proposed six month transitional period.

The Researchers state maintaining the intent of the proposed clause will in practice require considerable scrutiny by the Commission. The Researchers also state payment plans should be available to all customers with financial difficulties regardless of whether the difficulties derive from hardship, which is provided for in the NERL and NERR (Rule 33) where a customer may self-identify as experiencing payment difficulties. Similar to the feedback regarding new dispute resolution obligations in the Code, the Researchers note it is not clear whether the hardship policy obligations would apply to Alcan Gove in relation to Nhulunbuy.

Commission's decision and reasons

The Commission notes feedback received on this matter was again supportive, although both submissions to the Draft Decision suggest additions.

In relation to Jacana Energy's feedback that the process for approval of hardship policies should be set out in the Code, the Commission does not consider there is a need to be so prescriptive. The Commission does not intend to follow the AER's Customer Hardship Policy Guideline, nor does it expect retailers to. The

Commission's approval process will be limited to a review of the proposed policy's compliance with the Code and legislation, and will not involve public consultation on the proposed policy.

The Commission agrees that payment plans should be available to all customers with financial difficulties regardless of whether the difficulties derive from hardship, however does not consider it is necessary to mandate this through the Code. Relevantly, a review of all retailers' websites found customer information advising they can contact the retailer to discuss payment arrangements. Further, Jacana Energy, which has almost 100% market share of the small customer segment of the market, publishes a very clear on-line form to request a payment plan, including the ability to direct Centrelink deductions. Further, the Commission is not aware of instances where a customer that has reasonably requested a payment plan has been denied.

In relation to Alcan Gove, the Researchers are correct that amendments to exemption documents would be required for the new hardship policy obligations in the Code to apply. Alcan Gove's current licence exemption (in relation to the Nhulunbuy township) requires review every three years, and the Commission will consider this issue as part of its next review.

Final decision

The Commission has decided to amend the Code to:

- require retailers to develop, implement and comply with a Commission approved customer hardship policy for their residential customers that meets minimum requirements specified in the Code
- add new definitions in Schedule 1 of the Code for prepayment meter, residential customer and standard meter
- include a transitional provision whereby the retailer must submit its proposed customer hardship policy to the Commission for approval within six months of commencement of the new obligation.

Approved amendments:

12 **Hardship policy – standard meter customers**

- 12.1.1 Clause 12 applies in relation to a **retailer** and its **residential customers** with a **standard meter** only.
- 12.1.2 The purpose of a **retailer's** hardship policy is to identify **residential customers** experiencing payment difficulties due to hardship (also referred to as hardship **residential customers**) and assist those **residential customers** to better manage their electricity bills on an ongoing basis.
- 12.1.3 A **retailer** must within 6 months of commencement of clause 12 or 3 months of being granted a **retail licence** by the **Commission** under Part 4 of the **ERA** if the **retailer** did not hold a **retail licence** on commencement of clause 12:
- (a) develop a hardship policy in respect of **residential customers** of the **retailer**;
 - (b) submit the hardship policy to the **Commission** for approval;
 - (c) publish the policy, as approved by the **Commission**, on the **retailer's** website as soon as practicable after it has been approved; and
 - (d) maintain, implement and comply with the policy.
- 12.1.4 The **Commission** may direct the **retailer** to review the policy and make variations in accordance with any requirements set out by the **Commission** and the **retailer** must:
- (a) vary the policy in accordance with the **Commission's** requirements;
 - (b) submit the varied policy to the **Commission** for approval;
 - (c) publish the policy, as approved by the **Commission**, on the **retailer's** website as soon as practicable after it has been approved; and
 - (d) maintain, implement and comply with the policy.
- 12.1.5 A **retailer** may vary its hardship policy independently of a direction referred to in clause 12.1.4, but only if the variation has been approved by the **Commission** and the varied policy is published on the **retailer's** website after the **Commission** has approved the variation.

- 12.1.6 The minimum requirements for a *retailer's* hardship policy are that it must contain:
- (a) processes to identify *residential customers* experiencing payment difficulties due to hardship, including identification by the *retailer* and self-identification by a *residential customer*; and
 - (b) processes for the early response by the *retailer* in the case of *residential customers* identified as experiencing payment difficulties due to hardship; and
 - (c) flexible payment options for the payment of electricity bills by hardship *residential customers*; and
 - (d) processes to identify appropriate government concession programs and appropriate financial counselling services and to notify hardship *residential customers* of those programs and services; and
 - (e) an outline of a range of programs that the *retailer* may use to assist hardship *residential customers*; and
 - (f) general information to *residential customers* on how they may be able to improve their electricity efficiency.
- 12.1.7 The *Commission* must, in considering whether to approve a hardship policy under clause 12.1.7, have regard to the following principles:
- (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.
- 12.1.8 A *retailer* must:
- (a) inform a *residential customer* of the existence of the *retailer's* hardship policy as soon as practicable where it appears to the *retailer* that non-payment for an electricity bill debt is due to the *customer* experiencing payment difficulties due to hardship; and
 - (b) provide a *residential customer* with a copy of the hardship policy on request and at no expense.
- 12.1.9 A *retailer* must give effect to the general principle that de-energisation (or disconnection) of premises of a hardship *residential customer* due to inability to pay electricity bills should be a last resort option.

Schedule 1 Definitions and interpretations

prepayment meter – means a *meter* that requires a *residential customer* to pay for the supply of electricity prior to consumption.

residential customer – means a *customer* who purchases electricity for domestic purposes on residential premises.

standard meter – means a *meter* that is not a *prepayment meter*.

11 | Other matters identified through consultation

A number of matters were identified by stakeholders through consultation, which are discussed below.

Prepayment meter customer hardship policy

Background

Submissions to the Issues Paper from the ANU researchers and Purple House argued specifically for the development of prepayment meter customer protections, among other things.

The ANU submission to the Issues Paper stated a hardship policy for small customers being appropriate for the Territory's circumstances should not mean watering down critical consumer protections for (predominately Aboriginal) prepayment meter customers. Further, the ANU researchers stated the definition of hardship should not be based on income thresholds, but on recognised concepts such as energy poverty or energy security. The ANU researchers' feedback is set out and discussed in full in the Draft Decision.

Purple House's submission to the Issues Paper stated the hardship policy needs to clearly include procedures for prepayment meter customers. Purple House's feedback is also set out and discussed in full in the Draft Decision.

The Commission's Draft Decision discussed the Commission's 2020-21 NTERR findings that prepayment meter disconnection events in the Territory appeared very high in both 2019-20 and 2020-21 and that as part of the Code review, the Commission would examine increased protections for prepayment meter customers. Subsequently, the Commission's 2021-22 NTERR found another year of high disconnection events, with a 6% increase in the total number of prepayment meter disconnection events in the Territory and a 6% increase in the number of disconnections per prepayment meter. However, it is acknowledged that the average duration of self-disconnection events decreased by 19%.

The Draft Decision noted Part 8 of the NERR includes obligations on retailers relating to prepayment meter customer payment difficulties and hardship. Part 9 of WA's Code of Conduct for the Supply of Electricity to Small Use Customers (WA Code) also includes obligations on the retailer in relation to prepayment meters where there are payment difficulties or financial hardship. While there are no such obligations currently in the Territory, Appendix C of Jacana Energy's Terms and Conditions for Standard Retail Contracts⁷ applies where the customer has a prepayment meter. It includes provisions in relation to payment difficulties, despite no regulatory obligation for Jacana Energy do to so. Equivalent provisions are not in PWC's current Customer Contract.⁸

The Commission stated in the Draft Decision that the Code should provide generally equivalent (to the extent possible) consumer protections for prepayment meter customers compared to post payment customers, although adopting the prepayment meter customer hardship provisions from the NERR or WA's Code may not be appropriate for the Territory's circumstances, particularly given current system limitations.

Accordingly, the Commission's Draft Decision was to require retailers to develop a hardship policy for prepayment meter customers that is approved by the Commission, noting the Commission also proposed dispute resolution obligations on retailers in Chapter 9 of the Draft Decision, in relation to both prepayment and post payment customers. A transitional provision was also proposed whereby the retailer must submit its proposed customer hardship policy in relation to its prepayment meter customers to the Commission for approval within six months of commencement of the new obligation.

As discussed in Chapter 9 of this Final Decision, the Commission has subsequently approved Code amendments that put in place new dispute resolution obligations on retailers in relation to both prepayment and post payment customers.

⁷ [Terms-and-conditions-for-standard-retail-contracts.pdf \(jacanaenergy.com.au\)](#)

⁸ [Power and Water Corporation Customer Contract](#)

Submissions

Jacana Energy's feedback is that the clause should be amended to set out the process for approval of hardship policies, and that it supports the Commission's proposed six month transitional period.

PWC states PWC's Customer Experience and Operations team has some practical challenges with meeting the proposed Code amendments in relation to identifying and monitoring customers with prepayment meters. PWC states its current practice is to offer vouchers to customers with prepayment meters who report hardship, however there is limited information kept in relation to prepayment meters. PWC advises it enquired with retailers in other jurisdictions and has not identified another retailer that collects prepayment meter information. PWC requested some clarity on the Commission's expectations.

The Commission has subsequently provided PWC with information on instances in other jurisdictions where retailers must collect and report prepayment meter information. Further, the Commission met with relevant PWC staff, including from PWC's Customer Experience and Operations team, to enable PWC to explain and expand on the practical challenges it identified. Relevantly, PWC advised there are approximately 1800 prepayment meters across 52 remote communities and outstations that still require physical tokens. Of the 52 remote locations, PWC advised that almost half have no Telstra coverage, meaning those prepayment meters cannot be switched over to newer electronic prepayment meters that allow remote access and monitoring. PWC stated the physical token meters in the remote locations with Telstra coverage will be transitioned to electronic meters, which may take one to two years.

The Researchers state the proposed amendments represent a significant improvement over the status quo. The Researchers recognise the efficacy of the prepayment meter hardship policy clause in relation to the stated aims and intent of clause 12 (post-paid/standard meters) is particularly challenging due to inconsistencies inherent in the operational logic of prepay, and state that maintaining the intent of the proposed clause will in practice require considerable scrutiny by the Commission. The Researchers propose:

- fit-for-purpose hardship protections for prepayment meter customers that will be capable of assisting prepayment customers avoid self-disconnection in any meaningful or equivalent way to protections offered to post-pay customers, developed 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
- formal prepayment data reporting requirements outside of the regulated networks in the Electricity Industry Performance Code, pointing to an off-grid example in South Australia where a relevant licensee is required to provide the Essential Services Commission of South Australia (ESCOSA) prepayment data against identified metrics on a quarterly basis.

Commission's decision and reasons

The Commission has considered the feedback received, and notes the additional information and context from PWC on the challenges of meeting the Draft Decision's proposed prepayment meter customer hardship policy obligations given the significant number of prepayment meters in remote communities and outstations without mobile phone coverage and or electronic capabilities.

In relation to Jacana Energy's feedback that the process for approval of hardship policies should be set out in the Code, as stated above in relation to a hardship policy obligation for standard meters, the Commission does not consider there is a need to be so prescriptive. The Commission's approval process will be limited to a review of the proposed policy's compliance with the Code and legislation, and will not involve public consultation on the proposed policy.

The Commission appreciates the Researchers' positive feedback in relation to its Draft Decision and that nonetheless, the Researchers recommend more should be done, with some suggestions pointing to examples in South Australia.

Following consideration of the feedback and other information, and the Territory's specific circumstances, the Commission has decided to amend the Code to require a retailer with one or more prepayment meter customers to develop, implement and comply with a Commission approved customer hardship policy for their prepayment meter customers (which may be located within a retailer's broader hardship policy) that meets minimum requirements specified in the Code.

Given the prepayment meter technical challenges highlighted by PWC in response to the Draft Decision, the Commission decided to include an exemption provision whereby the retailer may request an exemption if it believes it cannot comply with some or all of its hardship policy for prepayment meter customers in certain circumstances. The exemption request should specify which prepayment meter customers the exemption request is in relation to and the retailer's associated reasoning. For example, an exemption request could be in relation to prepayment meter customers residing in a certain community where there is no mobile phone coverage.

The new obligation includes a transitional provision whereby the retailer must submit its proposed customer hardship policy for its prepayment meter customers to the Commission for approval within six months of commencement of the new obligation.

The Commission notes regulation 2A of the Utilities Commission Regulations 2001 states the Commission is authorised to make a code relating to retail supply in the electricity industry, and while customer hardship is not listed in regulation 2A(2) as a matter the Code may deal with, the regulation makes it clear the Commission is not limited to those matters listed.

Final decision

The Commission has decided to amend the Code to:

- require a retailer with one or more prepayment meter customers to develop, implement and comply with a Commission approved customer hardship policy for its prepayment meter customers (which may be located within a retailer's broader hardship policy) that meets minimum requirements specified in the Code
- enable a retailer to request an exemption from complying with its hardship policy for certain prepayment meter customers
- provide a transitional provision whereby the retailer must submit its proposed customer hardship policy in relation to its prepayment meter customers to the Commission for approval within six months of commencement of the new obligation.

Approved amendments:

13 Hardship policy – prepayment meter customers

13.1.1 Clause 13 applies in relation to a *retailer* and its *prepayment meter customers*.

13.1.2 The purpose of a *retailer's* hardship policy for *prepayment meter customers* is to identify *prepayment meter customers* experiencing payment difficulties due to hardship and assist those *prepayment meter customers* to better manage their electricity costs and level of *prepayment meter* credit on an ongoing basis.

13.1.3 A *retailer* with one or more *prepayment meter customers* must within 6 months of commencement of clause 13 or 3 months of first supplying a *prepayment meter customer* if the retailer did not supply any *prepayment meter customers* on commencement of clause 13:

- (a) develop a hardship policy in respect of *prepayment meter customers* of the *retailer*;
- (b) submit the policy to the *Commission* for approval;
- (c) publish the policy, as approved by the *Commission*, on the *retailer's* website as soon as practicable after it has been approved; and
- (d) maintain, implement and comply with the policy.

13.1.4 For the avoidance of doubt, a *retailer's* hardship policy for its *prepayment meter customers* may be situated within the *retailer's* broader customer hardship policy.

13.1.5 The *Commission* may direct the *retailer* to review its hardship policy for *prepayment meter customers* and make variations in accordance with any requirements set out by the *Commission* and the retailer must:

- (a) vary the policy in accordance with the *Commission's* requirements;

- (b) submit the varied policy to the **Commission** for approval;
 - (c) publish the policy, as approved by the **Commission**, on the **retailer's** website as soon as practicable after it has been approved; and
 - (d) maintain, implement and comply with the policy.
- 13.1.6 A **retailer** may vary its hardship policy for **prepayment meter customers** independently of a direction referred to in clause 13.1.5, but only if the variation has been approved by the **Commission** and the varied policy is published on the **retailer's** website after the **Commission** has approved the variation.
- 13.1.7 The minimum requirements for a **retailer's** hardship policy in relation to its **prepayment meter customers** are that it must contain:
- (a) processes to identify **prepayment meter customers** experiencing payment difficulties due to hardship, including identification by the **retailer** and self-identification by a **prepayment meter customer**; and
 - (b) processes to contact **prepayment meter customers** identified as experiencing payment difficulties due to hardship to discuss options to address their difficulties in maintaining an adequate amount of credit on their **prepayment meter**; and
 - (c) processes to notify **prepayment meter customers** experiencing hardship of appropriate government concession programs and appropriate financial counselling services; and
 - (d) general information to **prepayment meter customers** on how they may be able to improve their electricity efficiency.
- 13.1.8 Where a **retailer** believes it cannot comply with some or all of the minimum requirements set out in clause 13.1.7 in relation to certain **prepayment meter customers**, the **retailer** may seek an exemption from the **Commission** from some or all of the requirements of clause 13.1.7 in relation to those **prepayment meter customers**. The exemption request must specify:
- (a) which **prepayment meter customers** the exemption request relates to;
 - (b) which of the minimum requirements set out in clause 13.1.7 the exemption request relates to;
 - (c) any alternative arrangements the **retailer** proposes to adopt to protect **prepayment meter customers** experiencing payment difficulties due to hardship; and
 - (d) the **retailer's** associated reasoning.

Prepayment meter regulation

Background

Substantial feedback was received in response to the Issues Paper from the ANU researchers and Purple House advocating for prepayment meter customer protections, and on prepayment meter regulation more broadly. Jacana Energy suggested the Code should be amended to further regulate the use of prepayment meter systems, with Part 8 of the NERR providing a potential model.

The ANU researchers provided statistics on the high frequency and duration of prepayment meter disconnections (as stated in Tangentyere Council's submission to the Homelessness Inquiry⁹), and recommend developing additional consumer protections for remote residents and service standards for small-scale and off-grid consumers. The ANU researchers' feedback included a recommendation that the Commission consider establishing a remote energy security working group, with membership potentially comprising of representative community controlled organisations, the Department of Education, and key

⁹ [House of Representatives Inquiry into Homelessness in Australia 2021 \(2nd Supplementary\).pdf \(cdn-website.com\)](#).

health, social service and advocacy groups. The ANU researchers' feedback is discussed in full in the Draft Decision.

Purple House's submission discussed the link between energy security and health and wellbeing, and also the high frequency and duration of prepayment meter disconnections (as stated in Tangentyere Council's submission to the Homelessness Inquiry). Purple House set out nine specific recommendations, which are listed and discussed in the Draft Decision.

Currently, there is no regulatory framework for prepayment metering arrangements in the Territory. However, Jacana Energy has proactively adopted aspects of Part 8 of the NERR through its Terms and Conditions for Standard Retail Contracts.¹⁰

In the NECF jurisdictions, requirements relating to prepayment meter arrangements are set out in Part 8 of the NERR. This includes requirements relating to the information a prepayment meter must display, the times at which a prepayment meter is able to self-disconnect, and provision of emergency credit, among other things. Part 8 of the NERR also requires certain information to be provided to prepayment meter customers, including operating instructions for prepayment meters and, on request, certain consumption information. Certain requirements relating to prepayment meter customer payment difficulties and hardship are also prescribed in Part 8 of the NERR.

South Australian retailers not operating in the National Electricity Market must, pursuant to their licence issued by ESCOSA, obtain ESCOSA's permission to offer prepayment metering to their customers. Relevantly, ESCOSA is undertaking a review of its Prepayment Meter System Code, which regulates the operation of prepayment meter systems by retailers in small and off-grid networks not captured by NECF.¹¹

Also in South Australia, ESCOSA has put in place minimum protections for prepayment by default customers following a requirement by the South Australian Government (through regulation¹²) that ESCOSA impose a licence condition on Cowell Electric Supply Pty Ltd that it only sell electricity to 'prescribed customers' using a prepayment meter system. The prescribed customers are approximately 2500 residential customers in the remote Aboriginal communities and associated homelands of Anangu Pitjantjatjara Yankunytjatjara (APY) Lands, Yalata, and Oak Valley. The Commission understands ESCOSA is monitoring the effectiveness of the prepayment by default customer protections and plans to undertake a formal review of the framework.¹³

Part 9 of the WA Code sets out similar requirements for prepayment meter arrangements, noting it also limits the provision of prepayment meters to areas declared by the minister.

In its Draft Decision, the Commission acknowledged the valid issues raised and associated recommendations made by the ANU researchers and Purple House relating to prepayment meter customers, primarily those living in remote areas, including in relation to poor quality housing, energy efficiency requirements, electricity pricing, limited internet access, prevalence of health vulnerabilities and the establishment of a remote energy security working group. The Commission noted that some progress had been made on one issue raised in Purple House's submission, in relation to allowing prepayment meter customers to have rooftop solar PV systems.

The Commission agreed the issues raised by the ANU researchers and Purple House are important policy matters for consideration; however, they are outside the scope of the Code and the Commission's responsibilities, and are best considered and addressed by the Territory and or Commonwealth governments. Accordingly, the Commission's Draft Decision was not to amend the Code to further regulate the use of prepayment meter systems, other than that discussed above in relation to new obligations requiring retailers to have an approved hardship policy for their prepayment meter customers. However, the Commission wrote to the Territory Government's Treasurer (the minister responsible for the UC Act), Minister for Housing and Homelands and the Minister for Essential Services advising of the matters raised and associated recommendations made in these submissions.

¹⁰ [Our customer contract | Jacana Energy](#).

¹¹ [ESCOSA Prepayment Meter System Code Review](#)

¹² [Electricity \(General\) \(Payment Condition\) Variation Regulations 2021](#)

¹³ [ESCOSA Final decision on amendments to Cowell Electric's retail licence, including prepayment by default consumer protections](#)

Submissions

Two submissions to the Draft Decision were received in relation to this matter, from Jacana Energy and the Researchers.

Jacana Energy states it supports the Commission's decision to involve the Territory Government's Treasurer and various Ministers to address Jacana Energy's concerns.

The Researchers refer to feedback provided in previous submissions, including that disconnections occur more often during extreme temperatures and that there is a relationship between temperature extremes and energy insecurity.¹⁴ The Researchers state that preventing temperature-related disconnections should be a feature of customer protection frameworks in the Territory.

The Researchers state the absence of a regulatory framework and supportive policy for solar connections in remote communities where prepayment meters are prevalent and known levels of energy insecurity is high curtails opportunities for this cohort. The Researchers urge the Commission to consider codifying basic requirements for network providers concerning solar connections in the non-regulated networks to support customer certainty and promote equitable solar uptake, as well as appropriate regulation to reduce systemic barriers to solar uptake for prepayment meter customers.

The Researchers note the Commission's statement that it is aware of progress in relation to allowing prepayment meter customers to have rooftop solar PV systems and state that while a single example in Tennant Creek is encouraging, there is nothing in the Code ensuring continuing access to connection agreements for prepayment meter customers are codified. Further, the Researchers point out that Tennant Creek is a regulated network where the NER (NT) applies and that there is no framework for networks in remote communities.

Commission's decision and reasons

The Commission has considered the feedback received and, consistent with the Draft Decision, decided not to amend the Code to further regulate prepayment meter arrangements, other than that proposed above in relation to requiring retailers to have an approved hardship policy for their prepayment meter customers.

The Commission remains of the view that the valid, broad and complex issues raised by stakeholders that relate to prepayment meter customers, primarily those living in remote areas, are policy issues for government. Relevantly, the provision of prepayment meters in the Territory is generally not a customer choice but rather a government or other decision body's policy. Further, the Territory Government has taken responsibility for the provision of electricity supply in remote communities through contracting with PWC's not-for-profit subsidiary Indigenous Essential Services Pty Ltd (IES), and the Commission does not have visibility of the associated contractual terms and conditions, including where there are prepayment meters.

Notwithstanding that discussed above, if the Territory Government considers a prepayment meter regulatory framework may be necessary or complementary to that included in its contract with IES, the Commission would be happy to assist in developing such a framework.

In relation to the regulated systems, as noted in the Draft Decision, Jacana Energy has in effect introduced its own regulation of prepayment meter arrangements, including imposing obligations on itself and its customers, through its Terms and Conditions for Standard Retail Contracts,¹⁵ which partially aligns with Part 8 of the NERR.

The Commission acknowledges that a single example of a prepayment meter customer in Tennant Creek being able to have a rooftop solar PV system does not ensure other prepayment meter customers, both in the regulated networks and non-regulated networks, can have the same. However, the Commission is aware there are challenges to rooftop solar PV where there is a prepayment meter, and of work underway to better understand and address the challenges. This includes further trials, including the Northern Territory Government's Public Housing Renewables Program Trial¹⁶ in Alice Springs that is expected to produce data

¹⁴ [Energy insecurity during temperature extremes in remote Australia](#)

¹⁵ [Terms-and-conditions-for-standard-retail-contracts.pdf \(jacanaenergy.com.au\)](#)

¹⁶ [Alice Springs public housing solar trial kicks in](#)

and lessons on how various metering types, including prepayment meters, interact with the Alice Springs Virtual Power Plant.

Final decision

The Commission has decided not to amend the Code to further regulate the use of prepayment meter systems, other than that discussed above in relation to new obligations requiring retailers to have an approved hardship policy for their prepayment meter customers.

Family violence policy

Background

The Northern Territory is the only jurisdiction not to have specified family violence protections for electricity supply customers.

Victoria was the first Australian jurisdiction to require energy retailers to have a family violence policy, through the Essential Services Commission's (ESC) Energy Retail Code. The requirement emerged from the Victorian Royal Commission into Family Violence (2016) which found that despite being in payment difficulty, customers experiencing family violence (affected customers) often could not access existing hardship programs. Further, it found that affected customers face unique safety challenges in their dealings with retailers. For example, affected customers often find it difficult to produce evidence of their circumstances, while auto-generated communications from retailers may disclose an affected customer's secure location. Standard hardship policies focusing solely on payment difficulty were therefore deemed to be insufficient in mitigating the risks experienced by affected customers.

The ESC's Energy Retail Code mandates that electricity retailers must have family violence policies that build on existing financial hardship policies through a prescribed set of minimum standards, including that the retailer must:

- provide specialised family violence training for staff on topics such as the nature and consequences of family violence and appropriate customer engagement
- take reasonable steps to elicit an affected customer's preferred method of communication and offer alternatives if the preferred method is not practicable
- provide for a secure process designed to avoid the need for an affected customer to repeatedly disclose their experience of family violence
- consider whether other persons are jointly or severally responsible for the energy debt, as well as the potential impacts of debt recovery on affected customers
- provide affected customers with information about external family violence support services and publish contacts on its website.
- seek limited forms of documentary evidence of family violence only when considering debt management or disconnection
- recognise family violence as a cause of payment difficulty with family violence an explicit criterion for access to a financial hardship program.

Similar family violence protections commenced in Western Australia on 20 February 2023, through changes to the WA Code. The WA Code requires the retailer to:

- develop, maintain and implement a family violence policy to assist vulnerable customers
- provide for staff training about family violence, with the training to be developed in consultation with, or delivered by, relevant consumer representatives

- help protect a customer's account information from third persons. This includes, for example, taking reasonable steps to establish a safe method of communication with the customer. Any method agreed with a customer will take precedence over a prescribed method of information delivery under the Code
- establish a process that avoids a customer having to repeatedly disclose or refer to their experience of family violence
- consider, before commencing debt recovery, the possible effect of debt recovery on the customer, and whether another person is responsible for the debt. The policy must also require the retailer to consider reducing and or waiving fees, charges and debt
- consider a customer's circumstances before commencing disconnection for failure to pay a bill and not disconnect for a period of nine months from the date the retailer becomes aware that the customer is a vulnerable customer other than in limited circumstances (disconnection moratorium).

For vulnerable prepayment meter customers, the WA Code provides two options:

- the customer may choose to remain on a prepayment meter arrangement and receive support from their retailer tailored to their circumstances that helps them avoid disconnection, with the retailer's family violence policy required to include that it must consider providing financial assistance to vulnerable prepayment meter customers
- the customer may access the disconnection moratorium by transferring to a standard meter, where the customer will receive bills and reminder notices and be entitled to payment plans to help the customer manage the costs of their electricity consumption.

In relation to New South Wales, Queensland, South Australia, Tasmania and Australian Capital Territory, on 1 May 2023, the AEMC's final rule commenced, which introduced new measures in the NERR to protect customers experiencing family violence.

The new measures in the NERR include that:

- retailers have a family violence policy that sets out how the retailer will identify and assist affected customers, and that the policy is published on the retailer's website and easily accessible
- a retailer's staff must understand the nature and consequences of family violence and be able to identify, engage appropriately and effectively with, and assist customers affected by family violence
- retailers must provide a secure method to identify affected customers and minimise the need for customers affected by family violence to repeatedly disclose their experiences
- retailers must have regard firstly to the safety of an affected customer and must take into account their personal circumstances in any dealing that they have with that customer
- family violence must be considered a likely cause of payment difficulties and hardship
- before retailers take action to recover arrears of payment from an affected customer, or sell the debt to a third party, they must take into account the impact of debt recovery action on an affected customer and whether other people are jointly or severally liable for the energy usage that resulted in the accumulation of arrears
- retailers must not disclose or provide access to affected customer information to another person (and must procure their contractors and agents not to disclose this information) without the customer's consent
- retailers must take reasonable steps to identify and use a safe method of communicating with customers. Once identified this preferred method takes precedence over all other communication requirements in the NERR
- customers cannot be required to provide documentary evidence as a precondition for receiving family violence protections
- retailers are to provide customers information about the availability of one or more external family violence support services, at a time and in a manner that is safe, respectful and appropriate for affected customers' circumstances, including publishing information on the retailer's website

- a retailer's family violence policy takes precedence over its market retail contract and neither the retailer nor the customer will be in breach of the retail contract for complying with the family violence rules.

The AEMC's final rule applies to both residential and small business customers. It uses the term 'family violence' for consistency with the Victorian code, but relies on the South Australian definition of domestic abuse in the *South Australian Intervention Orders (Prevention of Abuse) Act 2009*, which provides broad coverage of the types of relationships within which abuse may occur, including where one person is the carer of the other.

In considering whether there is a need for a family violence policy in the Territory, the Commission undertook research and analysis to assist it in making its Draft Decision, including of Australian Bureau of Statistics data on the annual victimisation rate for recorded family and domestic violence related assault for all jurisdictions (excluding Queensland and Victoria). Relevantly, in 2021, the Territory had the highest victimisation rate (2331 per 100 000 people), and was well above Western Australia, which had the second highest victimisation rate (853 per 100 000 people)¹⁷, noting this rate refers to family and domestic violence related assault only and does not take into account sexual assault and homicide.

The Commission noted in its Draft Decision that while there appears to be a lack of research and evaluation on whether or not family violence policies are effective in the electricity retail market, the Territory would be out of step with other Australian jurisdictions if it did not consider, in consultation with stakeholders, putting in place an obligation on retailers to have a family violence policy.

As such, the Commission's Draft Decision proposed to amend the Code to include an obligation on retailers to have a family violence policy for its customers approved by the Commission. The Commission acknowledged that retailers would require time to develop (and be able to implement) their family violence policies to submit to the Commission for approval and proposed a six-month transitional provision from commencement of the revised Code.

Submissions

Feedback on the Draft Decision on this matter was received from two stakeholders, Jacana Energy and the Researchers.

Jacana Energy supports the Commission's proposal to include obligations relating to retailers developing and implementing a family violence policy and the six-month transitional period. However, notes proposed new clause 14 does not include a clause similar to rule 76K of the NERR which provides that:

- if a retailer is unable to fulfil an obligation under a customer retail contract in complying with this Part, the retailer is not in breach of the contract
- if an affected customer is unable to fulfil an obligation under their customer retail contract in using their preferred method of communication with the retailer in accordance with rule 76H(2), the customer is not in breach of the contract.

Jacana Energy states that for consistency and clarity, proposed new clause 14 should be amended to include the requirements set out in rule 76K of the NERR.

The Researchers commend the Commission for introducing family violence protections in the Code, but note there is no proposed definition of 'family violence'. The Researchers suggest the Commission adopt the definition of domestic abuse in the South Australian definition consistent with the AEMC's approach, as it "provides broad coverage of the types of relationships within which abuse may occur – including where one person is a carer for the other, or where the relationship is established under cultural kinship rules". The Researchers also recommend the Commission strengthen the proposed obligation on a retailer to consider the provision of financial assistance to a prepayment meter customer that may be affected by family violence, similar to that in the WA Code, stating financial stress related to electricity services can be a trigger for violence. The Researchers also seek clarification on whether the family violence obligations will apply to Alcan Gove in relation to Nhulunbuy.

¹⁷ <https://www.abs.gov.au/statistics/people/crime-and-justice/recorded-crime-victims/2021>

Commission's decision and reasons

Consistent with all other jurisdictions, the Commission is aware that electricity supply, like other essential services, can be exploited by family violence perpetrators to harm their victims. Further, and as acknowledged by the Territory Government, the Territory experiences the highest rates of domestic and family violence in the country.¹⁸ As such, the Commission has decided to take action by introducing family violence protections in the Code, including a six-month transitional provision to provide retailers' time to develop (and be able to implement) their associated family violence policies.

The Commission notes all feedback received from stakeholders on this matter, both to the Issues Paper and Draft Decision, is supportive of introducing family violence protections in the Code, although additions and enhancements have been proposed by Jacana Energy and the Researchers.

The Commission has considered Jacana Energy's feedback that the Code should be amended to include the requirements set out in rule 76K of the NERR, which in simple terms seek to ensure retailers and customers are not in breach of contract if they comply with certain family violence obligations in the NERR. While the Commission understands Jacana Energy's reasoning as to why the provisions should be included, the Commission has decided not to include the equivalent of rule 76K of the NERR in the Code. This is because it is unlikely this could be implemented without amendments to Territory legislation, as the Code itself cannot preclude the enforcement of rights under a customer retail contract.

The Commission notes that Jacana Energy's Standard Retail Contract includes a provision that if any requirement of the contract is inconsistent with a requirement of electricity laws, the requirement of the electricity laws will prevail over the requirement in the contract to the extent of the inconsistency. Further, the Commission would expect retailers to revisit, and update as necessary, their customer contracts in light of the Code amendments detailed in this Final Decision.

While the Commission's Draft Decision was to not include a definition for the term 'family violence', following consideration of the Researchers' feedback, the Commission agrees that a definition that sets out the types of relationships where abuse may occur will help to provide certainty as to the application of the family violence customer protections. However, rather than rely on the South Australian legislation for a definition as suggested by the Researchers, the Commission has decided to define 'family violence' with reference to the term 'domestic violence' in the Territory's *Domestic and Family Violence Act 2007*. The Commission considers the Territory legislation covers the broad types of relationships that should be covered, including a carer relationship and a family relationship such as a relative of a person who, according to Aboriginal tradition or contemporary practice, is a relative of the person.

In relation to the Researchers' suggestion that strengthened obligations be put in place to require a retailer to consider the provision of financial assistance to a prepayment meter customer affected by family violence (or vulnerable customer more broadly), such as to have arrangements in place to avoid prepayment meter customer disconnection, the Commission has decided not to include such obligations in the Code. The Commission acknowledges this is inconsistent with Western Australia's approach to family violence protections where there is a prepayment meter. As discussed in the Draft Decision, the provision of prepayment meters in the Territory is generally not a customer choice but rather a government or other decision body's policy, meaning more comprehensive regulatory requirements for the use of prepayment meters is best considered by the Territory Government.

The Commission notes regulation 2A of the Utilities Commission Regulations 2001 states that the Commission is authorised to make a code relating to retail supply in the electricity industry, and while family violence retail customer protections is not listed in regulation 2A(2) as a matter the Code may deal with, the regulation makes it clear the Commission is not limited to those matters listed.

¹⁸ [Northern Territory Government Media Release - Funding for domestic, family and sexual violence frontline services](#)

Final decision

The Commission has decided to amend the Code to:

- require retailers to develop a family violence policy, submit it to the Commission for approval, and publish, implement and comply with the policy as approved
- include a definition for the term 'family violence', which relies on the Northern Territory definition of 'domestic violence' in the *Domestic and Family Violence Act 2007*
- include a transitional provision whereby the retailer must submit its proposed family violence policy to the Commission for approval within six months of commencement of the new obligation.

Approved amendments:

14 Family violence policy

14.1.1 Clause 14 applies in relation to a **retailer** and its **residential customers**.

14.1.2 The purpose of a **retailer's family violence** policy is to identify, engage with and assist **residential customers** affected by **family violence**.

14.1.3 A **retailer** must within 6 months of commencement of clause 14 or 3 months of being granted a **retail licence** by the **Commission** under Part 4 of the **ERA** if the **retailer** did not hold a **retail licence** on commencement of clause 14:

- develop a **family violence** policy in respect of **residential customers** of the **retailer**;
- submit the **family violence** policy to the **Commission** for approval;
- publish the policy, as approved by the **Commission**, on the **retailer's** website as soon as practicable after it has been approved; and
- maintain, implement and comply with the policy.

14.1.4 The **Commission** may direct the **retailer** to review the policy and make variations in accordance with any requirements set out by the **Commission** and the **retailer** must:

- vary the policy in accordance with the **Commission's** requirements;
- submit the varied policy to the **Commission** for approval;
- publish the policy, as approved by the **Commission**, on the retailer's website as soon as practicable after it has been approved; and
- maintain, implement and comply with the policy.

14.1.5 A **retailer** may vary its **family violence** policy independently of a direction referred to in clause 14.1.4, but only if the variation has been approved by the **Commission** and the varied policy is published on the **retailer's** website after the **Commission** has approved the variation.

14.1.6 The minimum requirements for a **family violence** policy of a **retailer** are that it must contain:

- processes to ensure the **retailer's** staff are able to:
 - understand the nature and consequences of **family violence**;
 - identify and engage appropriately with **residential customers** who may be affected by **family violence**;
 - assist **residential customers** who may be affected by **family violence** in accordance with this clause 14 and the **retailer's family violence** policy;
- for the purposes of subclause (a), staff includes the **retailer's** employees, contractors and agents who:
 - may engage with **residential customers** by any means of communication;
 - manages staff identified in subclause (b)(i); or

- (iii) are responsible for systems and processes that guide interactions with **residential customers**;
 - (c) processes to readily identify **residential customers** that may be affected by **family violence**;
 - (d) processes on how the **retailer** will engage with and assist **residential customers** that may be affected by **family violence**, including:
 - (i) avoiding the need for the **residential customer** to repeatedly disclose or refer to their experience of **family violence**;
 - (ii) having regard firstly to the safety of the **residential customer**, as far as the **customer's** safety is impacted by them being affected by **family violence**;
 - (iii) taking into account the particular circumstances of the **residential customer**, including before taking action to recover arrears from the **residential customer**, before transferring the **residential customer's** debt to a third party debt collector or before disconnecting the **residential customer's** supply address for failure to pay a bill;
 - (iv) considering the provision of financial assistance to a **prepayment meter customer** that may be affected by **family violence**;
 - (v) identifying and using the **residential customer's** preferred method of communication to the extent practicable;
 - (vi) taking reasonable steps to protect the **residential customer's** information, including information about their whereabouts, contact details, or financial or personal circumstances; and
 - (e) a list of one or more external **family violence** support services.
- 14.1.7 A **retailer** must not require a **residential customer** or a third party acting on behalf of a **residential customer** to provide any documentary evidence of **family violence** as a precondition to applying this clause 14 or the **retailer's family violence** policy.

Schedule 1 Definitions and interpretations

family violence – means 'domestic violence' as defined in the *Domestic and Family Violence Act 2007*.

Metering requirements

Background

Jacana Energy recommended the Commission consider as part of its review of the Code putting in place additional metering requirements. Jacana Energy acknowledged that Chapter 7A of the NER (NT) currently regulates some aspects of metering but stated that it is unclear as to when the underlying metrology requirements from the National Electricity Market (suitably modified to reflect the circumstances of the Territory's electricity industry) will commence to apply in the Territory electricity industry.

Chapter 7A of the NER (NT) is a modified version of Chapter 7 of the NER. While the contents of Chapter 7A of the NER (NT) are similar to that in the NER, a significant number of obligations on the Territory's metering data provider do not apply until 1 January 2024, noting this timing includes a two year extension actioned by the Territory Government in December 2021 through the National Electricity (Northern Territory)(National Uniform Legislation)(Modification) Amendments Regulations 2021.

Some Chapter 7A provisions are currently in force. For example, up until 1 January 2024 the NER (NT) requires the metering data provider to use its best endeavours to maximise the quality of metering data and transparency in processes for verifying, validating, calculating and estimating metering data. Further, the Commission has been allocated functions under the NER (NT), including responsibility for auditing metering installations when requested by a registered participant or NTESMO. Additionally, PWC and all Territory retailers have coordination agreements in place that include provisions regarding metering data.

The Commission's Draft Decision was not to amend the Code to put in place additional metering requirements. This was on the basis that the Territory Government has taken responsibility for putting in place the regulatory framework for metering in the Territory, including the timing for commencement of obligations on PWC as the metering data provider. Any metering requirements needed to fill the gap until the commencement of the 'full' Chapter 7A of the NER (NT) is a policy decision for government.

Submissions

No submissions were received in response to the Draft Decision on this matter.

Commission's position and reasons

Consistent with the Draft Decision, and noting there were no submissions received indicating associated concerns, the Commission has decided not to amend the Code in relation to this matter.

Final decision

The Commission has decided not to amend the Code to put in place additional metering requirements.

Correction of account errors

Background

Jacana Energy proposed the Commission consider prescribing in the Code requirements relating to more accurate metering and data records, more detailed obligations relating to billing requirements and accuracy, and a time limit for the correction of account errors.

The Commission's Draft Decision discussed that Chapter 7A of the NER (NT), while not as comprehensive as Chapter 7 in the NER, seeks to ensure accurate metering and data records in the Territory, albeit with a protracted transition period. In relation to Jacana Energy's proposal that the Code be amended to include a time limit for the correction of account errors, the Commission advised this would be best negotiated and agreed between the relevant parties, potentially as part of coordination agreements between PWC and retailers.

The Commission's Draft Decision was not to amend the Code in relation to the correction of account errors.

Submissions

On 13 February 2023, Jacana Energy wrote to the Commission to advise it had conducted a further review into account errors and ask that its comment and request to amend the Code in relation to account errors in section 11 of the Draft Decision be withdrawn. Jacana Energy's letter states it supports the Commission's proposal not to amend the Code in this instance.

Commission's decision and reasons

Given Jacana Energy originally proposed the amendments to the Code in relation to the correction of account errors, and subsequently supports the Commission's Draft Decision not to amend the Code, the Commission has decided not to amend the Code in relation to this matter.

Final decision

The Commission has decided not to amend the Code in relation to the correction of account errors.

Distributed energy resources – NER and NERR access and pricing incentives

Background

PWC proposed the Commission consider whether further amendments to the Code are required to reflect outcomes under the AEMC's distributed energy resources access and pricing rule change.

The AEMC's final determination amended the NER and NERR to put in place obligations on distribution businesses to support energy flowing both ways and to offer a basic export level in all their tariffs, to introduce customer safeguards to help transition to export pricing and to require the AER to undertake a review considering incentive arrangements for distribution businesses to deliver efficient levels of export service and performance, among other things.

The Commission noted in its Draft Decision that the adoption of the NER, and potentially the NERR in the future, is a Territory Government policy matter and as such, it is not appropriate to address this matter as part of the Code review. Accordingly, the Commission's Draft Decision was not to amend the Code.

Submissions

No submissions were received in response to the Draft Decision on this matter.

Commission's decision and reasons

Consistent with the Draft Decision, and noting there were no submissions received indicating associated concerns, the Commission has decided not to amend the Code in relation to this matter.

Final decision

The Commission has decided not to amend the Code to reflect outcomes under the AEMC's distributed energy resources access and pricing rule change.

Clarification of roles and responsibilities related to solar PV export

Background

PWC recommended the Commission consider amending the Code to clearly define the responsibility of market participants in relation to solar PV export and feed-in-tariffs. More specifically, PWC considers the Code should define that feed-in-tariffs are the responsibility of the customer's retailer and that export data is the responsibility of the network service provider.

A feed-in-tariff is a rate paid by an electricity retailer to an electricity customer for electricity the customer puts into the network, such as excess energy generated by rooftop solar PV infrastructure. Retailers in the Territory that offer a feed-in-tariff include Jacana Energy and Rimfire Energy.

The Commission's Draft Decision was not to amend the Code as proposed by PWC, noting there is no regulatory obligation for retailers to offer customers a feed-in-tariff and the responsibilities PWC is seeking to codify are consistent with the general responsibilities of a retailer and meter data provider, being the retailer is responsible for billing, tariffs and dealing directly with customers and PWC is responsible for providing the meter data to retailers to enable billing.

Submissions

Stakeholder feedback was received from Jacana Energy, which supports the Commission's Draft Decision not to amend the Code. No other submissions were received on this matter.

Commission's decision and reasons

Consistent with the Draft Decision, and noting there were no submissions received indicating associated concerns, the Commission has decided not to amend the Code in relation to this matter.

Final decision

The Commission has decided not to amend the Code to define the responsibility of market participants in relation to solar PV export and feed-in-tariffs.

Definition of verifiable consent

Background

PWC identified a need to amend the definition of verifiable consent in the Code to account for the reference in clause 10.4B.1(d)(ii), in relation to life support equipment required at a premises, and to clarify that verifiable consent can be in written form or a recorded phone call.

Clause 10.4B of the Code provides network provider obligations in relation to customers requiring life support equipment at their premises. This includes, at clause 10.4B.1(d), that in the case of an interruption that is a planned interruption, from the date the life support equipment will be required at the premises, the network provider must give the customer at least four business days written notice of the interruption to supply at the premises or obtain the customer's verifiable consent to the interruption occurring on a specified date.

Verifiable consent is defined in Schedule 1 to the Code as, in relation to a request for historical consumption data request form or a customer transfer request form, consent that is given by a customer:

- (a) expressly;
- (b) in writing;
- (c) after the retailer obtaining the consent has in plain language appropriate to the customer disclosed all matters materially relevant to the giving of the consent, including each specific purpose for which the consent will be used;
- (d) by a person whom a retailer (acting reasonably) would consider competent to give consent on the customer's behalf; and
- (e) expires on the earlier of:
 - (i) the time that either, historical consumption data is provided or the transfer of a customer occurs;
 - (ii) the time specified in or ascertainable from the verifiable consent as the time of expiry of the verifiable consent; or
 - (iii) the first anniversary of the date the verifiable consent was given.

Notably, the definition of verifiable consent in Schedule 1 to the Code does not specifically refer to a customer's verifiable consent to a planned interruption on a specified date where the customer requires life support equipment at their premises, as per clause 10.4B.1(d)(ii). This is a gap in the Code.

The Commission's Draft Decision acknowledged the gap identified by PWC and a further gap, in relation to clause 8.3.5(c). Clause 8.3.5(c) requires reasonable steps to be taken to obtain verifiable consent to establish a formal electricity supply contract where a retailer is the responsible retailer at a greenfield exit point or at

an exit point at which the retailer's electricity supply contract with a customer has terminated or expired and the retailer will be seeking to bill a customer using data accessed under clause 8.3.4 of the Code.

The Commission's Draft Decision proposed to amend the definition of verifiable consent in the Code to address both gaps, and to allow verifiable consent to be obtained verbally, as long as the verbal consent can be verified, such as through a recorded phone call (as proposed by PWC) and by electronic communication generated by a customer.

Submissions

Stakeholder feedback in support of the Draft Decision was received from Jacana Energy. No other submissions were received on this matter.

Commission's decision and reasons

Amendments to the Code to address the identified gaps in the definition of verifiable consent and to allow verifiable consent to be obtained verbally and by electronic communication generated by a customer are considered necessary to ensure the Code is contemporary and fit-for-purpose.

Final decision

The Commission has decided to amend the definition of verifiable consent in the Code to provide for the instances contemplated in clause 10.4B.1(d)(ii) of the Code in relation to life support equipment required at a premises and clause 8.3.5(c) of the Code in relation to greenfield and other exit points.

The Commission has decided to amend the Code to also allow verifiable consent to be obtained verbally, as long as the verbal consent can be verified, such as through a recorded phone call or by electronic communication generated by a customer.

Approved amendments:

Verifiable consent - ~~in relation to a request for **historical consumption data request form** or a **customer transfer request form**~~ means consent **to a transaction** that is given by a **customer**:

- (a) expressly;
- (b) **either** in writing;
 - (i) **in writing signed by the customer;**
 - (ii) **verbally, so long as the verbal consent is evidenced in such a way that it can be verified, such as a recorded phone call;**
 - (iii) **by electronic communication generated by a customer;**
- (c) after the **retailer or network provider** obtaining the consent has in plain language appropriate to the **customer** disclosed all matters materially relevant to the giving of the consent, including each specific purpose for which the consent will be used;
- (d) by a person whom a **retailer or network provider** (acting reasonably) would consider competent to give consent on the **customer's** behalf; and
- (e) expires on the earlier of:
 - (i) **where the consent relates to a specific transaction**, the time that ~~either, historical consumption data is provided or the transfer of a customer occurs~~ **the transaction occurs; or otherwise**
 - (ii) the time specified in or ascertainable from the verifiable consent as the time of expiry of the verifiable consent; or
 - (iii) the first anniversary of the date the verifiable consent was first given.

Broadening those groups eligible for support

Background

In response to the Draft Decision, the Researchers made a new recommendation for the Code in relation to broadening those considered eligible for regulatory protections from disconnection or financial support so as to include certain health conditions, age and other relevant issues.

The Researchers highlight the necessity of refrigeration for medicines and healthy food for the health and wellbeing of priority populations in the Territory, including the elderly, the unwell or the very young. The Researchers also state they recognise 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 organisations.

The Researchers note these issues are not directly addressed in the proposed changes to the Code in the Draft Decision and state they are cognisant that the Commission is operating within the context of timelines for a proposed review of energy policy by the Office of Sustainable Energy. The Researchers' submission seeks to draw attention to specific examples as being instructive.

Submissions

No submissions were received, as this is a new matter proposed by the Researchers.

Commission's position and reasons

The Commission notes the additional insights and suggestions provided by the Researchers and considers these more policy issues for government's consideration, similar to that discussed in the Draft Decision, and this Final Decision in relation to feedback advocating for increased regulation of prepayment meters.

In relation to the Researchers' proposal for additional financial support so as to include certain health conditions, age and other relevant issues, the Commission notes the Territory Government's Northern Territory Concession Scheme¹⁹ provides concessions on a range of essential goods and services to help with living expenses including electricity. Eligibility for the Northern Territory Concession Scheme includes those that meet residency requirements and receive an eligible Centrelink benefit, such as an Aged Pension, Disability Support Pension, Carer Pension or Parenting Payment (single).

Further, members of the Northern Territory Concession Scheme who are 65 years and older may also be eligible for the Northern Territory Senior Recognition Scheme, which provides a \$500 prepaid card each financial year to spend as the senior chooses.

Final decision

The Commission has decided not to amend the Code in relation to this matter.

¹⁹ [NT Concession Scheme](#)

12 | Transitional arrangements

The Commission has decided to amend the Code to provide transitional provisions for the following new obligations:

- a retailer and network provider to publish basic life support equipment customer information on their websites, in relation to their customers in major centres and outside major centres as applicable, three months from commencement of the provision
- a retailer and network provider to develop, make and publish standard complaints and dispute resolution procedures, and publish contact details for NT Consumer Affairs or NT Ombudsman as applicable, three months from commencement of the provision
- a retailer to develop and submit to the Commission a hardship policy for its residential customers six months from commencement of the provision
- a retailer to develop and submit to the Commission a hardship policy in relation to its prepayment meter customers six months from commencement of the provision
- a retailer to develop and submit to the Commission a family violence policy six months from commencement of the provision.