Utilities Commission of Northern Territory

Electricity Retail Supply Code Review – Issues Paper

utilities.commission@nt.gov.au

August 2nd 2021

Submission in response to the Electricity Retail Supply Code Review by:

Dr Thomas Longden at the Australian National University's Crawford School of Public Policy
https://researchers.anu.edu.au/researchers/longden-t

Dr Lee White at the Australian National University's School of Regulation and Global Governance
https://researchers.anu.edu.au/researchers/white-lx

Dr Simon Quilty at the Australian National University's Research School of Population Health
https://researchers.anu.edu.au/researchers/quilty-s

Brad Riley at the Australian National University's Centre for Aboriginal Economic Policy Research
https://researchers.anu.edu.au/researchers/riley-b

Thank you for the opportunity to make a submission to the NT Utilities Commission Electricity Retail Supply Code Review. Our submission offers our responses to Questions 11, 12, 13,14,16,17 and 18 as posed in the Issues Paper. Some of the issues raised are complex and we are keen to engage in further discussions. Longden, White and Riley are researchers at the Australian National University. Dr Quilty is Senior Staff Specialist at Alice Springs Hospital. We are available for further discussions and our contact details are available above on our ANU websites.

Response to Consultation Questions 11,12,13,14,16,17 and 18:

11. **Should the ERS Code allow for exceptions to Clause 10.6 whereby a customer could provide their written consent to retain a prepayment meter despite requiring life-support equipment at their premises? Why?**

The use of Life-Support Equipment implies that the patient's health status is critical. These critical-care customers might reasonably be expected to consult a medical professional to make an informed decision about the significant risks posed by an interruption to household energy service. For example, the risk involved will differ based on the health condition/s they have and the life-support equipment provided.

Prepayment metering upends the well-established principle that disconnection should only ever be 'a measure of last resort', and that no-one should be disconnected from energy - an 'essential service' - because of their inability to pay; instead ensuring that disconnection remains a chief and constant risk faced by households of limited means. And, as Rich and Mauseth (2004) caution;

> 'Prepayment meters discourage suppliers from improving their processes for dealing with customers in hardship as they are able to disengage from these issues. If suppliers are of the opinion that the provision of alternative or flexible payment arrangements is a worthy objective in itself, they should ensure that the flexibility and range of alternative payment

> plans, billing cycles and payment methods offered by them are optimal and meet the demands of customers before embarking on such risky changes as the introduction of prepayment meters.'

Undoubtedly, customers need to be well-informed of the risks of prepayment, including anticipated rates of disconnection upon non-payment, and the current limited extent of consumer protections. As the Commission acknowledges in their review, such information is scant. Furthermore, as the Essential Services Commission of Victoria reports;

> 'Increased rates of disconnections are not the only barriers facing First Nations consumers. It was found that for Aboriginal and Torres Strait Islander communities accessing support and information remains a significant barrier to interacting with the market.'

While we support and encourage greater payment options and choice for residents requiring uninterrupted access to Life-Support Equipment, we note that in this case 'consenting' to prepayment is synonymous with exempting themselves from broader protections. We consider that there should not be an 'out' for the provider – where choosing prepayment absolves them of the requirement to avoid any possibility for Life-Support customers disconnecting.

While previously underreported, what is known is that rates of disconnection among pre-pay customers in the NT are significant, both in frequency and in duration, as stated in Tangentyere Council's submission to the Homelessness Inquiry (Klerck 2020), shown below;

	Smart Prepayment Meters (PPM) April-June 2019				
	PPMs	PPMs Disconnecting		Mean Duration	
	#	#	%	Minutes	Hours
Darwin	457	331	72%	454	8
Katherine	834	413	50%	460	8
Alice Springs	570	420	74%	455	8
Tennant Creek	513	316	62%	480	8
Total	2374	1480	62%		

Source: https://irp-cdn.multiscreensite.com/d440a6ac/files/uploaded/House%20of%20Representatives%20Inquiry%20into%20Homelessness%20in%20Australia%202020.pdf

We urge the Commission to introduce more consumer protections and additional reporting requirements for remote and regional customers, especially for those currently utilizing prepayment metering, while cautioning that the risk of disconnection for Life-Support customers using this form of payment is currently unknown, though likely higher than for post-paid customers.

Furthermore, the current framing of the question is problematic, presenting the issue as a binary. Residents can choose (or consent) to a greater level of choice in their payment options, or to those disconnection protections available to post-paid consumers, but in the remote Northern Territory they can't have *both*. Clearly this arises from the legacy of limited disconnection protections afforded prepayment customers, a situation which is inconsistent with the aim of protecting vulnerable consumers.

This sets up a situation in which life-support customers can seemingly self-select to opt-out from broader energy market protections, for the very reason that the vulnerability of prepayment consumers has long been overlooked, a position difficult to reconcile.

The objective, first and foremost must be to avoid disconnecting life-support customers, not to shift responsibility for the avoidance of disconnection from retailers to already vulnerable consumers.

We note that in other parts of Australia (and internationally) residents cannot be disconnected from electricity when life support equipment is being used, and;

- They are provided ample time to provide sufficient evidence of their situation (i.e. 'provide the customer at least two written notices to remind the customer that the customer must provide medical confirmation'). Page 96 - https://www.aemc.gov.au/sites/default/files/2021-05/NERR%20v27%20full.pdf

- They are also offered a standard post-payment meter when there are 3 or more disconnections in any 3 month period. Page 113 - https://www.aemc.gov.au/sites/default/files/2021-05/NERR%20v27%20full.pdf

- In the US a number of consumer protections target vulnerable groups, such as Texas which prohibits pre-payment meter enrolment for those diagnosed with severe medical conditions that require electricity services to maintain temperatures or to run devices. https://www.puc.texas.gov/agency/rulesnlaws/subrules/electric/ch25complete.pdf

- Similarly, many EU states have also introduced protection from disconnection, many with a particular focus on extreme temperatures and vulnerable groups. https://www.nature.com/articles/s41560-018-0316-8

People with significant health issues who rely upon stable and uninterrupted power supply for vital equipment – oxygen concentrators, refrigerators for medication, and so on – should be provided information regarding the extent of their consumer rights with regards to the importance of an uninterrupted electricity service. Similarly, we recommend that Doctors and nurses treating these patients should also be educated about the policies and processes available for patients with such needs to better inform health care planning.

Such people with significant health issues may also reside in regional and remote communities and town-camps where there are pre-existing extreme housing shortages and overcrowding and where tenancy is complex. In such households, the need for secure electricity supply for an individual requiring Life Support Equipment will impact upon an entire household's financial circumstances. It is thus to be expected that individuals requiring Life Support Equipment will sometimes opt to retain prepayment meters to reflect the broader household circumstances over their individual health needs. For such an individual, registering bank account details with an electricity provider for post-payment deductions will mean that this individual, who already suffers a significant health vulnerability, now pays for the entire household's electricity at the expense of their individual financial security.

Certainly, prepayment should not be an option for those who report frequent disconnection unless there are remedial processes and policies to protect prepayment meters from disconnecting which speaks to the need for greater reporting and monitoring.

We can say firmly that it is our view that prepayment consumers should at all stages be able to revert back to post-pay without charge (as is required under NERR in other parts of Australia https://www.aemc.gov.au/sites/default/files/2021-07/NERR%20-%20v28%20-%20Part%208.pdf , where prepayment customers facing frequent disconnection can opt to have a post-pay meter re-installed at no cost).

We note that innovative examples (see Bushlight 2001-2013) have included the provision of 'essential' or protected circuits to a limited number of essential circuits effectively putting a 'floor' under the complete disconnection of the household, and suggest alternative options may be worth investigating.

We would appreciate being directed to existing or draft information and explicit consent guidelines. If it hasn't already the UC should consider seeking advice from medical professionals, or establishing a working group focussed on vulnerable groups and Life-Support customers, that considers energy security as a contributor to the determinants of health.

ESC Victoria, (2021) Getting to Fair – breaking down barriers to essential services, Draft May 6th 2021, p.45

Klerck, M. (2020) Tangentyere Council, Submission to the House of Representatives Inquiry into Homelessness in Australia. Alice Springs, NT: Tangentyere Council AC

Rich, N., Mauseth, M. (2004) Access to Energy and Water in Victoria – A Research Report, Consumer Law Centre Victoria and Consumer Utilities Advocacy Centre p.118

12. Should the ERS Code be amended to explicitly state that retailers and network providers must comply with their approved life support equipment procedures for outside major centres? Why?

Yes, the ERS Code should be amended to explicitly state that retailers and network providers comply with their approved life support equipment procedures for outside major centres.

Given the significant gap in health outcomes experienced by rural and remote, and Indigenous Territorians, not only should the ERS code be amended to compel network providers to comply with these procedures outside major urban centres, but the ERS code should ensure extra protections for these communities.

It is known that remote and regional small customers in the NT face frequent disconnection from energy services (Klerck 2020). Interruption to household energy supply is recognised as a significant health risk due to the negative impacts (both physical and psychological) of a loss of access to electricity (Hernández 2013) and the AER insists disconnection should only ever be a 'last resort'. Many jurisdictions have introduced protections for customers including more stringent protections for customers identified as being at high risk for energy poverty, customers with limited ability to pay (which overlaps with, but is not entirely synonymous with energy poverty), and protections during conditions that would be harmful to customers (including during extreme temperatures, extreme weather events, and when customers rely on electricity to maintain health) (Dobbins 2019, Flaherty 2020).

Some jurisdictions, such as Texas in the U.S., prohibit vulnerable customers from being placed on pre-pay rates in the first place. This is tied to assessment of whether electricity is critical for a customer's health. For example, a Critical Care Residential Customer is a "residential customer who has a person permanently residing in his or her home who has been diagnosed by a physician as being dependent upon an electric-powered medical device to sustain life."

In these circumstances a Chronic Condition Residential Customer is a "residential customer who has a person permanently residing in his or her home who has been diagnosed by a physician as having a serious medical condition that requires an electric-powered medical device or electric heating or cooling to prevent the impairment of a major life function through a significant deterioration or exacerbation of the person's medical condition." Neither of these types of customers may be enrolled in pre-pay in Texas.

Energy insecurity is increasingly seen as a health issue worldwide and maintaining access to essential services is especially important for those who have pre-existing medical conditions or health vulnerabilities particularly for those who live in regions where extreme temperatures are regular – which describes most of the Northern Territory.

Energy insecurity has the capacity to undermine other outcomes aligned to housing, health, and wellbeing to which state and Territory governments and community organisations are committed. If households deserve protection in one location, from a justice perspective they would deserve commensurate protection in any other location and the most comprehensive protections should apply regardless of where the consumer facing hardship resides.

For example, those on Life Support Equipment are highly vulnerable to adverse events and worsened health if life-support equipment is rendered inactive by disconnection from electricity supply. Providers responsibilities to ensure uninterrupted access to medical services and devices should not differ-based on whether someone lives in a capital city, major town or remote community, nor whether their preference is for pre or post-paid billing arrangements.

It is our view that given the known poor population health of remote living people in the Northern Territory, the ERS code needs to consider an expanded definition of approved Life Support Equipment through engagement with NT Department of Health. Although we note that (g) in 'Definitions of Life Support Equipment' allows flexibility in interpretation depending on the medical practitioner, aspects of these standards are routinely overlooked by clinicians. For example, the ERS Code definition could benefit by being expanded to include any customer who is prescribed with a medication that needs to be stored within defined temperature ranges (for instance, salbutamol for asthma – 15-30 deg. C, insulin – 2-8 deg. C). There is also evidence that certain health vulnerabilities are exacerbated by extreme temperatures. Similarly, where these specific vulnerabilities have been epidemiologically established (for instance, renal disease and extreme heat) and where there are specific climate-related vulnerabilities for a household, the Code could benefit by being expanded to include climate control (air conditioning or heating). The ERS could also benefit by describing how such life support equipment procedures are to be communicated to healthcare practitioners.

More details at:
http://www.puc.texas.gov/agency/rulesnlaws/subrules/electric/25.497/25.497ei.aspx

References:

Dobbins, A., Fuso Nerini, F., Deane, P., Pye, S., 2019. Strengthening the EU response to energy poverty. Nat. Energy. https://doi.org/10.1038/s41560-018-0316-8

Flaherty, M., Carley, S., Konisky, D.M., 2020. Electric utility disconnection policy and vulnerable populations. Electr. J. 33, 106859. https://doi.org/10.1016/j.tej.2020.106859

Hernández, D., 2013. Energy insecurity: a framework for understanding energy, the built environment, and health among vulnerable populations in the context of climate change. Am. J. Public Health 103, e32-4. https://doi.org/10.2105/AJPH.2012.301179

Klerck, M. (2020) Tangentyere Council, Submission to the House of Representatives Inquiry into Homelessness in Australia. Alice Springs, NT: Tangentyere Council AC

13. Should the ERS Code include an obligation on retailers and network providers to regularly review their life support equipment procedures outside major centres? Why?

Yes, because the situation regarding the state of energy insecurity in remote communities, and for prepayment customers particularly, is acknowledged by the Commission as being unreported prior to 2018/19.

Therefore, the situation should be monitored closely until more data becomes available, and changes made as required in the most timely manner practicable, in support of individual, household and communal energy security.

14. If so, how often?

24 months

16. Should the ERS Code be amended to include an obligation on retailers to have an approved hardship policy for small customers? Why?

Yes, the ERS Code should be amended to include an obligation on retailers to have an approved hardship policy for small customers.

We support the Commission's recommendation to Government that it put in place formal fit-for purpose obligations on retailers to have an approved hardship policy for small customers. However, we note the use of the caveat 'appropriate for the Territory's circumstances' – and caution against further watering down critical consumer protections for (predominantly Aboriginal) prepayment customers.

It is most important to consider what the hardship policy should support – ideally, it should aim to provide additional protections to vulnerable customers. Definitions of hardship should be based not on income thresholds, but on recognised concepts such as energy poverty and energy insecurity – that is, a household is facing energy-related hardship if they are having to make trade-offs between paying for energy and paying for other basic necessities (Dobbins et al. 2019, Hernandez 2016, Anderson et al. 2012, Bouzarovski et al. 2012, Snell et al. 2015). A household should be able to pay for enough energy to support thermal comfort and other basic needs such as washing people, clothes, and dishes. In the EU, definitions of "vulnerable customers" are increasingly based on concepts such as energy poverty; vulnerable customers are variously defined as socio-economic groups, based on receipt of social welfare, disability and/or health status, and by considering energy

affordability (Dobbins et al. 2019). Policies can require that these groups be financially supported, provided with additional disconnection safeguards, and targeted for consumer engagement and energy efficiency measures (Dobbins et al. 2019).

There is also a need to provide information about the increased risk of disconnection on prepay customers who are making decisions regarding entering these systems. Will an increased likelihood of immediate disconnection from energy services be explained as an issue that these customers may experience? Will this be compared to what other customers, such as those on post-pay, typically experience?

References

Anderson, W., White, V., Finney, A.: Coping with low incomes and cold homes. Energy Policy. 49, 40–52 (2012). https://doi.org/10.1016/J.ENPOL.2012.01.002

Bouzarovski, S., Petrova, S., Sarlamanov, R.: Energy poverty policies in the EU: A critical perspective. Energy Policy. 49, 76–82 (2012). https://doi.org/10.1016/j.enpol.2012.01.033

Dobbins, A., Fuso Nerini, F., Deane, P., Pye, S., 2019. Strengthening the EU response to energy poverty. Nat. Energy. https://doi.org/10.1038/s41560-018-0316-8

Hernández, D.: Understanding 'energy insecurity' and why it matters to health. Soc. Sci. Med. 167, 1–10 (2016). https://doi.org/10.1016/J.SOCSCIMED.2016.08.029

Snell, C., Bevan, M., Thomson, H.: Justice, fuel poverty and disabled people in England. Energy Res. Soc. Sci. 10, 123–132 (2015). https://doi.org/10.1016/J.ERSS.2015.07.012

17. If the answer to question 16 is yes, should the Commission consider and approve a retailer's proposed hardship policy based on alignment with the AER's customer hardship guideline, but with some flexibility to provide for the Territory's circumstances? Why?

Yes, the Commission should require retailers bring their hardship policies in line with the AER and the NERR. However, we note the use of the caveat 'with some flexibility to provide for the Territory's circumstances' and caution against any further exemptions from critical consumer protections. As stated above, if households deserve protection in one location, from a justice perspective they would deserve commensurate protection in any other location and the most comprehensive protections should apply regardless of where the consumer facing hardship resides.

18. Are there any issues or other matters not already identified in this Issues Paper the Commission should consider as part of the ERS Code review, and if so what should it consider and why?

Yes. Remote living Indigenous NT communities are often disadvantaged by location, poor-quality, energy inefficient and inadequate housing, limited access to Territory supports, generally low incomes and restricted access to thin labour markets. They also experience an absence of choice in their energy system and in the provider available to them. Disconnection from the services that energy provides is more frequent for prepayment customers than post-paid customers, and their energy costs are higher. We recommend developing additional consumer protections for remote residents and service standards for small-scale and off-grid consumers.

Consumers should be able to access their own historical electricity data usage easily and freely – to the extent that this is tracked within retailer systems. Minimum requirements will vary with meter

type. If a customer has a smart meter, then they should be able to access their hourly usage data for the time of their tenure at the property. If they have a meter that does not collect this data, then minimally aggregated data on their own historical use should be provided.

Critically, information should be provided to address two core categories:

1. To allow customers to calculate their expected bills on various rates (if desired) based on their own historical usage data, and;
2. To allow customers to understand typical experiences of other customers on different rate types (such as average costs and disconnection rates for post-paid and pre-paid plans).

To understand how much to budget for pre-pay, customers would need access to their historical energy use and payment details. Without this information, it is difficult to see how they can make informed choices. Key data would allow customers to calculate expected electricity budgets. Data required for this calculation would include their historic total kWh usage during each season, and the per kWh tariff that they would pay on current or new rates.

There is also a critical need for Territory retailers to monitor and report on involuntary self-disconnection data associated with prepayment, and for this data to be made available to 1) the residents and communities that the data pertains to, 2) community-controlled organisations that have been on the frontlines of mitigating energy hardship since the introduction of 'user-pays' in remote Indigenous communities, and 3) to researchers such as those at universities who can provide analysis to inform future policy making in this key area.

This should include (1) average kWh usage; (2) average expenditure ($); (3) total number (frequency and start time) of completed self-disconnection events, and (4) average duration of completed self-disconnection events.

The timing, frequency, and duration of disconnections should be monitored and reported on by retailers on the most granular basis practicable. This may be per week/month/quarter. It is likely that rates of same-day and multi-day disconnections will change based on underlying demand for energy, driven by seasonal changes and critical daily events (such as extreme temperatures that require electricity use for heating or cooling). Disconnection may also be impacted by other structural (poor-quality housing and fixed high energy use appliances) or socio-economic factors. We note that disconnection rates among pre-pay customers have been high in international studies. In New Zealand, 53% of pre-pay customers experienced self-disconnection in a year (O'Sullivan et al. 2013). This is much higher than disconnection rates experienced by post-paid customers.

This points to the importance of data sharing, and is in line with the Council of Australian Governments 'Closing the Gap in Partnership: Priority Reform Four' (COAG 2019) which calls for the greater sharing of, and access to, data and information at a regional level, noting that "disaggregated data and information is most useful to Aboriginal and Torres Strait Islander organisations and communities to obtain a comprehensive picture of what is happening in their communities and to support decision making" (NACG 2020).

Internationally the movement to secure local ownership and control of data relating to Indigenous peoples is known as Indigenous data sovereignty (Yu 2012, Kukatai and Taylor 2016). Greater capacity building and sharing of data with community-controlled organisations can do much to support community and service provider efforts to improve energy security within remote communities, many of whom are likely to be users of new 'smart' prepayment metering technology.

Other jurisdictions, such as California, have introduced regulatory requirements for the sharing of energy monitoring data for research purposes. The California Public Utilities Commission (Decision 14-05-016) requires that energy data be made accessible to local government entities, researchers, and state and federal agencies while providing appropriate protections for privacy of consumer data. Given the challenges identified by the NT UC in the process of evaluating evidence-based protections for remote and regional prepayment consumers previously this type of access should extend to involuntary self-disconnection data.

We note that the current lack of transparency inherent in prepayment metering arrangements ensure customers have no way of considering their consumption relative to other consumers, while post-payment account holders can readily compare their daily consumption with comparable houses in the NT.

Furthermore, for prepayment customers, when disconnection occurs following the end of prohibition conditions, residents still experience a complete loss of access to the services that energy provides (such as refrigeration and lighting). Systemic changes would be needed to address the issues underlying challenges managing prepay that contribute to debt accumulation. For example, it is important for pre-pay consumers to be able to see how much credit remains on their meter from a display conveniently located and visible inside their home. It is important that this does not rely on an internet connection which can be compromised when electricity is discontinued. This provision of information is critical for consumers to be able to better manage electricity costs and avoid disconnection. Other innovative examples (see Bushlight 2001-2013) have included the provision of 'essential' protected circuits which put a 'floor' under connection for a limited number of 'essential' appliances.

There is also a need for much greater diversity of payment mechanisms. For example, disconnections will mean that home internet will stop working (if that service exists in the home), and so a reliance on web-based payment options is not always suitable. While smart-meters offer the convenience of online credit 'top-up' this requires a degree of digital literacy, infrastructure and Wi-Fi credit. Smart meters also offer the convenience of credit card purchase however many residents are often restricted in their purchasing to those items accessible on a Basics Card. The flexibility of old pre-paid 'powercards' has been changed for many NT residents with the introduction of 'smart' metering, and the introduction of a limited number of cards (two).

Greater diversity of languages is also needed when communicating with remote and regional First Nations consumers. This should include Aboriginal and Torres Strait Islander languages and other non-English language materials. Some customers may find spoken material much more accessible than written material. If it hasn't already the UC should consider establishing a Remote Energy Security Working Group - membership of which could include representative community-controlled organisations, the Department of Education as well as organisations that focus on vulnerable groups (such as key health, social service and advocacy groups).

References:

Centre for Appropriate Technology (2012) Bushlight's Community Energy Planning Model https://cfat.org.au/ bushlights-community-energy-planning-model

Council of Australian Governments (2019) Partnership Agreement on Closing the Gap 2019-2029, https://www.coag.gov.au/sites/default/files/agreements/partnership-agreement-closing-the-gap_2.pdf

Kukutai, T.,Walter M. (2015) Recognition and indigenizing official statistics: reflections from Aotearoa New Zealand and Australia. Statistical Journal of the IAOS 31 p. 321 – 326

NACG (2020) National Agreement on Closing the Gap in Partnership, Reform Priority 4: Shared access to data and information at a regional level https://www. closingthegap.gov.au/priority-reforms

O'Sullivan, K. C., Howden-Chapman, P. L., Fougere, G. M., Hales, S. & Stanley, J. Empowered? Examining self-disconnection in a postal survey of electricity prepayment meter consumers in New Zealand. Energy Policy 52, 277–287 (2013).

Yu, P. (2012) The power of data in Aboriginal hands. Topical Issue 4. Centre for Aboriginal Policy Research, Australian National University.