

ELECTRICITY RETAIL SUPPLY CODE REVIEW

ISSUES PAPER

June 2021

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Glossary

AER	Australian Energy Regulator
Electricity supply industry	Means the industry involved in the generation, supply and sale of electricity or other operations of a kind prescribed by the Electricity Reform Regulations
ER Act	<i>Electricity Reform Act 2000</i>
ERS Code	Electricity Retail Supply Code
Jacana Energy	Power Retail Corporation, trading as Jacana Energy
Licence	Means a licence granted by the Commission under the <i>Electricity Reform Act 2000</i>
NECF	National Energy Customer Framework
NERL	<i>National Energy Retail Law</i>
NER (NT)	National Electricity Rules as amended for the Northern Territory
NERR	National Energy Retail Rules
NTERR	Northern Territory Electricity Retail Review
PWC	Power and Water Corporation
Responsible Minister	The Minister to whom the <i>Utilities Commission Act 2000</i> is committed, currently the Treasurer
RoLR	Retailer of Last Resort
Territory Generation	Power Generation Corporation, trading as Territory Generation
UC Act	<i>Utilities Commission Act 2000</i>

INTRODUCTION

Purpose of the Review

The Utilities Commission (the Commission) is reviewing the Electricity Retail Supply Code (ERS Code) to ensure its content and operation is of continued relevance and effectiveness for the electricity supply industry in the Northern Territory.¹

About the Utilities Commission

The Commission is an independent statutory body established by the *Utilities Commission Act 2000* (UC Act) with defined roles and functions for economic regulation in the electricity, water supply and sewerage services industries and declared ports in the Northern Territory.²

The Commission seeks to protect the long-term interests of consumers of services provided by regulated industries with respect to price, reliability and quality.

The Commission aims to ensure consumer requirements are met by enhancing the economic efficiency of regulated industries through promoting competition, fair and efficient market conduct and effective independent regulation.

The Commission has functions under various Acts (and associated regulations) including the UC Act, *Electricity Reform Act 2000* (ER Act), *Water Supply and Sewerage Services Act 2000* and the *Ports Management Act 2015*.

Submissions

This Issues Paper identifies matters to be considered as part of the review of the ERS Code and invites submissions from all stakeholders. The Issues Paper includes a series of explicit questions to stakeholders, which appear like this:

Question X	Example question?
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The Commission encourages stakeholders to provide sufficient detail in their submissions, including any alternative approaches the Commission should consider and why, in order to aid the Commission in its review.

All interested parties are invited to make submissions on the Issues Paper, or any other issue relevant to the review by **2 August 2021**.

In the interest of transparency, the Commission strongly encourages all stakeholders to make their submissions publicly available, and to keep any confidential information to a minimum.

¹ Section 24(9) of the UC Act.

² Regulated industries for the purpose of the UC Act are declared by section 13 of the ER Act, section 7(1) and (2) of the *Water Supply and Sewerage Services Act 2000* and section 119(1) of the *Ports Management Act 2015*.

Confidential information may include:

- information that could affect the competitive position of an entity or other person or
- information that is commercially sensitive for some other reason.

Submissions must clearly specify the document (or part of it) that contains confidential information. A version of the submission suitable for publication (that is, with any confidential information removed) should also be submitted.

To facilitate publication, submissions should be provided electronically by email to utilities.commission@nt.gov.au in Adobe Acrobat or Microsoft Word format.

Any questions regarding this Issues Paper or the review should be directed to the Commission by telephone (08) 8999 5480 or email utilities.commission@nt.gov.au.

Timetable

The review is expected to be completed by the end of the 2021-22 financial year. The key dates for the review, subject to stakeholder feedback, are shown in Table 1.

Table 1 ERS Code Review key dates

Stage	Time
Issues Paper released	June 2021
Public consultation	June - August 2021
Draft version of amended ERS Code released	February 2022
Public consultation	February - April 2022
Final version of amended ERS Code released	June 2022

Following approval by the Commission, the revised ERS Code will be available on the Commission's website www.utilicom.nt.gov.au.

ABOUT THE REVIEW

Background

The Commission is reviewing the ERS Code to ensure its content and operation is of continued relevance and effectiveness.

The Commission is responsible for the promotion and safeguard of competition and fair and efficient market conduct or, in the absence of a competitive market, the simulation of competitive market conduct and the prevention of the misuse of monopoly power.

The Commission has, among others, the following functions³:

- to develop, monitor and enforce compliance with and promote improvement in standards and conditions of service and supply under relevant industry regulation Acts
- to make, monitor the operation of, and review from time to time, codes and rules relating to the conduct or operations of a regulated industry or licensed entities under relevant industry regulation Acts.

The Commission is authorised to make a code relating to retail supply in the electricity supply industry⁴. Accordingly, the Commission issued the ERS Code on 3 August 2011, with amendments subsequently made in January 2016 and more recently, in November 2019.

The November 2019 ERS Code update 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 ERS Code issues or gaps at that time. As such, the Commission committed to a subsequent review of the ERS Code from a first principles approach, this review.

Relevantly, the Commission also committed to considering amendments to the ERS Code in its 2018-19 and 2019-20 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, the Commission recommended the Territory Government consider putting in place fit-for-purpose obligations on retailers to have an approved hardship policy as part of a broader customer protection framework, which has not yet been actioned and could be considered for inclusion in the ERS Code.

The review will consider and address the known issues and gaps discussed above and any additional issues raised by stakeholders during consultation, as appropriate.

³ Section 6(1)(c) and (d) respectively of the UC Act.

⁴ Regulation 2A of the Utilities Commission Regulations.

Legislative requirements and review process

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 industry.⁵

The ER Act defines an electricity entity as ‘a person licensed under Part 3 to carry on operations in the electricity supply industry and includes (where the context requires) a person who has been licensed to carry on operations in the electricity supply industry under that Part whose licence has been suspended or cancelled or has expired.’ The licence conditions in the ER Act, clause 24(1)(a) state that compliance with applicable codes or rules made under the UC Act is required, which includes the ERS Code.

Regulation 2A of the Utilities Commission Regulations 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.

In accordance with section 24(4) of the UC Act, the Commission will consult with stakeholders including the responsible Minister, representative bodies and industry participants before varying the ERS Code. The responsible Minister is the Treasurer. The Commission will also consult with the Minister for Renewables and Energy, and Essential Services as a stakeholder, being the Minister responsible for the relevant parts of the ER Act.

Through this Issues Paper, the Commission invites submissions on any issues or gaps that should be considered as part of the review.

Subsequently, the Commission will seek feedback from stakeholders on a draft version of the revised ERS Code, which will inform the final version.

In accordance with clause 2.3.1 of the ERS Code, in deciding whether to vary or revoke the ERS Code, or impose any additional or varied obligations on an electricity entity, the Commission will:

- seek to promote and achieve the object of the UC Act
- seek to promote and achieve the object of the ER Act
- have regard to matters listed in section 6(2) of the UC Act.

⁵ Section 24(1) and (3) of the UC Act and Regulation 2A of the Utilities Commission Regulations.

At the appropriate time, the Commission will give notice of any variation of the ERS Code to the responsible Minister and each licensed entity to which the ERS Code applies, as required by section 24 of the UC Act. A notice advising of variations to the ERS Code will be published in the Northern Territory Government Gazette, and a copy of the revised ERS Code will be published on the Commission's website www.utilicom.nt.gov.au.

Scope of the Review

The review of the ERS Code will consider the following matters:

- the overall relevance and effectiveness of the ERS Code
- credit support requirements between generators and retailers (clause 3.2)
- coordination agreements (clause 4.1)
- metrology (clause 5.1) in relation to the requirement for interval metering
- retailer of last resort (clause 9)
- life support equipment (clause 10.6) in relation to prepayment meters
- life support equipment (clause 10.7) in relation to customers outside major centres
- dispute resolution process (clause 11.1)
- potential hardship policy obligation on retailers
- additional issues raised by stakeholders during consultation, where appropriate.

ISSUES FOR CONSIDERATION

This section of the Issues Paper provides detail regarding a number of known issues or gaps, and matters identified through the operation of the ERS Code and previous reviews, and poses a series of related questions to stakeholders.

Relevance and effectiveness of the ERS Code

In 2010, the Commission received a retail licence application from a privately owned electricity retailer seeking to enter the Northern Territory electricity supply industry. At that time, the Territory's electricity supply regulatory framework did not contain any specific requirements to facilitate retail supply activities between electricity entities, with the Power and Water Corporation (PWC) the only retailer of electricity in the Territory.

Accordingly, the Commission made the ERS Code in 2011, to address the gap and provide electricity entities certainty about the rules and obligations associated with retail supply activities, such as the transfer of customers between retailers, billing and service order arrangements.

The Commission has previously acknowledged that the ERS Code would be further developed over time, based on industry practice, the entry of retail competition, experience in operating the ERS Code and development of the regulatory framework. Relevantly, clause 2A of the Regulations does not limit the matters the ERS Code may deal with, other than that they relate to retail supply in the electricity supply industry.

Most recently, in 2019, amendments were made to the ERS Code to, among other things, reflect changes in the Northern Territory electricity supply industry, such as the Territory Government's adoption of the National Electricity Law and Rules, modified for the Territory, and to introduce new protections for electricity customers that require life support equipment in their homes.

Notably, there are similar electricity retail supply regulatory arrangements in other Australian jurisdictions. In Western Australia, the Code of Conduct for the Supply of Electricity to Small Use Customers 2018 defines standards of conduct and service levels in the supply and marketing of electricity to customers, including billing, connection, disconnection, life support equipment, financial hardship, complaints and dispute resolution, and compensation payments⁶.

In Victoria, the Energy Retail Code sets out the rules that electricity (and gas) retailers must follow when selling energy to Victorian customers. It covers matters including billing, customer contracts, customer transfers, financial hardship policies, complaints and dispute resolution, disconnection, marketing and life support equipment.

The National Energy Retail Rules (NERR) govern the sale and supply of energy (electricity and natural gas) from retailers and distributors to customers in New South Wales, Queensland, South Australia, Tasmania and the Australian Capital Territory. The NERR also provides for matters including billing, customer contracts, customer transfers, hardship policies, complaints

⁶ Notice – Publication of Final Decision - New Code of Conduct for the Supply of Electricity to Small Use Customers 2018 <https://www.erawa.com.au/cproot/19014/2/Notice%20-%202018%20Elec%20Code%20Review%20Final%20Decision.pdf>

and dispute resolution, customer connections, disconnections, marketing and life support equipment.

The Commission notes there is no specific electricity (or energy) customer protection framework in the Territory and that the ERS Code goes some way to providing appropriate customer protections for Territory electricity customers. However, it does not (and likely cannot under the current framework) address all potential gaps.

The Territory Government has recently advised the Commission that the Office of Sustainable Energy will be undertaking analysis of an appropriate customer protection framework for the Territory during 2021, including consideration of recommendations made by the Commission in its 2019-20 NTERR and previous NTERRs. The Commission assumes, and recommends, the Office of Sustainable Energy review other Australian jurisdictions' frameworks and consider adopting the relevant parts, amended for the Territory's circumstances, through legislation.

Given it will take time for the government to investigate and implement a suitable Territory energy customer protection framework, and that a framework is still required to facilitate retail supply activities between Territory electricity entities, the Commission proposes that there remains a need for the ERS Code and is interested in stakeholders' views on the matter.

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| Question 1 | In general, is the ERS Code still relevant for the Territory's electricity supply industry? Why? |
| Question 2 | Are there any matters that should be removed or added to the ERS Code to make it more relevant and/or effective given the current state of the Northern Territory electricity industry? |

Credit Support Requirements

ERS Code reference: [Clause 3.2 Credit support requirements between generators and retailers](#)

Definitions included in the ERS Code that are relevant to this section are listed in Table 2.

Table 2 Relevant ERS Code definitions

Term	ERS Code definition
Acceptable credit rating	Means a credit rating of BBB+ (or its equivalent) or higher from Standard and Poors, Fitch Ratings or Moody's Investor Services, a Dun & Bradstreet Dynamic Risk Score of Low or better, or a credit rating as otherwise specified in guidelines.
Credit support	Means a security supporting the obligations of a retailer to a generator or network provider (whichever is applicable) to pay: <ul style="list-style-type: none"> (a) the generator for generation services provided to the retailer; or (b) the network provider for network services provided to the retailer, and having the characteristics required by clause 3.4.

Guidelines	Means a 'guideline' made by the Commission in accordance with clause 1.5.
Required Generation Credit Support Amount	Means the monetary amount calculated in accordance with clause 3.2.

Clause 3.2 of the ERS Code sets out credit support requirements between generators and retailers.

Under clauses 3.2.1 of the ERS Code, a generator may require a retailer to provide credit support up to the Required Generation Credit Support Amount. Notwithstanding this, clause 3.2.2(a) of the ERS Code states that if the retailer or its parent company has an acceptable credit rating, the Required Generation Credit Support Amount is nil.

As listed above, an acceptable credit rating is defined in the ERS Code to mean a credit rating of BBB+ (or its equivalent) or higher from Standard and Poors, Fitch Ratings or Moody's Investor Services, a Dun & Bradstreet Dynamic Risk Score of Low or better, or a credit rating as otherwise specified in guidelines. There is no credit rating specified in guidelines.

In September 2017, Territory Generation proposed amendments to the existing credit support provisions in the ERS 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.

Territory Generation reiterated its position in its 2019 submission to the draft (at that time) ERS Code. It stated the primary purpose was to provide retailers with an incentive to ensure timely payment of statements charges, especially to retailers with a history of late payment. Territory Generation further stated its proposed amendments were reasonable, good policy and does not attempt to penalise any retailers in an unfair and unreasonable manner.

The Commission has previously stated that a generator can address the risk of late payment from a retailer through their private contract arrangements. However, the Commission committed in its November 2019 Final Amendments to Electricity Retail Supply Code Statement of Reasons to undertake further consultation with stakeholders on Territory Generation's proposed amendments in relation to credit support as part of the next review of the ERS Code, this review.

Question 3	Should the ERS Code include a clause to allow generators to request a retailer to provide credit support if they have poor payment history, even if they have an acceptable credit rating as defined in the ERS Code? Why?
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If the ERS Code was to be amended to allow a generator to request a retailer to provide credit support, it would be necessary to determine an appropriate trigger or definition in relation to 'poor payment history', and the amount of credit support that could be requested.

The Commission notes the national energy framework includes retailer-distributor credit support requirements, to provide a mechanism for distributors to manage the risk of retailer default. Under the framework, in relation to both electricity and gas, a distributor may request credit support from a retailer where the retailer, in the previous 12 months has failed to pay in full:

- the charges contained in three statement of charges by the due date for payment;

- the charges contained in two consecutive statement of charges by the due date for payment; or
- the charges contained in one statement of charges within 15 business days of the due date for payment.

The amount of credit support the distributor may request is equal to the amount of the last statement of charges that triggered the request for credit support.

The Commission is seeking feedback from stakeholders on whether the credit support provisions in the national energy framework, as summarised above in relation to distributors and retailers, would be suitable for the Territory's circumstances, but in relation to generators requiring credit support from retailers.

Question 4	If the answer to question 3 is yes, should the definition of 'poor payment history' be similar to that defined in the national energy framework's retailer-distributor credit support requirements? If no, how should it be defined?
Question 5	If the answer to question 3 is yes, is a credit support amount equal to the amount of the last statement of charges that triggered the request for credit support appropriate? If not, how should the credit amount be determined?

Coordination Agreement

ERS Code reference: [Clause 4.1 Coordination Agreement](#)

Definitions included in the ERS Code that are relevant to this section are listed in Table 3.

[Table 3 Relevant ERS Code definitions](#)

Term	ERS Code definition
Customer	Has the meaning given to that term in the ER Act.
Interruption	Means a temporary unavailability or temporary curtailment of the supply of electricity to a customer's premises, but does not include unavailability or curtailment in accordance with the terms and conditions of a customer retail contract or customer connection contract, and any applicable tariff, agreed with the customer.
Network Access Legislation	Means the legislation regulating connection to and use of electricity networks as in force in the Northern Territory from time to time, being the National Electricity (NT) Rules.
Network access services	Means services provided to network users by a network provider whether in the form of connection services or use of system services or both.

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

Under clause 4.1.1 of the ERS 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 approved 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, including arrangements whereby the retailer has responsibility for taking up any customer complaints about the quality of services being supplied with the licensee. A corresponding condition is contained in retail licences.

The Commission considers that its oversight of some matters, through specifying and approving some Coordination Agreement matters (or terms) is appropriate, to protect the customers. However, specifying some coordination matters in the ERS Code and other coordination matters in network and retail licences, may not be the best approach. It also may not be appropriate to require the Commission to approve the entire Coordination Agreement, including terms that relate to commercial matters.

As such, this review provides an opportunity to consider the specific coordination matters included in clause 4.1.1 of the ERS Code, noting licence conditions in relation to coordination will be considered by the Commission in the future, as part of a broader review of the electricity licensing regime.

The Commission has previously received informal feedback from licensees that the coordination matters (or terms) specified in clause 4.1.1 of the ERS Code are not clear as to what specifically the Commission must approve and what would be considered a commercial matter between the two entities, particularly in relation to the coordination of customer billing.

The Commission is seeking stakeholder feedback in relation to clause 4.1.1 of the ERS Code, including whether the current matters (or terms) specified to be included, and approved by the Commission, in a Coordination Agreement are clear and/or appropriate.

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| Question 6 | Are the matters (or terms) specified in clause 4.1.1 of the ERS Code, which are to be included, and approved by the Commission, in a Coordination Agreement, clear? Are they appropriate? Why? |
| Question 7 | Are there any additional matters (or terms) that should be specified in clause 4.1.1 of the ERS Code to be included, and approved by the Commission, in a Coordination Agreement? If yes, what are they and why should they be specified? |

Metrology – Requirement for interval meter

ERS Code reference: Clause 5.1 Requirement for interval metering

Definitions included in the ERS Code that are relevant to this section are listed in Table 4.

Table 4 Relevant ERS Code definitions

Term	ERS Code definition
Accumulation meter	Means a meter where the data recorded in the meter and/or data logger represents a period in excess of a 30 minute period ending on the hour (CST) or on the half hour and, where identified by a time, means the 30 minute period ending at that time.
Exit point	Means a point at which electricity is transferred to or from an electricity network to a customer.
Interval meter	Means a meter that records data electricity consumption at regular time intervals of no more than half an hour

Clause 5.1.1 of the ERS Code states a retailer must not initiate a transfer 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 interval meter may be either manually or remotely read by the network provider under clause 5.1.2 of the ERS Code.

An interval meter, as defined in the ERS Code, is a meter that records data electricity consumption at regular time intervals of no more than half an hour. Relevantly, as mentioned above, it can be either manually or remotely read by the network provider.

The requirement for an interval meter to transfer to another retailer was originally included in the ERS 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, such as load profiling.

Currently, the cost for a customer to upgrade their meter from an accumulation meter to an interval (smart) meter at their request is about \$566 (ex GST).⁷ The Commission considers this a barrier to retail competition, as it is unlikely that a customer will be willing to pay this cost to change retailers.

PWC has previously stated 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. The Department of Treasury and

⁷ https://www.powerwater.com.au/_data/assets/pdf_file/0024/46293/Power-and-Water-Corporation-Alternative-Control-Service-Fee-Based-and-Quoted-services-2020-21.pdf

Finance has also previously expressed concerns with the costs for PWC to develop a Territory-specific system, which would likely flow to electricity consumers.

The Commission understands the number of interval meters connected to the Darwin-Katherine and Alice Springs power systems continues to grow, primarily due to PWC's new and replacement smart meter policy, with about 20,000 smart meters installed by the end of 2020.

Given PWC's new and replacement smart meter policy and the large number of accumulation meters already replaced with smart meters, the Commission is seeking stakeholder feedback on whether the ERS Code requirement for an interval meter to switch retailer should remain.

Question 8 Should a customer with an accumulation meter be able to transfer to a new retailer without having to replace their accumulation meter with an interval meter (in other words, should clauses 5.1.1 and 5.1.2 of the ERS Code be removed)? Why?

Further, in relation to clauses 5.1.1 and 5.1.2 of the ERS Code, PWC previously proposed that the term 'interval meter' be revised to require a 'Type 1 to 4 meter' to align the language and terms used in Chapter 7A of the National Electricity Rules (NT) (NER NT) with the ERS Code.

The Commission notes that Type 1 to 5 meters are interval meters, while Type 1 to 4 meters are interval meters that can be remotely read. As such, replacing the term 'interval meter' with 'Type 1 to 4' would in effect mandate that a customer must have a more advanced meter than currently allowed under clause 5.1.2 of the ERS Code, being a manually or remotely read meter.

The Commission has previously acknowledged that remote reading of interval meter data may assist PWC to operate more efficiently in relation to the collection, processing and billing of data, however it is not necessary from a customer transfer perspective.

The Commission is seeking feedback from stakeholders on whether the requirement for an interval meter to switch retailers be amended to require a Type 1-4 meter.

Question 9 Should the requirement for an interval meter to switch retailers be amended to require a Type 1-4 meter as defined in the NER (NT)? Why?

Retailer of Last Resort

ERS Code reference: Clause 9 Retailer of Last Resort

Definitions included in the ERS Code that are relevant to this section are listed in Table 5.

Table 5 Relevant ERS Code definitions

Term	ERS Code definition
Retailer of Last Resort	Jacana Energy to be the Retailer of Last Resort.
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 an order is made by a court of competent jurisdiction 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 that occurs that has substantially similar effect to any of the events set out in clauses 9.1.2 (a) to (e).

Clause 9 of the ERS Code provides Retailer of Last Resort (RoLR) provisions.

The purpose of a RoLR provisions is to ensure that in the event of an electricity retailer failure, for example due to insolvency or cessation of their licence, 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 their National Energy Retail Laws. 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 an act; 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 ERS Code includes RoLR provisions, with Jacana Energy the designated RoLR.

The Commission has considered other jurisdictions' RoLR schemes at a high level and is of the view that a strengthened and more fit-for-purpose RoLR scheme could be achieved through provision in Territory legislation, rather than through the Commission's ERS Code. The Commission has concerns that a RoLR scheme that is not contained in or authorised by legislation may not be as effective as a scheme that is contained in legislation.

We understand that the Office of Sustainable Energy will be considering retail of last resort issues as part of its upcoming review of consumer protections. This would provide an opportunity to replace the current ERS Code provisions with a more comprehensive legislated RoLR scheme. As such, the Commission is seeking stakeholder feedback on amending the ERS Code to remove the clause 9 ERS Code RoLR provisions.

Question 10 Should the ERS Code be amended to remove the Retailer of Last Resort provisions (RoLR) so that a comprehensive RoLR scheme suitable for the Territory's circumstances can be provided for in legislation? Why?

Life Support Equipment – prepayment meters

ERS Code reference: Clause 10.6 Prepayment meters

Definitions included in the ERS Code that are relevant to this section are listed in Table 6.

Table 6 Relevant ERS Code definitions

Term	ERS Code definition
Life support equipment	Means any of the following: <ul style="list-style-type: none"> (a) An oxygen concentrator; (b) an intermittent peritoneal dialysis machine; (c) a kidney dialysis machine; (d) a chronic positive airway pressure respirator; (e) crigler najjar syndrome phototherapy equipment; (f) a ventilator for life support; and (g) in relation to a particular customer—any other equipment that a registered medical practitioner certifies is required for a person residing at the customer’s premises for life support.
Prepayment meter	Means a meter that requires a prepayment for the supply of electricity prior to consumption.

Clause 10.6 of the ERS Code seeks to ensure that customers with persons at their premises requiring life support equipment do not have a prepayment meter.

A prepayment meter is a type of meter that requires the customer to pay for electricity usage in advance. It works similar to a pay-as-you-go mobile phone plan and is an option to assist in managing consumption and help avoid payment difficulties. However, when a prepayment meter runs out of credit, there is a risk of disconnection. While disconnection is an inconvenience for most customers, for those relying on life support equipment, the consequences are potentially fatal.

Given the need to protect those requiring life support equipment in their home, the Commission amended the ERS Code in November 2019 to include clause 10.6, which is consistent with that in the National Energy Customer Framework (NECF).

However, since the ERS Code amendment to include new clause 10.6, the Commission has been made aware of circumstances where a customer requiring life support equipment at their premises strongly preferred to remain on a prepayment meter. The customer’s view was that they were able to manage their own life support equipment, with backup oxygen tanks replenished regularly and a support network of family and the community checking on them. The customer indicated it would cause hardship if they were forced to have a post-paid meter.

The Commission notes that in Queensland, clause 60D(1) of the *National Energy Retail Law (Queensland) Act 2014* sets out the steps to be taken if a premises is registered as having life

support equipment, including removal of the card-operated meter, installation of a standard meter and the provision of information regarding the retail contracts available. Clause 60D(2) states 'subsection (1) does not apply if the small customer gives the retailer explicit informed consent for the card-operated meter to continue to be used at the premises.' Clause 60D(4) adds 'the retailer must adopt programs and strategies to help the small customer to better manage the customer's electricity costs to avoid the card-operated meter installed on the premises from preventing the flow of electricity to the premises solely due to financial difficulty'.

The Commission is seeking feedback from stakeholders on whether it would be appropriate to amend the ERS Code to allow for exceptions to clause 10.6 whereby a customer could provide their written explicit informed consent to retain a prepayment meter despite requiring life support equipment at their premises.

Question 11 Should the ERS Code 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? Why?

Life Support Equipment – outside major centres

ERS Code reference: Clause 10.7 Protections for life support equipment customers outside major centres

Clause 10.7 of the ERS Code set 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 requires a retailer and network provider to develop and submit to the Commission for approval within three months of the commencement of version 3 of the ERS Code (the current version), life support equipment procedures for each geographical area in which it sells electricity to customers for domestic use or owns 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 ERS Code to include these life support equipment provisions, among other things, the Commission has become aware that while all relevant licensees must comply with the ERS Code in accordance with their respective licence conditions, the ERS Code does not explicitly state that a retailer or network provider must comply with its approved life support equipment procedures.

To address this gap, the Commission considers an amendment to the ERS Code would be appropriate and as such, is seeking stakeholder feedback on the matter.

Question 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?

Clause 10.7.7 of the ERS Code states that if requested to do so by the Commission, a network provider or retailer must consider whether amendments to the life support equipment procedures should be made. However, there is no obligation in the ERS Code for the network

provider or retailer to review their life support equipment procedures on a regular basis to ensure they still achieve the intent and are appropriate for the relevant geographical areas they cover.

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

Question 14 If so, how often should their procedures be reviewed? Why?

Dispute resolution process

ERS Code reference: [Clause 11.1 Dispute resolution process](#)

Clause 11.1 of the ERS Code sets out a dispute resolution process for disputes between a network provider and a retailer; retailers; a network provider and the system controller; a retailer and the system controller; or a retailer and a generator.

The ERS Code does not, however, 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.

The Commission has previously highlighted, in its annual NTERRs that there is no legislated obligation on retailers in the Territory to have in place internal dispute resolution procedures in line with Australian standards and electricity industry best practice. Therefore, retailers are left to determine what is appropriate regarding the handling of disputes, which may not always be in the best interests of consumers.

While government could, and it may be more appropriate to, implement such an obligation on retailers through other legislative instruments as part of a broader customer protection framework, the Commission, in its 2019-20 NTERR, stated it would consider inclusion of internal dispute resolution procedures in an updated ERS Code.

The Commission notes that Section 81 of the *National Energy Retail Law* (NERL) requires every relevant retailer (and distributor) to develop, make and publish on its website a set of procedures detailing the retailer's (or distributor's) procedures for handling small customer complaints and disputes. These procedures must be regularly reviewed and kept up to date and must be substantially consistent with the Australian Standard AS ISO 10002-2006 (Customer satisfaction—Guidelines for complaints handling in organizations) as amended and updated from time to time.

Section 82 of the NERL requires, among other things, a retailer (or distributor) to handle a relevant customer complaint in accordance with its standard complaints and dispute resolution procedures, including any time limits applicable under those procedures for handling a complaint. The Commission considers this an internal dispute resolution process.

It is noted that despite having no obligation to do so, Jacana Energy publishes its complaints resolution procedure on its website, and Rimfire Energy has a brief overview and general information in relation to its complaints resolution procedure on its website. Notwithstanding this, without specific obligations as mentioned above, retailers determine their own complaints resolution process or procedure, which may not be in line with Australian standards and electricity industry best practice.

Accordingly, the Commission is seeking feedback on whether the ERS Code should be amended to include internal dispute resolution obligations that are appropriate for the Territory's circumstances on retailers and/or network providers.

Question 15 Should the ERS Code 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? Why?

Potential hardship policy obligations

The Commission's 2019-20 NTERR and previous NTERRs discussed that 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 electricity retailers to have a hardship policy in place. Accordingly, retailers in the Territory are left to determine what is appropriate regarding hardship provisions, which may not always result in the best outcome for customers or alignment with best practice.

Nationally all jurisdictions except the Territory have customer protection obligations in relation to hardship. For example, in relation to NECF jurisdictions, the Australian Energy Regulator (AER) is obligated by the NERL to produce and publish a customer hardship policy guideline. A retailer must submit a customer hardship policy to the AER for approval that complies with the customer hardship guideline.

While the Commission noted in its 2019-20 NTERR that Jacana Energy had made significant improvements to its hardship policy, which it proactively has in place, it is not fully aligned with the national obligations. Relevantly, the Commission's 2019-20 NTERR discussed that the current hardship policy gaps may have contributed to fewer customers successfully completing Jacana Energy's hardship program compared to NECF jurisdictions and more disconnections due to non-payment than necessary. As such, the Commission recommended government consider putting in place formal fit-for-purpose obligations on retailers to have an approved hardship policy for small customers appropriate for the Territory's circumstances, in line with electricity industry best practice.

The Commission committed to continue working within its powers and with the Territory Government to understand its position and, where appropriate, assist in the implementation of its hardship policy recommendation. As such, the Commission is seeking feedback from stakeholders on whether this gap should be addressed through amendments to the ERS Code.

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

Question 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?

Additional stakeholder issues

As part of the ERS Code review, the Commission welcomes additional stakeholder feedback in relation to potential issues or gaps not already identified in this Issues Paper.

Question 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?

APPENDICES

Appendix A: Consolidated list of questions for stakeholders

Question number	Question	Issues Paper
Question 1	In general, is the ERS Code still relevant for the Territory's electricity supply industry? Why?	Page 10
Question 2	Are there any matters that should be removed or added to the ERS Code to make it more relevant and/or effective given the current state of the Northern Territory electricity industry?	Page 10
Question 3	Should the ERS Code include a clause to allow generators to request a retailer to provide credit support if they have poor payment history, even if they have an acceptable credit rating as defined in the ERS Code? Why?	Page 11
Question 4	If the answer to question 3 is yes, should the definition of 'poor payment history' be similar to that defined in the national energy framework's retailer-distributor credit support requirements? If no, how should it be defined?	Page 12
Question 5	If the answer to question 3 is yes, is a credit support amount equal to the amount of the last statement of charges that triggered the request for credit support appropriate? If not, how should the credit amount be determined?	Page 12
Question 6	Are the matters (or terms) specified in clause 4.1.1 of the ERS Code, which are to be included, and approved by the Commission, in a Coordination Agreement, clear? Are they appropriate? Why?	Page 13
Question 7	Are there any additional matters (or terms) that should be specified in clause 4.1.1 of the ERS Code to be included, and approved by the Commission, in a Coordination Agreement? If yes, what are they and why should they be specified?	Page 13
Question 8	Should a customer with an accumulation meter be able to transfer to a new retailer without having to replace their accumulation meter with an interval meter (in other words, should clause 5.1.1 and 5.1.2 of the ERS Code be removed)? Why?	Page 15
Question 9	Should the requirement for an interval meter to switch retailers be amended to require a Type 1-4 meter as defined in the NER (NT)? Why?	Page 15

Question number	Question	Issues Paper
Question 10	Should the ERS Code be amended to remove the Retailer of Last Resort provisions (RoLR) so that a RoLR scheme suitable for the Territory's circumstances can be provided for in legislation? Why?	Page 16
Question 11	Should the ERS Code 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? Why?	Page 18
Question 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?	Page 18
Question 13	Should the ERS Code include an obligation on retailers and network providers to regularly review their life support equipment procedures for outside major centres? Why?	Page 19
Question 14	If so, how often should their procedures be reviewed? Why?	Page 19
Question 15	Should the ERS Code 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? Why?	Page 20
Question 16	Should the ERS Code be amended to include an obligation on retailers to have an approved hardship policy for small customers? Why?	Page 20
Question 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?	Page 20
Question 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?	Page 21