



Submission to:

**ENERGY COMPETITION
COMMITTEE**

**Electricity Full Retail Competition:
Proposed Electricity Industry Code**

**Centre for Credit and
Consumer Law, Griffith University**
With funding from the National Consumers Electricity
Advocacy Panel

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Table of contents

1. About the Centre for Credit and Consumer Law	4
2. About this Submission	4
3. Introduction	5
4. Priority issues	6
5. Responding to key points in the proposed Electricity Industry Code	11
6. Other comments	17

Acronyms

CCCL - Centre for Credit and Consumer Law

CLCV – Consumer Law Centre Victoria

ECPO – Energy Consumer Protection Office

EDR - External Dispute Resolution

EIC - Electricity Industry Code

ESC - Essential Services Commission

FRC - Full Retail Competition

GSLs - Guaranteed Services Levels

NEM - National Electricity Market

NGO – Non-Government Organisation

QCA – Queensland Consumers Association

1. About the Centre for Credit and Consumer Law

The Centre for Credit and Consumer Law is an academic centre, hosted by Griffith University Law School.

The Centre for Credit and Consumer Law was established in March 2004 to be a source of expertise, and a centre of excellence, on credit and consumer law issues, and it has the overall objective of promoting the attainment of a fairer, safer, and more efficient marketplace, particularly for low income and vulnerable small end-users.

The Centre for Credit and Consumer Law is funded by the Queensland Government's Consumer Credit Fund (administered by the Office of Fair Trading) and Griffith University. However, this submission is possible because of funding received by the Centre for Credit and Consumer Law from the National Consumers Electricity Advocacy Panel.

2. About this Submission

The Centre for Credit and Consumer Law (CCCL) welcomes the opportunity to provide a submission to the Energy Competition Committee (ECC) in relation to Consultation Paper No.5 'Consumer Protection Provisions for Electricity and Gas' (9 May 2006) and the subsequent revised and released drafts of the Electricity Industry Code (referred to as the Code) and the Standard Customer Sale Contract and Standard Customer Connection Contract.

The Code is the main focus of this submission. In this Submission we have focused on provisions that are likely to impact hardest on vulnerable and disadvantaged consumers. Time and resources constraints did not allow us to review the Standard Customer Sale Contract and Standard Customer Connection Contract in detail or the remainder of Consultation Paper No. 5. However we wish to make the point that the ECC needs to ensure that the Codes and Contracts are entirely consistent with one another. We note that as the Code is the umbrella under which the contracts sit our review of the Code will necessarily cover elements of the Contracts.

The CCCL is well situated to comment on the proposed policy changes as it has a project underway that is examining Queensland's integration into the National Electricity Market (NEM). As part of this project consumer advocates and residential consumers in Queensland have been consulted on the proposed introduction of FRC as part of a wider examination of changes to the regulatory environment. A 12-member committee comprising a range of community organisations, interested residential consumers and members of Regional Electricity Councils also advises the project.

3. Introduction

We conditionally welcome the release of a comprehensive Code and the related Standard Customer Sale Contract and Standard Customer Connection Contract. This brings Queensland broadly in line with other states and territories and establishes key elements in relation to consumer protection provisions particularly with regard to the establishment of an Electricity Industry Code. These Codes and Contracts also reflect elements of our previous submission to the ECC including recommendations in relation to the following:¹

- customer protection framework relating to customer codes and regulations
- minimum standard terms and conditions for customer contracts
- price disclosure guidelines
- retail supply consumer protection provisions
- retail market conduct provisions
- electricity customer transfer provisions.

Our conditional response to the release of the draft Code is based on what we perceive is a policy and consultation gap. As stated in our previous submission there is a continuing need for appropriate overarching consultation mechanisms with small end-users as part of the implementation process. We welcome the addition of forums for discussion by the ECC but note that this process cannot address the lack of broad-based consultation with consumer groups and welfare organisations to-date. Moreover there has been a lack of cohesive policy response to consumer issues in respect of FRC. In other words the focus on technical and commercial outcomes as part of the implementation process does not address social equity outcomes for consumers. This includes explicit recognition of electricity as an essential service and the need for a 'safety net' for consumers including a cohesive hardship policy allied to the Code, which addresses the needs of vulnerable consumers. We also note the continuing lack of resources for small-end users to adequately respond to these proposed changes particularly in light of the information and funding asymmetry between stakeholders.² We also believe that the reliance on the South Australia Code as the model for the Queensland Code does not establish best practice and consequently 'the best possible results for Queensland energy consumers.'³

In addition our preliminary research indicates a great need for more research and community education with respect to FRC. Very few of the consumer advocates/community organizations or the residential consumers we interviewed for our research project were

¹ CCCL (2006), Submission to the Energy Competition Committee, Full Retail Competition Electricity: Proposed Policy Positions'. See 3.2, 3.3,3.2,4.3,

² See Queensland Consumers Association (2006), Consumer Input to the Implementation of FRC, Submission to the Energy Competition Committee (in response to request for information), March 2006, p.5.

³ Minister for Energy and Aboriginal and Torres Strait Islander Policy (2006), Media Release, 'Budget funds groundwork for State National Energy Forum', June 6, 2006.

aware of the pending introduction of full retail competition (FRC).⁴ As one advocate described:

I think it will go in some ways similar to the telephone. I posed the question to a group of my peers in a meeting this morning and said what did they understand about full retail contestability in the electricity market and I got a blank room, 20 odd people with not a clue, and they're educated people. So we have I think an awful lot of work to do in actually getting people up to speed with what that actually means, what their rights are going to be, where they're going to go with that, how they're going to utilise it, how they can actually make it to their benefit rather than just get a confused array of prices, rates that they're going to have a lot of difficulty in comparing.⁵

Our research with residential consumers and consumer advocates over the last six months indicates that many residential consumers, particularly those on low incomes, were circumspect about the impact of the change given their previous experience with the privatization of other Government monopolies. One financial counsellor at a community welfare organisation pointed out that; ...there's this assumption that people don't have a problem paying their power bill, their electricity bill. It's like we all pay before the due date and it's all fine ...When the reality is, I think, for the majority of people, certainly people that I work with, that paying the power bill is a huge issue.⁶ One focus group participant wondered if hardship provisions would be better or worse under an FRC regime.

A couple of friends of mine too, they have sometimes arranged to pay theirs off, that's only a small amount, you know, \$40, \$50 but they might pay a bit this week and a bit next on the pension, sort of thing. But they still get charged fees for being late even though they've rung up and made arrangements, and they still get things, final notice, payer will be disconnected even though they've rung up and done it. So will these new companies be as vicious ... surely they can be a bit more understanding for those people that do get in an odd situation at times.⁷

Finally, our research indicates very little consumer or consumer advocate awareness about the role and function of the energy dispute resolution service offered by the Energy Consumer Protection Office.⁸

⁴ Interviews were conducted with 29 consumer advocates from a range of agencies/committees and 30 residential consumers across Queensland in the period November 2005 to May 2006.

⁵ Interview 14, 24th November 2005.

⁶ Interview 23, 16th of January 2006

⁷ Focus Group interview 2, Low Income, 9th May 2006

⁸ Knowledge of the Energy Consumer Protection Office was extremely rare. Interviews with consumer advocates and residential consumers November 2005-May 2006.

4. Priority issues

4.1 Best practice

The ECC has chosen to rely on the South Australian Code as a model for the Queensland Code. However, we understand from discussions with interstate energy consumer advocates that the original model for the development of the South Australia Code was Victoria. Moreover, a review undertaken by the Consumer Law Centre Victoria of consumer protections across the National Electricity Market in 2004 revealed that while best practice elements are spread across all jurisdictions including South Australia, Victoria has the highest number of elements denoting best practice and continues to be at the fore front in responding to energy consumer protection needs following the introduction of FRC.⁹ The South Australian code has not been updated since March 2004 while earlier this year the Essential Services Commission (Victoria) revised and updated their Energy Retail Code proving the point that a viable Energy Retail Code needs to be regularly updated in order to be responsive to consumer protection needs and to deal with compliance issues.¹⁰

For instance, Victoria introduced a ‘Compensation for wrongful disconnection’ payment for retailers in 2005 into legislation to reduce the increased disconnection rate in that state.¹¹ Victoria introduced the wrongful disconnection payment into legislation rather than the Code, as the Code was not sufficient to prevent wrongful disconnection occurring. We welcome the introduction of the wrongful disconnection fee in the Queensland Code (at 2.5.3 although it has yet to be applied to contestable customers) but it highlights the issue of what should be in the Code and what should be in legislation to protect the best interests of consumers.

The introduction of FRC provides Queensland with a unique opportunity to implement best-practice provisions on behalf of all residential consumers and small businesses (who use under 100 megawatts per annum) based on other jurisdictions which are more advanced in the implementation of FRC and have seen for themselves the need to shore up consumer protections in their respect Energy Codes. Reliance and modeling on the South Australian Code alone will not necessarily provide this benchmark.

Also, the opportunity to introduce best practice provisions in the Queensland Code should not be lessened because of the nationalization of a number of functions that will, for the

⁹ See Appendix 1. A list of best practice elements in each jurisdiction in November 2004 revealed that overall Victoria had 41 best practice elements followed by NSW and SA – 28 and 27 respectively. The ACT and Tasmania had 16 and 13 best practice elements respectively. There was some doubling up between jurisdictions.

¹⁰ ESCOSA (2004), Energy Retail Code ERC/01, (March 2004); ESC (2006), Energy Retail Code, Version 2, February 2006.

¹¹ Electricity Industry Act 2000 Act No. 68/2000. Part 2 – Regulation of Electricity Industry, p.55.

purposes of national consistency, be undertaken by the National Regulator. Queensland has the opportunity to get the best possible outcomes for consumers into the Code. In this vein we ask the question: what will be the status of consumer and price protection measures under the new national framework if there is insufficient work undertaken at a State level to establish 'best practice'?¹²

Finally, best practice standards are much more difficult to achieve where there is a lack of independent monitoring of standards. Queensland has no independent regulatory body to guide the introduction of this Code. This makes the need for best practice principles all the more necessary.

4.2 Electricity as an essential service and vulnerable consumers

Electricity is an essential service. As a consequence there needs to be 'best practice' hardship provisions and an appropriate safety net in place. The ECC has stated, on behalf of government, that with the FRC implementation process it seeks both to ensure '...efficiently priced and reliable energy in Queensland while still taking into account its social equity objectives.'¹³ These social equity objectives need to be targeted and made explicit in respect of consumers – and involve a 'whole of government' approach in order to ensure that there is an appropriate balance between facilitating a competitive energy market and retaining adequate consumer protections. The Code is one example of the need to link all the parts that deal with hardship and consumer protection together into a cohesive government policy response.

For instance the development of Codes in other jurisdictions has been integrally related to the delivery of a robust and comprehensive suite of hardship provisions.¹⁴ Queensland, unlike South Australia and Victoria, does not have a system of Energy Relief Grants, which are integral to the Codes in these other states.¹⁵ It is imperative that with the develop of the Code in Queensland that the Queensland Government examine the safety net of concession provisions within a much broader policy framework that involves not only Government, but retailers, regulators and community organisations.¹⁶ The Code sits firmly within this framework which includes the following elements:

- Legislation and regulatory codes
- Retailer responsibilities (hardship policies and programs and other related actions)
- Government programs such as energy concessions and relief grants

¹² John Nieuwenhuysen, John Huitfeldt, Carth Scarth, (2005) 'Committee of Inquiry into the Financial Hardship of Energy Consumers. Summary Report, September 2005, p.21.

¹³ ECC (2006), 'Consultation Paper No.5, Consumer Protection Provisions for Electricity and Gas', p.5.

¹⁴ Committee of Inquiry, Summary Report, p.15.

¹⁵ For a list of Victorian concessions see Appendix 2

¹⁶ See May Mauseth Johnston, "Chronic' Hardship Customers and Government Responsibility' in Jane Bathgate (Ed) (2006), *Electricity Issues: Interstate perspectives on full retail competition for residential consumers*, Centre for Credit and Consumer Law, Griffith University, pp.46-48; Denis Nelthorpe, 'Consumer Protection: Retail Codes and Contracts' in CCCL (2006), *Electricity Issues*, p.16.

- Regulatory monitoring of code compliance and compliance with any specific legislation

The Victorian model and financial counseling resources

The Victorian Government has recently recognised the importance of these elements. In March 2005 an expert Committee of Inquiry was established to advise the Victorian Government on key principles, policies and programs designed to mitigate energy consumer hardship. One of the key aims of the Inquiry was to ensure that no Victorian residential consumer ‘...who is unable to pay their energy bill due to financial hardship is disconnected from supply.’¹⁷ The Inquiry aimed to enhance both energy retailer hardship programs and Government Support Programs and included increased monitoring by the Essential Services Commission of retailer compliance, the Energy Retail Code and other regulatory mechanisms.¹⁸

The Victorian Government clearly identified electricity as an essential service thereby articulating core social equity objectives that the Queensland Government has yet to fully address in its FRC implementation process. The Committee of Inquiry went on to outline a set of key public policy principles or objects for regulation and legislation.¹⁹

- That customers should not be disconnected solely because of incapacity to pay
- That access to energy as an essential service is a prerequisite to social participation and adequate standards of living
- That because retailers are commercial bodies, not welfare agencies, they are entitled to expect that energy bills will be paid, though, as in all commercial operations, the risk of bad debts exists
- That, since the industry is involved with an essential service, there should be a climate of working in partnership among retailers, Government, suppliers and community groups to ensure access to all customers
- That each energy retailer should have a clearly articulated hardship policy that reflects Best Practice principles
- That a whole-of-government approach is necessary to deal with the systematic causes of fuel poverty, ensuring that the Retail Code protects low-income and vulnerable customers; and strategically delivers concessions

Retailer Hardship policies

We note that there are National Retailers in Australia who have also been committed to establish best practice including AGL with its ‘Staying Connected Policy’ and Origin Energy with its ‘Power On Policy’. AGL, similar to Ergon, has established a productive link with a Victorian welfare agency in providing targeted financial counseling and hardship.²⁰ In addition to Government assistance and retailer programs we also note that, as in Queensland, the community sector provides significant assistance to energy and water

¹⁷ See Appendix 4

¹⁸ See Appendix 5

¹⁹ See Appendix 3, 4 and 5 for full outline and recommendations arising from the Inquiry. See also Committee of Inquiry. Summary Report (2005), p.6.

²⁰ Committee of Inquiry, Main Report 2005), pp.24-28

customers in hardship although it is beyond the scope of this Submission to comment on this area.

In Queensland Ergon has shown initiative in establishing an Office of the Customer Advocate within its organisation. This has enabled strategic management within the organization of hardship provisions and improved handling of customer complaints. Ergon has also been proactive in establishing linkages with appropriate support agencies such as Lifeline.²¹ In Victoria the reliance on financial counseling was buttressed by \$600,000 funding specifically for energy specific financial counseling.²²

If the Code is going to propose an instalment plan for a customer experiencing difficulty under 4.13.10 '(b) regarding information on independent financial and other relevant counseling services' - then there has to be sufficient support for financial counselors to provide such a service. This provision is linked in the South Australian Code (SA ERC 7.6), which refers to 'information about, and referral to, State Government assistance programs'.

Financial counselors are an overstretched resource in all States particularly Queensland and without additional funding these potentially productive relationships between retailers and financial counselors are probably not sustainable.²³

Summary

In summary we recommend the following:

- That the Queensland Government adopt specific energy principles regarding essentiality and hardship that are linked into the FRC implementation process;
- That the Queensland Government ensure there is an appropriate energy safety net that ensures relevant assistance for those in hardship such as financial counselling as part of the FRC implementation process;
- That all energy retailers in Queensland be encouraged to develop hardship policies in line with other States and Territories.

In line with the Queensland Consumer Association (QCA) submission to the ECC on this matter we support the QCA recommendation that the ECC undertake the following activity.

“QCA recommends that the ECC immediately appoint a working party consisting of representatives of relevant government agencies (including ECPO), industry, NGO’s and community groups to urgently and quickly review the situation in Queensland and recommend “best practice” solutions. (A working party approach to key FRC implementation issues was successfully adopted in other jurisdictions). The ECC should

²¹ Ergon Energy (2005), Complaint Management at Ergon Energy & Office of the Customer Advocate, October 2005.

²² See Recommendation 15, Appendix 5.

²³ David Tennant (2006), ‘With Opportunity comes Responsibility for the Financial Counselling Sector’ A speech by Chairperson – Australian Financial Counselling and Credit Reform Association Financial Counselling Association of Queensland Annual Conference, 14 March 2006.

also invite an ECPO representative with experience of consumer hardship problems to participate in the workshop to be held on 30 June 2006.”²⁴

5. Responding to key points in the proposed Electricity Industry Code

2.5 Guaranteed service levels (GSLs)

We strongly support the application of GSLs for all customers whether they are non-contestable or contestable otherwise it establishes a precedent for two tiers of customer protection. The risk that potential contestable customers enter into in relation to FRC arrangements should only be in relation to non-service elements in their market contract not in relation to minimum service standards. Introducing an FRC regime implies that increasing numbers of customers will become contestable and that more customers will be exposed to a regime without GSLs if they are not applied across the board. GSLs are necessary as an integral part of electricity as an essential service and should also be part of the Customer Charter.

Rural consumers

One of the GSLs which clearly effects rural consumers is the length of time it takes for a rural feeder to receive a service, for instance either for customer reconnection (2.5.5) or hot water supply (2.5.6). Currently the service period is negotiated with both short and long rural feeder/isolated feeder customers. Given that electricity is an essential service and that there are logistical issues in reconnection for remote area customers we ask for more certainty to be introduced to the consumer by specifying a reasonable time frame including a specified window of appointment time.

Example 2.5.5: Feeder type through which the customer's premises is supplied
Time required for reconnection

<p>CBD feeder / urban feeder If the request is made by 1.00pm on a <i>business day</i>, then on the same day or as otherwise agreed with the <i>customer</i>.</p>
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<p>If the request is made after 1.00pm on a <i>business day</i>, then by the next <i>business day</i> or as otherwise agreed with the <i>customer</i>. If the request is made on a non- <i>business day</i>, then on the next <i>business day</i> or as otherwise agreed with the <i>customer</i>.</p>
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<p>short rural feeder By the next <i>business day</i> after the <i>customer's</i> request or as otherwise agreed with the <i>customer</i>.</p>

²⁴ Queensland Consumer Association (2006), Submission to the Energy Competition Committee on: Parts of FRC Consultation Paper 5, the Draft Standard Customer Sale Contract and the Standard Customer Connection Contract, 20th June, 2006.

long rural feeder / isolated feeder By the *business day* agreed with the *customer*.

4.13 Payment

4.13.3 Late payment fees

We do not agree with the imposition of late payment fees for negotiated sale contract customers. They may penalize particular classes of customers. Evidence from Victoria is inconclusive on whether late payment fees have the desired impact.²⁵

4.13.9 Concessions, rebates and grants

We also note in respect of 4.13.9 that it should not be up to the consumer to ask for information on concessions but rather, for the retailer to disclose this information voluntarily as part of the service. In this case there may be an agreement between the government and the retailer to assist with this process. For instance, the Victorian retail code contains this provision in 26.5 but also provides information on concessions elsewhere. We recommend that this information be on the bill and disclosed as part of the Instalment Plan. Victorian Retail Code (under 4. Contents of Bill and 11. Payment Difficulties)

4.2 Information

A *retailer* must include at least the following information in a *customer's* bill:

(n) if the customer is a domestic customer, details of the availability of concessions;

11.2 Assessment and assistance to domestic customers (see also under 4.13.10 below)

(4) provide the *customer* with details on *concessions* including the Utility Relief Grant Scheme, telephone information about *energy* efficiency and advice on the availability of an independent financial counsellor.

4.13.10 Payment difficulties

We believe, in light of best practice provisions in Victoria, and in line with our recommendation under 4.14 (Instalment Plans) that this clause should be replaced with the Victorian provision as it is much more comprehensive, worded more clearly and therefore more likely to address the issues of payment difficulties. For instance we refer the ECC to the Victorian Code in respect of assessing capacity to pay, energy efficiency audits and debt collection strategies.

The relevant Victorian provisions are as follows:²⁶

11. PAYMENT DIFFICULTIES

11.1 Capacity to pay

A *customer* must contact a *retailer* if the *customer* anticipates that payment of a bill by the pay by date may not be possible.

11.2 Assessment and assistance to domestic customers

If:

- (a) a *domestic customer* so contacts a *retailer* and they do not agree on an alternative payment arrangement; or
- (b) the *retailer* otherwise believes the *customer* is experiencing repeated difficulties

²⁵ CUAC (2004), Submission to Essential Services Commission: Response to the Final Decision on the Draft Energy Code, 9 June 2004.

²⁶ ESC (2006), Energy Retail Code, pp.18-19.

in paying the **customer's** bill or requires payment assistance, the **retailer** must:

- (1) assess in a timely way whatever information the **customer** provides or the **retailer** otherwise has concerning the **customer's** capacity to pay, taking into account advice from an independent financial counsellor if the **retailer** is unable to adequately make that assessment;
- (2) on request, make available to the **customer** documentary evidence of the **retailer's** assessment;
- (3) unless the **customer** has in the previous 12 months failed to comply with two instalment plans and does not provide a **reasonable assurance** to the **retailer** that the **customer** is willing to meet payment obligations under a further instalment plan, offer the **customer** an instalment plan; and
- (4) provide the **customer** with details on **concessions** including the Utility Relief Grant Scheme, telephone information about **energy** efficiency and advice on the availability of an independent financial counsellor.

11.3 Energy efficiency field audits

A **retailer** must consider conducting an **energy** efficiency field audit to assist a **domestic customer** to address the difficulties the **customer** may have paying the **retailer's** bills. The **retailer** need only conduct such an audit if the **retailer** and the **domestic customer** reach an agreement to that effect. To avoid doubt, any charge the **retailer** imposes for conducting the audit is not an **additional retail charge**.

11.4 Debt collection

A **retailer**:

- (a) may not commence legal proceedings for recovery of a debt from a **domestic customer** unless and until the **retailer** has complied with all applicable requirements of clause 11.2;
- (b) may not commence legal proceedings for recovery of a debt while a **customer** continues to make payments according to an agreed payment arrangement; and
- (c) must comply with guidelines on debt collection issued by the Australian Competition and Consumer Commission concerning section 60 of the *Trade Practices Act 1974* (Cth).²⁷

4.14 Paying by instalments

4.14 Instalment plans

We welcome the provision of instalment plans in the Code. We note that further improvements could be made in light of the Victorian example and recommend that these updated clauses be included. We also note that the decision not to offer an instalment plan (as per 4.14.3) can have dire consequences for vulnerable consumers. There needs to be recognition of mitigating circumstances.²⁸ There is also a need for allowance to recalculate the instalment figure if significant credit or debt is likely at the end of the plan (as outlined in the Victorian provisions). We also note as per our comments under 4.19 'Disconnection of premises' that there is a need for more specificity in language use. For instance it is too

²⁷ This has now been updated. See both Parts IVA and V of the *Trade Practices Act 1974* and Part 2, Division 2 of the *Australian Securities and Investments Commission Act 2001* (ASIC Act).

²⁸ CLCV (2004), Annexure A: Electricity Retail Consumer Protections Comparison Table for NEM Jurisdictions as at November 2004. See Tasmanian provisions re mitigating circumstances p.40. This Comparison Table is available on the CLCV web site www.clcv.net.au

vague to say under Clause 4.14.4 (h) that a retailer must have in place ‘fair and reasonable procedures’ to address payment difficulties without specifying what they are.

The relevant Victorian Instalment Plan is as follows:²⁹

12. INSTALMENT PLANS

12.1 Options for domestic customers

In offering an instalment plan to a *domestic customer*, a *retailer* must offer each of:

- (a) an instalment plan under which the *customer* may make payments in advance towards the next bill in the *customer’s billing cycle*; and
- (b) an instalment plan under which the *customer* may pay any amount in arrears and continue consumption.

12.2 Requirements for an instalment plan

A *retailer* offering an instalment plan must:

- (a) specify the period of the plan and the amount of the instalments (which must reflect the *customer’s* consumption needs and capacity to pay), the number of instalments and how the amount of them is calculated, the amount of the instalments which will pay the *customer’s* arrears (if any) and estimated consumption during the period of the plan;
- (b) make provision for re-calculating the amount of the instalments where the difference between the *customer’s* estimated consumption and actual consumption may result in the *customer* being significantly in credit or debit at the end of the period of the plan;
- (c) undertake to monitor the *customer’s* consumption while on the plan and to have in place fair and reasonable procedures to address payment difficulties a *customer* may face while on the plan; and
- (d) provide the *customer* with *energy* efficiency advice and advice on the availability of an independent financial counsellor.

12.3 Business customers

A *retailer* must consider any reasonable request from a *business customer* for, and may impose an *additional retail charge* on the *business customer* if they enter into, an instalment plan.

4.17 Security deposits

We welcome the fact that the security deposit is no longer compulsory for all customers. However, we question its retention in a post-FRC environment because it has the potential to target vulnerable consumers.

We have specific concerns that there is wording under 4.17.5 that allows for a security deposit for a residential customer to be increased after 2 reminder notices. South Australia provides for increases for business customers only and Victoria does not include this provision. We advocate the removal of this provision altogether because in the South Australian Code it was never intended to be applied to residential customers.

If the security deposit is retained we note that Victoria has redefined security deposits in terms of a refundable advance, which ‘... means an amount of money or other arrangement

²⁹ ESC (2005), Energy Retail Code, pp.19-20.

acceptable to a **retailer** as security against a **customer** defaulting on a final bill'. This definition ties the 'security deposit' specifically to the default on the final bill.³⁰

4.19 Disconnection of a premises

4.19.3 Obligations prior to disconnection of residential customers

Where a customer has been unable to pay their bill and/or fails to make payments in accordance with the instalment plan the obligations of the retailer prior to disconnection to use its 'best endeavours' to contact the residential consumer is insufficient and is open to interpretation by the retailer. The implications of disconnection for those in hardship are very grave. The Victorian Code under '13. Grounds for Disconnection' is very specific in outlining the grounds for disconnection for non-payment of bills. We recommend the same specificity is applied to the Queensland Code and that recognition of this category of customer is given in the Code as in Victoria.

The Victorian Grounds for Disconnection are as follows:³¹

13. GROUNDS FOR DISCONNECTION

13.1 Non-payment of a bill

A **retailer** may only **disconnect** the **supply address** of a **customer**, being a **customer** who fails to pay the **retailer** by the relevant pay by date an amount billed in respect of that **supply address**, if:

(a) the failure does not relate to an instalment under the **customer's** first instalment plan with the **retailer**;

(b) the **retailer** has given the **customer**:

- a reminder notice not less than 14 **business days** from the date of dispatch of the bill. The reminder notice must include a new pay by date which is not less than 20 **business days** from the date of dispatch of the bill. No reminder notice is required if the **customer** is on a shortened collection cycle under clause 9.1; and

- a **disconnection** warning:

(A) if the **customer** is on a shortened collection cycle under clause 9.1, not less than 16 **business days** from the date of dispatch of the bill.

The **disconnection** warning must include a new pay by date which is not less than 20 **business days** from the date of dispatch of the bill; or

(B) otherwise, not less than 22 **business days** from the date of dispatch of the bill. The **disconnection** warning must include a new pay by date which is not less than 28 **business days** from the date of dispatch of the bill;

(c) the **retailer** has included in the **disconnection** warning:

- if the **customer** is a **domestic customer** and has a **dual fuel contract**:

(A) a statement that the **retailer** may **disconnect** the **customer's** gas on a day no sooner than seven **business days** after the **date of receipt** of the **disconnection** warning and the **customer's** electricity on a day no sooner than 22 **business days** after the **date of receipt** of the

³⁰ ESC (2005), Energy Retail Code, p.48, pp.15-16.

³¹ ESC (2006), Energy Retail Code, , pp.21-22.

disconnection warning; and

(B) a statement that **disconnection** of the **customer's** gas may result in a variation of the **tariffs** and terms and conditions of the **dual fuel contract** as provided for in the **dual fuel contract**. If no variation is provided for in the **dual fuel contract** and neither does the **dual fuel contract** provide that there is to be no variation, the **tariffs** and terms and conditions of the **dual fuel contract** are to be varied such that on and from then:

(i) the timeframe for **disconnecting** the **customer's** electricity is the timeframe stated in the **disconnection** warning;

(ii) the supply and sale of electricity otherwise continues at the **tariff**, and on the terms and conditions, that would apply if the **customer** were party to a **deemed contract** under section 37 of the **Electricity Act**, and

(iii) the supply and sale of gas otherwise continues at the **tariff**, and on the terms and conditions, that would apply if the **customer** were party to a **deemed contract** under section 44 of the **Gas Act**,

- in any other case, a statement that the **retailer** may **disconnect** the **customer** on a day no sooner than seven **business days** after the **date of receipt** of the **disconnection** warning; and

- a telephone number for payment assistance enquiries; and

(d) the **customer** has called the telephone number referred to in paragraph (c) and the **retailer** has responded to the **customer's** enquiry and has provided advice on financial assistance;

(e) the **customer** is a **domestic customer** and has a **dual fuel contract** with the **retailer** and the **customer's** electricity is to be **disconnected**, the **retailer** has given the **customer** a further **disconnection** warning no less than six **business days** before the electricity is **disconnected**; and

(f) the **customer** is on a shortened collection cycle under clause 9.1 and the **retailer** has contacted the **customer** in person or by telephone to advise of the imminent **disconnection**,

and, before **disconnection**, the **customer**.

(1) does not provide a **reasonable assurance** to the **retailer** that the **customer** is willing to pay the **retailer's** bills; or

(2) does so, but then:

- does not pay the **retailer** the amount payable by the pay by date on the relevant **disconnection** warning. This does not apply if the **retailer** and the **customer** have agreed to a new payment arrangement;

- does not agree to a new payment arrangement within five **business days** after the **date of receipt** of the **disconnection** warning; or

- does not make payments under such a new payment arrangement.

To avoid doubt, if the **customer** does not agree to such a new payment arrangement or does not so make payments under such a new payment arrangement, the **retailer** may **disconnect** the **customer** without again having to observe this clause 13.1.

4. Disputes and External Dispute Resolution

(See 4.6.3, 4.15.5, 4.16.3 and 4.19.12 (c), 4.19.3 4.19.4, 4.19.2)

We welcome the mention of External Dispute Resolution (EDR) at various points in the Code but believe its mention can be expanded to improve consumer awareness about this option via the retailer. We recommend the adoption of the Victorian complaints and dispute resolution provisions in their code as a model for improving these references and note that a retailer must include the phone number of the Victorian energy ombudsman on any disconnection warning. This acknowledgement will aid an increase in awareness among consumers about this option. Our research indicates very little consumer awareness about the current dispute resolution body in Queensland – the Energy Consumer Protection Office.³²

For instance the information needs to be conveyed at a number of points prior to written notification as in 4.6.3 where the situation has escalated. Moreover, complaints should not have to be in writing (as per 4.6.3 (a)). There needs to be an option for this information to be conveyed verbally and for the consumer to make a complaint verbally in the same way that a person can apply verbally to purchase customer retail services.

We have specific concerns that a customer may be disconnected when they are in dispute with their retailer and it has not yet proceeded to EDR. Under clause 4.19.12 (c) a customer may not be disconnected once it has proceeded to EDR but it is not clear what happens when the dispute is being dealt with by the retailer's internal dispute resolution processes, if they exist.

In summary both the internal and external dispute resolution services need to be well known to all residential consumers prior to a dispute arising and on any disconnection warning. This includes clause 4.19.12 in relation to disconnection

One example of section of Victorian provisions to follow:³³

28. COMPLAINTS AND DISPUTE RESOLUTION

28.1 Complaint handling

A **retailer** must handle a complaint by a **customer** in accordance with the relevant Australian Standard on Complaints Handling or the 'Benchmark for Industry Based Customer Dispute Resolution Schemes' published by the Department of Industry, Tourism and Resources (Cth). The **retailer** must include information on its complaint handling processes in the **retailer's** charter.

28.2 Advice on customer's rights

When a **retailer** responds to a **customer's** complaint, the **retailer** must inform the **customer**:

- (a) that the **customer** has a right to raise the complaint to a higher level within the **retailer's** management structure; and
- (b) if, after raising the complaint to a higher level the **customer** is still not satisfied with the **retailer's** response, the **customer** has a right to refer the complaint to the Energy and Water Ombudsman Victoria or other relevant external dispute

³² See Introduction.

³³ ESC (2005), Energy Retail Code, pp.38-39.

resolution body. This information must be given in *writing*.

28.3 Energy and Water Ombudsman Victoria

A *retailer* must include the phone number of the Energy and Water Ombudsman Victoria on any *disconnection* warning.

4. Variations

There are a number of points of variation in the Queensland Code. This is of particular concern where these variations have the potential to impact on vulnerable consumers and where there is generally the potential to reduce basic consumer protections. In other words basic provisions should not be contracted out. The following provision in the Code is of particular concern to us.

4.2.4 (b) Minimum terms and conditions for negotiated customer sale contract [FRC only]

4.2.4 (b) At the request of a *retail entity* the *regulator* may at its absolute discretion, prior to the commencement of a *negotiated customer sale contract*, approve terms and conditions for that *negotiated customer sale contract* which do not conform with all or any of the provisions of Chapter 4 of this *Code*.

We recommend that this clause be removed altogether as it contradicts the intention of the Code. If it is to remain it must be amended to include special consent provisions in relation to consultation. We also note that under this provision Clause 4.13.3 also appears to be a variation re late payment fees.

Other variations of concern to us include the following

4.12.3. Customer Applications. This provision concerns the ability to change tariffs readily and will have significant impacts on all residential consumers. A change in tariff is something that cannot be undertaken unilaterally without consultation or due process.

4.14.1 Minimum Instalment Payment Options. The Victorian Code contains no such provisions and we believe the absence of such a requirement in a negotiated customer sale contract exposes vulnerable consumers to a lack of adequate protection.

4.9 Obligation to bill quarterly. This provision was removed from the 2001 version of the Victorian Code. It is of concern to us that a variation on the ability to bill quarterly will also have the potential to create hardship for consumers if the variation concerns payment less frequently than quarterly. As with paragraph c) in 4.9 explicit informed consent is also fundamental.

6. Other comments

Accessibility of Customer Charter and Code

The customer charter and Code should be freely available to consumers as they are fundamental elements in consumer education and protection. For instance they should be freely accessible on the web. In this vein we do not think customers should not be charged for re-requesting a Charter within a 12 month period as per 4.5.5 Charging for *Customer Charters* This would penalize customers who are only able to access information by post. It is also difficult to conceive of circumstances (as per 4.5.4) whereby re-requests for Charters would be commonplace.

Where appropriate the Charter and Code should be available in an accessible format for consumers who have difficulty reading or understanding English. This would include customers who may be in remote or rural locations or from a particular demographic such as the elderly, culturally and linguistically diverse background or from the Indigenous community who are not web-literate or who have difficulty reading or writing.

Plain English usage

The latest version of the Victorian Retail code is an example of a document that is written in Plain English and ideal for comprehension by ordinary consumers.³⁴ Any final draft of the Code should be reviewed in terms of Plain English usage for accessibility to consumers.

³⁴ ESC (2005), Energy Retail Code.

Contact for further information

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APPENDIX 1: Sample of best practice elements in each jurisdiction – from the CLCV (November 2004), Electricity Retail Consumer Protections Comparison Table for NEM Jurisdictions

* Indicates best practice also in another jurisdiction

Victoria – best practice

- *Tariff information
- *Providing billing data to customer
- Proportionate billing
- *Payment plan offers
- Period of instalment plan and number of instalments (any minimum)
- Retailer obligations when customer on instalment plan
- Notice of disconnection
- *Prohibited disconnection
- *When to reconnect
- *Debt recovery
- *Payment difficulty
- *Customer charter
- *Complaints against marketers

South Australia – Best Practice

- Obligation to inform of standard contract
- Information retailer must give in relation to instalment plan
- *Service standards
- *Enquiries and complaints regarding retailers
- *Payment difficulty
- *Records of consent agreement
- *Information to be provided before or at time of entry into arrangement
- Last resort events
- Ombudsman scheme
- Period to keep billing data
- When estimate can be used

New South Wales– best practice

- *Obligation to inform of standard contract
- Cooling off
- Charges bill must show
- *Providing billing data to customer
- Payment methods
- Overcharging
- Information to take into account when designing instalment plan
- Final bill/notice after disconnection
- Reconnection charge

- Obligation to offer standard contract
- *Energy efficiency advice (regarding free of charge)
- *Service standards
- *Enquiries and complaints regarding retailer's (regarding use of AS 4269)
- *Compliance with code

ACT – best practice

- *Tariff information
- *Information about charges
- Green power
- How payments to be allocated
- Bill information
- Notice of tariff change
- Bill paying during review
- *Conditions precedent/notices
- *Prohibited disconnection
- *When to reconnect
- *Debt recovery (plus regarding notice)
- *Enquiries and complaints regarding retailer's (regarding period to keep record of complaint)
- *Compliance with code

TAS – Best practice

- *Commence of supply of electricity
- *Charge for illegal use of electricity
- Delivery of bill
- Minimum pay period
- Dishonoured payment fee
- *Payment plan offers
- Account keeping
- Life support specifications
- Restricted disconnection times
- *Energy efficiency advice (regarding tariff advice)
- *Service standards
- *Method for communication with customer
- Concession information

APPENDIX 2

The table below lists all the energy related assistance schemes available to the approximately 1.3 million Victorian concession cardholders.

Table 1 - Energy related assistance schemes for Victorian concession cardholders (From May Mauseth Johnston (2006) 'Chronic Hardship Customers and Government Responsibility', Electricity Issues: Interstate perspectives on full retail competition for residential consumers, pp.47-48)

Victorian Energy Concessions	Description
Winter Energy Concessions	17.5% off two winter energy bills
Non-Mains Winter Energy	Flat annual rebate for LPG, diesel or heating oil
Life Support machines	Quarterly rebates for electricity bills
Summer Multiple Sclerosis Concession	17.5% off final quarterly summer bill
Group Homes Winter Energy	17.5% off winter energy bills
Transfer Fee Waiver	When there is a change off occupancy
Service to Property Charge	For low consumption households to ensure that service charge does not exceed consumption charges
Off-peak Concession	13% off on the off-peak tariff rate component during the whole year
Utility Relief Grants	Once-off assistance to customers unable to pay their bill
Non-mains Utility Relief Grants	Once-off assistance to customers unable to pay for bottled gas (LPG)
Capital Grants Scheme	Once-off assistance to repair or replace essential appliances causing high energy costs

The New South Wales Government has a different, and more narrow, approach to government funded assistance schemes than Victoria. It very much relies on a pensioner energy rebate of \$120, a voucher-based scheme for customers in hardship and a life support concession scheme.

APPENDIX 3: Committee of Inquiry into the financial hardship of energy consumers. Summary report, September 2005, p.10.

Principles

It is always useful in public policy to have, if possible, a set of principles or objects for regulation and legislation, especially if consensus on the nature and importance of these, and the scope for cooperation, can be reached among the various stakeholders. Agreed objects enable not only an outline of desired goals and means for attaining them, but also scope for measuring the extent to which desired policy outcomes are being realised.

From the proposals made in the Committee's Issues paper, and several submissions, a range of possible basic principles for policy emerge:

- That customers should not be disconnected solely because of incapacity to pay.
- That access to energy as an essential service is a prerequisite to social participation and adequate standards of living.
- That because retailers are commercial bodies, not welfare agencies, they are entitled to expect that energy bills will be paid, though, as in all commercial operations, the risk of bad debts exists.
- That key objectives of policy in dealing with customers facing hardship include efforts to minimise the extent to which energy debts build up, and to help consumers in hardship to identify themselves to retailers to order to gain assistance.
- That an energy hardship policy should be equitable and transparent, consistent in application, economically efficient and not distorting, administratively simple, and marked by regulatory certainty.
- That, since the industry is involved with an essential service, there should be a climate of working in partnership among retailers, Government, suppliers and community groups to ensure access for all customers.
- That each energy retailer should have a clearly articulated hardship policy that reflects Best Practice principles.
- That support for customers in permanent hardship should be treated as a community service obligation (CSO).
- That a whole-of-government approach is necessary to deal with the systematic causes of fuel poverty, ensuring that the Retail Code protects low-income and vulnerable customers; and strategically delivers concessions.
- That, once principles are decided, means for measuring the success of policies seeking to attain their application should be developed.

APPENDIX 4

Government Energy Consumer Hardship Policy Statement

(Department of Infrastructure, Victoria, March 2005)

In March 2005 an expert Committee of Inquiry was established to advise the Bracks Government on key principles, policies and programs designed to mitigate energy consumer hardship.

Through implementation of the key recommendations, the Government seeks to address energy consumer hardship through a series of initiatives. We aim to ensure that no Victorian who is unable to pay their energy bill due to financial hardship is disconnected from supply. We want to enhance the framework of collaboration and responsibility by energy retailers and the Government to tackle hardship issues.

Government Actions

The Bracks Government is committed to ensuring all consumers (especially low income earners and disadvantaged Victorians) can access essential energy services on an affordable basis.

The Government believes that its role in mitigating energy consumer hardship is firstly, to work with key stakeholders involved in the retailing of energy services; secondly, to provide both financial and non-financial support to energy consumers in genuine and severe financial difficulty; and thirdly, to provide legislation that creates certainty for energy retailers, so an environment of affordable access to energy services and fair commercial viability for all market participants exists.

The Bracks Government recognises that energy is an essential service, and as such, access is a prerequisite to social participation and adequate standards of living. For this reason legislation will be introduced, preventing consumers from being disconnected from their reticulated energy supply solely on account of their incapacity to pay (where they are participating in a retailers best practice hardship program).

In light of the Committee's findings, the Bracks Government also proposes to enhance programs that operate in the following areas; energy concessions and relief grants (through the Department of Human Services), assistance with energy efficiency programs (through Sustainability Victoria) and financial counselling services (through Consumer Affairs Victoria).

In the 2006/7 State Budget, the Bracks Government will allocate a further \$4.6 million over two years, so that total of \$11.6 million will be spent over two years on addressing energy consumers in financial hardship.

Energy Retailer Actions

Whilst Victorian energy retailers operate in one of the most competitive markets in the world, the delivery of energy is an essential service. As such, it should be governed by public policy considerations designed to protect those consumers facing genuine financial difficulties. As such, each energy retailer must:

- have a clearly articulated hardship policy that reflects Best Practice principles; and

- acknowledge and participate in a collaborative hardship mitigation framework with Government, consumers and the community welfare sector.

Retailer hardship policies will need to be approved by the Essential Services Commission.

The Government will ensure, through legislation, that the ESC has adequate powers to determine appropriate principles and practices for the development of the best-practice hardship policies. The Government will also ensure that the ESC is sufficiently empowered to monitor and audit retailer compliance with best practice hardship policies and oblige them to publicly report on retailer performance thereby enhancing the transparency and effectiveness of such policies.

The Government has also negotiated a hardship package with the major energy retailers, under which they will spend \$9.6 million over the next two years to address the issues of those consumers who are finding it difficult to pay their energy bills due to financial hardship. This money will be in addition to existing expenditure by those retailers on hardship programs for their customer base.

The Government recognises that retailers have legitimate commercial objectives, and are entitled to expect that energy bills will be paid by consumers. The envisaged hardship framework is not intended to enable consumers who are *not* in genuine and severe hardship to avoid payment of legitimate energy bills, and will not protect those consumers avoiding their responsibility.

Consumer Actions

Whilst avenues of assistance do exist through retailer hardship programs, Government schemes and community welfare organisations, consumers who experience hardship should be encouraged and supported to be pro-active in accessing hardship mitigation programs. Consumers experiencing payment difficulties should notify their energy retailer as soon as practicable. This will minimize the accumulation of their energy debt, and ensure that the resources required to operate hardship mitigation programs by retailers, Government and community welfare organisations are best utilised.

The Government also strongly encourages all consumers, upon entering retailer hardship programs to provide all reasonable information on their circumstances, and collaborate as fully as possible with agreed measures to improve their bill payment outcomes. In most situations, this will involve a commitment to meet bill payment arrangements that have been tailored to meet their particular circumstances.

Collaborative Relationships

A collaborative and pro-active approach to dealing with consumers in hardship will provide consumers with a complete response to their hardship related needs. The Government recognizes that a degree of collaboration currently exists amongst all stakeholders, however, we need to continue enhancing assistance programs provided to consumers so they have affordable access for energy.

The Government believes that the management of cases of energy consumer hardship is primarily the responsibility of the energy retailer. The retailer is best placed to coordinate

the principal measures, as it is their customers who are experiencing bill payment difficulties. However the new arrangements will provide energy retailers with a stronger capability to assist consumers through clear and agreed actions in dealing with hardship issues. In addition to actions that may be undertaken by retailers themselves, further actions may be taken by financial counselling agencies, Government agencies or extended social services.

The Government is supporting the facilitation of collaborative relationships through the provision of enhancements to Government assistance programs such as utility relief grants, energy efficiency programs and financial counselling services.

Conclusion

The response of the Bracks Government to the Hardship Inquiry represents the most comprehensive and far-reaching consumer hardship package since the deregulation and privatisation of the energy sector in Victoria during the 1990s.

While the Government has taken a number of steps to encourage retail competition so that consumers can benefit from lower prices and better service, we are committed to assisting those consumers who fall into financial hardship and find it hard to pay their energy bills.

The Government believes that this response to the Hardship Inquiry will serve as a model for other jurisdictions for dealing with energy consumer hardship issues as we move towards national regulation of the energy sector in Australia.

APPENDIX 5

(Department of Infrastructure, Victoria, March 2005)

Government Response to the Hardship Inquiry

In March 2005 an expert Committee of Inquiry was established to advise the Bracks Government on key principles, policies and programs designed to mitigate energy consumer hardship.

The Committee, chaired by Professor John Niewenhuysen, made a number of recommendations in its report to the Government.

The Inquiry's recommendations and proposed Government response to each are summarised below. The responses comprise the following elements:

- a Government hardship policy statement;
- enhancements to Government assistance programs;
- legislation to require the adoption by retailers of a best practice hardship policy (including programs) and the prevention of consumer disconnection on the grounds of incapacity to pay where consumers are in a best practice hardship policy;
- Government consultation with the Essential Services Commission (ESC) to enhance its monitoring, auditing and reporting on the performance of energy retailers under their hardship policies and programs; and
- a commitment by the Government to review Sustainability Victoria's *Energy Task Force* retrofitting initiative following its completion in 2007.

Recommendation 1

That the Government prepare a Statement, based on principles outlined in the Report, on the goals and objects of energy hardship policy, the broad balance of responsibility of all stakeholders (including cooperation between them), plans for new initiatives, and means for assessing the success of the policy over time.

Response:

Accepted. The Government's hardship policy statement has been prepared and forms part of this response.

Recommendation 2

That the Government establish a small Energy Hardship Policy Working Group (or implementation Group), like the Reference Group for this Inquiry, composed of individuals with expertise and knowledge of energy hardship. The key role of the Group would be to monitor the implementation of the recommendations from this Review.

Response:

Accepted. The Energy Hardship Policy Working Group will be established following the release of the Inquiry's Report. The Group will assist in the further work related to the implementation of the Inquiry's recommendations.

Recommendation 3

That cooperation between the major stakeholders in energy hardship policy be actively pursued by all concerned.

Response:

Accepted. Cooperation between the major stakeholders is being pursued as part of a collaborative model and other efforts such as the Energy Hardship Policy Working Group (Recommendation 2) and further cooperative research (Recommendation 4).

Recommendation 4

That cooperative research effort by industry, community groups and Government be continued and expanded to maintain and extend research-based knowledge of energy hardship issues and policy effectiveness.

Response:

Accepted. Through the ESC's enhanced role in reporting and monitoring and reporting best practice hardship policy performance it is expected that extra research requirements will be identified to further energy sector knowledge of the issues facing energy consumers in financial hardship.

Recommendation 5

That the broad allocation of responsibility for energy hardship policy as detailed in the Committee for Melbourne Taxonomy be continued, but that the manner in which these responsibilities are exercised be regularly assessed under mechanisms to be established through the proposed Government Statement.

Response:

Accepted. It is envisaged that retailers will retain major responsibility for the management of consumer hardship cases, while Government will monitor and develop the overall framework, and that Government will provide direct tangible support in extreme hardship cases.

Recommendation 6

That the Government review the effectiveness of the hardship framework for customers from particular groups with special difficulties accessing it, such as:

- rural and regional customers using LP gas as a major energy source;
- Indigenous households;
- non-English speaking background (NESB) households – especially in identifying and ensuring availability of interpreter and translation services.

Response:

Accepted. The ESC will, pursuant to its strengthened hardship monitoring regime, report on hardship issues, including as they relate to minority groups identified above, as far as privacy laws enable the tracking of such information.

Recommendation 7

The Committee notes the importance for vulnerable customers of key protective mechanisms such as the Victorian Energy Retail Code and the current price path agreements, complementing the effective delivery of programs, concessional arrangements and extended URG access. The Committee also notes the move towards a

national retail market after 2007. In view of these factors, the Committee recommends that:

- the Government request the ESC to review the impact of growing competition on vulnerable customers; and
- the Government seek to ensure appropriate mechanisms exist to maintain affordability and accessibility for vulnerable customers.

Response:

Accepted. The Government has entered a process with other jurisdictions regarding the status of consumer and price protection measures under the new national framework/s. The Government is committed to protecting vulnerable consumers, and the current measures will be reviewed well before key elements of the current legislated protections are scheduled to expire at the end of 2007.

Recommendation 8

That the ESC strengthen the monitoring devices applied to retailer adherence and implementation of the Code, including through collection of adequate quantitative and qualitative information (see also Recommendation 20).

Response:

Accepted. The ESC has begun to strengthen its monitoring of retailer compliance and adherence with the Code. The Government supports the ESC's actions to date and its plans for future enhancements of its monitoring regime. The Minister will formally communicate this view to the Chair of the ESC.

Recommendation 9

That retailers continue improvements to customer Contact Centre performance in their handling of potential hardship cases, and that this be monitored by the ESC, and that all stakeholders be encouraged to develop further mechanisms, especially through information provision, to help persuade customers in hardship to self-identify to Contact Centres.

Response:

Accepted. Best practice hardship policies will oblige retailers to ensure high performance by their contact centres relating to hardship cases. Similarly, as per the response in recommendation 8, the ESC will monitor retailer performance, in particular their contact centres to ensure accountability and improvements in this area.

Recommendation 10

That all retailers adopt and publish a Best Practice Hardship Policy, with processes that encourage customers to participate in their hardship programs.

- That retailers be required to report annually to the ESC on the performance of their hardship programs against indicators developed in consultation with the ESC and key stakeholders; and
- That, in assisting a customer in hardship, all major stakeholders endeavour to coordinate their processes (where relevant) to facilitate a full and robust form of assistance to the customer.

Response:

Accepted. As part of the Inquiry's recommendations a planned legislative amendment will include an obligation on energy retailers to develop, publish and implement best practice hardship policies and programs. Also, the amendments will enable the ESC to closely govern the development and implementation of codes, guidelines and other relevant instruments to facilitate best practice energy retailer hardship programs.

Recommendation 11

That energy industry stakeholders consider the applicability of the Yarra Valley Water / Kildonan hardship program as a possible basis for future cooperative programs to mitigate hardship.

Response:

Accepted. The Government will give careful and detailed consideration to the Yarra Valley Water / Kildonan hardship program when strengthening the legislative framework that governs retailer best practice guidelines for hardship programs.

Recommendation 12

That the limitations on disconnections currently contained in the Retail Code and the Wrongful Disconnection provisions of the Energy Industries Act be continued.

Response:

Accepted. This will be included in the proposed formal communication by the Minister to the ESC.

Recommendation 13

That there be no Government-mandated debt waiver regulation for retailers, but that relief for those in hardship be regarded as primarily a Government responsibility in partnership with retailers and community organisations.

Response:

Accepted. The Government notes from discussions with stakeholders that a form of debt waiver options are already made available by retailers to some consumers in hardship. However, scope exists to offer enhanced flexible payment procedures as part of the best practice hardship policies framework. Further, the Government proposes to encourage greater collaboration by retailers and community organisations in mitigating consumer hardship. The increased responsibility for Government is manifested in the proposed enhancements to Government support programs (14,15 & 17).

Recommendation 14

That access to Utility Relief Grants be extended to ensure that low-income households demonstrating either temporary or chronic financial hardship receive assistance.

Response:

Accepted. An additional \$4 million over 2 years is to be allocated to extend and expand access to the DHS Utility Relief Grants Scheme. This will enable Government to address a key observation of the Inquiry that not all those in need receive direct Government financial assistance, notably those who do not possess the relevant concession card.

Recommendation 15

That, in view of the impressive role of financial counsellors, and current shortages of this service, the Government and utilities provide additional funds for accredited financial counsellors to work with customers in hardship.

Response:

Accepted. \$600,000 over 2 years is to be allocated for the training of accredited specialist energy counsellors by Government. This will provide targeted funding towards training and accreditation of a network of expert energy counsellors. The counsellors will assist consumers on specific energy issues, guide consumers through the hardship frameworks and associated targeted assistance measures, and advise the retailers on the most effective form(s) of hardship assistance.

Recommendation 16

That, with a view to mandating the availability of direct debit on energy bills through Centrelink, the State Government, through the Department of Human Services (DHS) and in collaboration with the retailers, should seek to secure a waiver or reduced fee level for the relevant transactions so that they reflect commercial rates.

Response:

Not accepted. DHS has examined this issue and raised concerns over the value in pursuing the recommendation. DHS doubts whether Centrelink will establish special deals with energy retailers. In addition, the basis on which Centrelink is offered is that it guarantees bill payment; hence the cost to the retailer is offset by the guarantee of payment. DHS has suggested pursuing this recommendation will blur the line between what is a Government issue and what is good business practice and good corporate citizenship.

Recommendation 17

That the Government's development of the Energy Efficiency Strategy should include additional initiatives to assist customers in hardship to better manage their energy usage, and to promote cooperation and coordination in presenting the Energy Efficiency measures to consumers, through:

- the expansion of the current audit, refit and customer education programs under the Energy Task Force and Smart Home Projects, with special reference to private rentals and public housing outside Neighbourhood Renewal areas;
- the allocation of further funds to the Housing Division of the DHS in order to help improve energy efficiency in public and community housing, and enable an increase in the scope for and priorities attached to energy audits and refits, especially among those in financial hardship; and
- extension of eligibility for the DHS capital grants program.

Response:

Accepted. The Government recognises the value of increasing the energy efficiency of homes and businesses, especially for energy consumers in financial hardship. In response the Government is mandating the offering of zero/low cost energy audits and an obligation to offer low/zero interest loans for the purchase of energy efficient appliances. In addition, the benefits offered through energy audit, retrofit and customer

education programs are to be reviewed during 2006/07 in light of extending such programs towards consumers in need. From this potential gains can be made in alleviating hardship for those in inefficient housing stock.

Recommendation 18

That Consumer Affairs Victoria examine ways to improve the levels of energy efficiency of private rental properties and information available to incoming tenants.

Response:

Accepted. The proposed Government Working Group on the hardship response will build on work currently being undertaken through the National Framework for Energy Efficiency (established under the auspice of the Ministerial Council for Energy). Agreements will be sought with landlords to co-contribute to hardship energy efficiency programs that are designed to improve private rental housing stock occupied by consumers in severe energy hardship.

Recommendation 19

That the Government's intention to hold an Inquiry into pre-payment meters be noted, and the need for an independent assessment of both advantages and concerns about possible implementation be acknowledged.

Response:

Accepted. The Minister proposes to proceed with the previously announced Prepayment Meter Inquiry. It will commence following implementation of the current Inquiry's main recommendations (but not later than early 2007).

Recommendation 20

That the ESC expand the collection and publication of timely qualitative and quantitative data relating to customer hardship.

Response:

Accepted. The ESC has begun to expand its collection of information relating to hardship. The ESC commissioned auditing of consumer accounts in retailer hardship programs to confirm actions undertaken by retailers. The Government supports the collection and publishing of such information, and will formally communicate this to the ESC.