



**Submission to MCE Secretariat
on the Retail Policy Working Group's
Working Paper No. 1**

on

- **Retailer obligation to supply small customers**
- **Retailer-small customer market contracts**
 - **Retailer-small customer marketing**

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Introduction

The Tasmanian Council of Social Service (TasCOSS) is the peak body for the community service sector in Tasmania. Its membership comprises individuals and organisations active in the provision of community services to low income, vulnerable and disadvantaged Tasmanians. TasCOSS represents the interests of its members and their clients to government, the public, the private sector and to the media.

We have been involved in electricity issues for several years as advocates for low income and disadvantaged electricity consumers in Tasmania. TasCOSS is represented on the Tasmanian Energy Regulator's Customer Consultative Committee. In 2004, we ran an electricity training program for domestic consumers and their advocates with funds from the National Consumers Electricity Advocacy Panel, and are actively involved in a national network of electricity consumer advocates. We are currently funded by the Advocacy Panel for a part-time electricity advocacy position.

Tasmania is a relatively poor state – the average income is the lowest in Australia and more than 40% of adult Tasmanians have Commonwealth Health Care or Pensioner Concession Cards. In addition, Tasmania's cool climate and the absence of natural gas to most households in the state results in Tasmanians having the highest electricity costs for domestic consumers in the country. Affordability, reliability, safety and consumer protections are therefore very high priorities for Tasmanian consumers. These priorities are reflected in our submission.

We welcome this continuing process of consultation regarding details of the proposed national framework for energy distribution and retail regulation. Our interest in this first Working Paper from the Retail Policy Working Group is focused on ensuring the protection of residential customers whose essential household energy supply may be vulnerable due to financial hardship and/or other factors that might result in loss of energy supply (eg misunderstanding due to literacy and/or language difficulties). We see this Retail Policy Working Group process as a valuable opportunity to ensure that best practice consumer protection is an integral part of national regulation.

We are therefore most interested in the consumer protection measures outlined in this Working Paper, in particular those associated with billing, payment methods and difficulties and with disconnection / reconnection. Given the essential nature of energy supply and the particular vulnerability of many Tasmanian households, significant and specific consumer protection measures are required in the regulation of residential energy supply. In addition, an effective and robust compliance regime is also a necessity.

We understand that the issues discussed in the Paper relate to energy supply under conditions of retail competition. As you are aware, full retail competition is not yet in place for small residential and small business customers in Tasmania, and is not due to be introduced until 2010 pending the outcome of a public interest test. However, in the likely event of the introduction of full retail competition in Tasmania, the conditions and regulations resulting from this consultation process will eventually replace existing regulation provided by the Tasmanian *Electricity Supply Industry Act 1995* and the *Electricity Supply Industry (Tariff Customers) Regulations 1998*.

In general, we support the conclusions and recommendations made in the Working Paper regarding the architecture of regulation of the activities discussed in the Paper – retailer

obligation to supply small customers, retailer-small customer market contracts and retailer-small customer marketing. However, we would like to make some comments and suggestions regarding some of the details. We note that these details are yet to be formally and finally drafted, and we look forward to the opportunity to comment on the final version.

Obligation to supply

We agree that the obligation to supply be addressed in the Law with the appointment of designated local retailers being the responsibility of jurisdictional ministerial order. This seems to address the desire for national consistency and allows for jurisdictional government input.

In relation to the details in the Rules, we question the requirement that customers in rental properties provide the name and contact information for property owners or agents. Since the contract to supply is between a customer and a retailer, we do not understand the necessity for a property owner or agent to be involved in any way. We believe that this is currently not a requirement in all jurisdictions.

Regulation of standing offer and market contract terms

We believe that the customer protection measures designated by regulation should be the same for standing offer and market contract customers. Given that energy supply is an essential service, consumer protections associated with it should not be permitted to be traded away in the negotiation of market contracts.

Below are some specific additions and amendments to contract terms outlined in Attachment A of the Working Paper:

Content of bills

We agree that bills should include the information listed in Attachment 1, but suggest that bills should also be required to include:

- **A pay by date, and**
- **Amount of arrears or credit.**

It would also be useful to include on all bills **a phone number for interpreter services.**

Disputes

The customer's right to request a **meter test** should be made explicit here.

Undercharging

We would like to see the period allowed for recovery of amounts related to undercharging reduced from twelve to **six months**. No more than six months is the period stipulated in the current Tasmanian Regulations and one we think is fair given the relatively high usage rates in Tasmania and the probable high costs over a twelve month period.

Payment methods

In addition to the payment methods outlined in the Attachment 1, retailers should also accept payment **by telephone, or as otherwise agreed**. The addition of these alternatives extends the options for customers and in particular for customers with limited mobility. It would allow payment, for instance, by internet, B-Pay and other methods not listed.

Payment difficulties

We believe that this section is sound, however, it requires some minor but important amendments.

- Retailers must offer a payment plan and must be required **to take into account the customer's ability to pay as well as the customer's patterns of energy usage** – this will result in appropriate payment plans that are more likely to be effective.
- Retailers should also be required to offer customers experiencing payment difficulties information on **energy efficiency** and /or **a household energy audit**, the acceptance of which must be voluntary, especially if a fee is required for the service.
- The words '**free and independent**' should precede '**financial counselling services**' to ensure that customers are provided with information about accessible and impartial financial counselling services. The emergence of for-profit (and costly) financial counselling services in a number of jurisdictions necessitates this inclusion.
- Retailers should be required to develop and maintain **hardship policies** that acknowledge the essential nature of energy supply to households and the fact that some households experience financial hardship that affects their ability to maintain energy supply. In addition, and most importantly, hardship policies must outline the practices instituted by retailers to assist customers experiencing hardship – these might include the provision of free household energy audits and/or energy efficiency advice, customised payment plans, specific staff training in hardship issues, and so on. Minimum standards should be applied to hardship policies, and we recommend adoption of the current Victorian requirements.

Bill smoothing

A provision should be added that bill smoothing must only be undertaken with the **express and informed consent** of that customer concerned.

Rights to disconnect

We believe that the right to disconnect for a retailer's inability to access a meter and for failure of a customer to provide appropriate identification must be qualified by ensuring that the **best efforts were made by the retailer to attain access and/or identification** from the customer. In both cases, notice of impending disconnection must be provided to the customer with adequate notice (with seven and ten days respectively, between the notice being issued and disconnection, as per the Victorian Energy Retail Code).

Limitations on the right to disconnect

In addition to the limitations listed here, retailers should not be entitled to disconnect a customer if **a complaint is in train with a recognised dispute resolution scheme** (ie ombudsman) or if **a customer can demonstrate that s/he has formally applied for assistance from a government or non-government emergency relief provider** and is awaiting approval for that assistance.

Limitation of **times** for disconnection should be made explicit. We suggest the following (based on the existing Tasmanian Regulation):

'unless otherwise requested by a customer, disconnections must not be made after 2pm on a business day or any time on a Friday, Saturday, Sunday or public holiday, or any time on a day immediately preceding a public holiday'.

Notice

Suggest that **two disconnection notices** be required, as well as the other requirements listed here.

Re-connection

Need to add a **reasonable timeframe for re-connection** – the Victorian Energy Retail Code states that if the retailer is notified before 3pm on a business day, re-connection should be carried out that day; if notified later, then re-connection should be made the following day. In addition, there should be capacity for after-hours re-connection subject to payment of a fee by the customer.

Dispute resolution and complaints

In the case of a dispute or complaint, a retailer should be required to **inform customers** of their right to take the matter to a dispute resolution scheme (ombudsman). This should occur early in the process.

Pre-payment meters

We fully support the inclusion of an **explicit condition** that a customer cannot be required to use a pre-payment meter. Further, we would like to see the adoption, in a national regulatory regime, of a **specific pre-payment meter code or set of rules**. We recommend that the current South Australian Pre-payment Meter Code be used as a model for national regulation.

Payment terms

We suggest that the prescribed period for payment of a bill be not less than **14 days** after the date on which the bill is sent out. This is in line with the current Regulations in Tasmania.

Regulation of marketing conduct

Since full retail competition has not yet been introduced to Tasmania, we have little experience with the regulation of marketing conduct in this area. We can, however state some principles that we believe should be present in a national regulatory regime.

Firstly, given the unique and essential nature of energy supply, we believe there should be a specific energy marketing code that applies nationally and is enforced by the national regulator (AER) and/or through licence or business authorisation conditions. We understand that such codes are currently in place in NSW and Victoria. In our view, this is far preferable to relying on generic legislation, such as jurisdictional fair trading acts and the *Trade Practices Act*.

Secondly, a necessary inclusion in an effective energy marketing code must be a requirement that a customer must provide explicit informed consent to a contract and to any changes to that contract.

We hope that these comments are helpful at this stage of the development of national regulation. We look forward to continuing to participate in the Retail Policy Working Group processes in 2007.