



Submission to:

ENERGY COMPETITION COMMITTEE

**Electricity Full Retail Competition: Submission on
FRC Electricity Legal and Regulatory Framework**

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

ACCC	Australian Competition and Consumer Commission
ECC	Energy Competition Committee
AER	Australian Energy Regulator
EDR	External Dispute Resolution
Bill	Electricity and Other Legislation Amendment Bill 2006
B2B	Business to Business
CATS	Customer Administration and Transfer Solution
Code	Proposed Electricity Code to operate in Queensland (currently version 3)
FRC	Full Retail Competition
FRMP	Financially Responsible Market Participant
NEL	National Electricity Law
NMI	National Meter Identifier
NEM	National Electricity Market
QCA	Queensland Competition Authority
Rec	Recommendation
SRC	Standard Retail Contract
SCA	Standard Connection Agreement

EXECUTIVE SUMMARY

This Submission from the Centre for Credit and Consumer Law is in relation to the legal and regulatory framework proposed for Full Retail Competition (FRC) in electricity in Queensland and is written in response to the following documents;

- Electricity Industry Code
- Standard Retail Contract
- Standard Connection Contract
- Energy and Other Legislation Amendment Bill 2006
- Proposed amendments to existing Queensland electricity and gas regulations for FRC

The Code and Bill include a variety of measures to ensure that small customers are not left vulnerable as Queensland opens its doors to private energy retailers. Comprehensive review (albeit in a short timeframe) is evident and we are aware that a decision was made to select and modify a State-based model (South Australia) but also to explore and include developments that have occurred on a national scale (consideration of B2B for example). On the whole this has resulted in a comprehensive framework dealing at once with a multitude of issues that FRC raises.

In this submission we have endeavoured to show where further modifications to the selected model can result in a more workable marketplace where households are more likely to participate in the changed environment. Some of the elements that require review are significant and critical to a sound consumer protection framework. No one model can be followed blindly. The modifications that have already been made demonstrate that the Government is aware that attention to detail is necessary.

In some cases we have noted instances where we believe South Australia provides the best benchmark (for example with notice periods for contract termination). In some cases where departure from the South Australian provision has resulted in a weaker position for small customers we have asked that the South Australian version be reinstated. In a number of cases we point to examples from other jurisdictions such as Victoria where we think certain provisions have enabled small customers in that jurisdiction to operate more effectively (for example stricter timeframes around providing customers with disconnection warnings).

If there is truly an obligation to supply to small customers and commitments to facilitating competition are to be effectively fulfilled then barriers to connection, such as the requirement to provide consumption and credit history information must be removed. A wider reversion policy is required to ensure multiple retailers are committed to supply and that customers are able to easily identify the appropriate retailer.

A key element to ensuring that a newly established market develops effectively is to ensure that tools are in place to empower consumers. Rules that protect them from potential abuse will do this. However, those rules are not effective if they are not flexible enough to change with a changing market. They are also of no use if they cannot be enforced with dedicated skills and objectivity. Despite a move to open Queensland's energy services to competition, the Queensland Government is still reluctant to place the regulation of that market in the hands of an independent and expert regulatory body or to offer a scheme for dispute resolution that is impartial. The documentation presented has demonstrated that the Government is not able to act impartially at this crucial stage of FRC implementation. We urge Government to let go of its oversight role so that, now that the first step towards a competitive market has been taken, the market can be allowed to evolve with a regulator and ombudsman that will independently consider all interests.

Where retailers are cautious about amendments to the proposed package or departures from the South Australian benchmark it is perhaps because they are concerned about operating in a market that forces them to be innovative and to bear community responsibilities. These retailers already operate across a number of jurisdictions and the compliance or infrastructure costs of accommodating Queensland specific requirements have already been sunk. Queensland must set the precedent to be picked up in the national sphere of the most thoroughly selected framework, borrowing from the experience of all the jurisdictions that have gone before it.

Finally, this framework must be pinned together with a set of principles and objectives that it is designed to meet. This is essential to ensure that the regulatory regime evolves with the changing market but only in keeping with the core objective. Since the Code includes a number of different topics, with different and in some cases competing interests, more thought and consultation around appropriate objectives is necessary.

Structure of this submission

The submission is in four parts.

Part A contains information about the authors of the submission and the basis on which we reviewed the proposals.

Part B contains our comments on the Bill that necessarily are those higher-level comments concerning the structural framework around which the regulatory environment for FRC in Queensland will be built.

In Part C we refer to our key concerns in the documents that have been provided, namely the Code, SRC and SCC.

Part D includes our recommendations in relation to external dispute resolution and is provided on the basis of the final policy decision.

Annexures A and B contains detailed drafting commentary in relation to Part C (Chapter 4 of the Code and the SRC).

KEY RECOMMENDATIONS

Bill

1. Develop a mechanism to ensure that on-supply arrangements do not become any more prevalent (B1, Page 14);
2. The obligation on the retailer to arrange connection for small customers be made explicit (B2, page 14);
3. Prevent market connection contracts with small residential customers (B4.3, page 16);
4. Extend the supply obligation to area retailers and consider options for allowing retailers to bid to provide services to non-switching customers (B4.3, Page 16);
5. Remove sections 40G (distribution) and 55 (retail) of the Act dealing with disconnection (B5, page 17);
6. Include an obligation where contracts are entered into prior to FRC that the retailer contact the small customer on 1 July 2007 or as soon as practicable after this date, to advise the small customer that their cooling-off expires in 10 days (B6, page 17);
7. Do not allow retailers and distributors to agree on a coordination agreement to be applicable to small customers that is different to the SCA (B7, page 18);
8. QCA be able to make and amend codes without the need for approval by the Minister (B8, page 18);
9. Prior to receipt of additional functions by QCA (making codes, auditing retailers and enforcement) it embark on a recruitment program to ensure that the appropriate skills are obtained (B8.3, page 19);
10. The proposed new section 90B should be re-labelled so that it is not restrictive in the type of rebate or relief that can be provided under it, be amended to refer to the Ministerial power to make 'schemes' rather than 'a scheme' and the eligibility criteria should be moved to the Regulations (B10, page 20);
11. A range of concessions that exist in other jurisdictions be included in the concessions framework in Queensland (B10, page 21).

The Code

12. An objective that includes consumer protection and the facilitation of consumer participation be developed. Since the Code includes a number of different topics with different and in some cases competing interests, more thought and consultation around appropriate objectives should be carried out (C1.1, page 22);
13. The current content of the Code be broken up into different codes (C1.2, page 22);
14. Early termination fees not be permitted or at least the amount chargeable be restricted to 2% of a customers annual bill (C2.1 page 23 and Annexure A, page 40 – clause 4.4.2(d));
15. There be an obligation by retailers to prominently disclose cooling-off rights in all marketing material (including websites) and contracts with small customers (C2.1, page 23 and Annexure A, page 39 – clause 4.2.4);
16. There be standards for retail service centres and that retailers be required to have procedures for handling small customer inquires when it first provides customer retail services in Queensland (C2.1, page 23);
17. The list of items that a retailer may require from a small customer at the application stage be revised so that requests for consumption, credit history and security deposits not be allowed as a pre-condition to connection (C2.1, page 24 and Annexure A, page 43 – clause 4.7.2 (f), (b) & (h));
18. The definition of ‘credit history information’ be reviewed and an appropriate definition of ‘unsatisfactory credit rating’ be included (C2.1, page 24 and Annexure A, page 43 – clause 4.7.2(b));
19. Delete the ability to require a security deposit for a customer on a standard contract (C2.1, page 24 and Annexure B page 62, SRC clause 13);
20. Include an obligation on retailers and distributors to better communicate with each other and the customer at the time of having meter access difficulties (C2.1, page 24 and Annexure A, page 47 – clause 4.10.6);
21. The period of recovery of undercharged amounts be 9 months (C2.1, page 25 and Annexure A, page 48 – clause 4.11.2);
22. Require retailers to consider a guideline on late payments fees and have QCA approve the application of late payment fees for particular retailers. Only allow late payment fees at the disconnection warning stage and require

retailers to waive the late payment fee where a new instalment plan is agreed (C2.1, page 25 and Annexure A, page 49 – clause 4.13.3);

23. Include minimum timeframes for sending and allowing payment under a reminder notice and before sending disconnection notice (C2.1, page 25 and Annexure A, page 51 – clause 4.18.3(e));
24. Retailers not be allowed to offer a small customer a contract with a term of more than 2 years (C2.1, page 25);
25. Require retailers to be aware that some of their customers may be experiencing financial hardship and to take specific action to accommodate these extreme circumstances in terms similar to clause 11.2 of the Victorian Energy Retail Code (C2.1, page 26 and Annexure A, page 49 – clause 4.13.11) and specifically;
 - a. not be allowed to commence legal proceedings for debt recovery if a customer is making payments according to an agreed payment plan or is successfully participating in an approved retailer hardship program (Annexure A, page 49 – clause 4.13.11);
 - b. be required (not just if so requested as provided in clause 4.13.10) to provide customers in financial difficulty with details of all concessions and grants available (not just any provided to the retailer, as is currently proposed in clause 4.13.10) (Annexure A, page 50 – clause 4.13.11);
 - c. be required take into account the capacity to pay of a customer in financial difficulty and if unable to assess this take account of advice from a financial counsellor (Annexure A, page 50 – clause 4.14);
 - d. be required to offer to assist customers in financial difficulty to improve their energy efficiency and select the optimal tariffs (Annexure A, page 52 – clause 4.2.1);
26. Retailers be required to develop appropriate hardship programs to ensure early identification and response to customers experiencing payment difficulty. The policy must include flexible payment options and options for replacement of equipment designed for domestic use that draw electricity. The QCA be empowered to approve (or not approve where developed criteria are not met) hardship policies that must be submitted to it (C2.1, page 26);
27. Price fact sheets be provided for all contract types, and not just negotiated contracts (C2.2, page 26);
28. A list of standard complaint types for the retail entities to report against be developed (C2.2, page 26);

29. QCA be required to produce a public reports on the progress of FRC after 12 months and then at least every three years (C2.2, page 27);
30. There must be a funding mechanism developed to enable research and advocacy that is entrenched in legislation (C2.2, page 27);
31. QCA be required to establish a customer consultative committee for the purpose of ongoing developments in relation to FRC (C2.2, page 27);
32. The time period that a marketer is able to stay at a customer's premises be restricted to 30 minutes (C2.3, page 28);
33. There be a requirement for retailers to keep records of and comply with customer's requests to not be contacted or to respect no canvassing signs at a customer's premises (C2.3, page 28);
34. Disclosure statement requirements not include enforcement expenses in any contract with a small retailer since the contract cannot include an indemnity seeking to recover any amounts that would not be allowed at common law or in statute (C2.3, page 28);
35. A specific list of the training and testing requirements for marketers be developed (C2.3, page 28);
36. QCA be required to carry out monthly assessments of whether the transitional restriction on special meter reads can be lifted and where pre-contracting occurs special meter reads be allowed (C2.4, page 29);
37. Provide that a SRC can commence before a retailer becomes responsible for the NMI in the wholesale market (with financial obligations being delayed until this time) (C2.5, page 29 and Annexure B, page 56 – clause 4.1);
38. Amend clauses of the SCC: 19.2 to link the ending of the SRC and SCC, 12.7 so as not to penalise a customer that provides access to a meter in circumstances of difficult meter access and 10.4 to prevent a distributor from electing to bill a customer directly (C3.1, page 30);
39. For GSLs (C3.2, page 31):
 - payments be made automatically
 - the CAIDI and MAIFI indexes for service levels be included;
 - the cap on the entitlements to GSLs be lifted;
 - customers with un-metered supply be allowed to access GSLs;
 - payment amount for wrongful disconnections be increased to \$250

- distributors be required to note in any final summer preparedness plan whether any recommendations of QCA have been included or not included and reasons for any non-inclusion;
 - customers be notified where payments for wrongful disconnection are as a result of retailer action (or inaction);
40. Clauses of the SCA be reviewed, namely 11.1(a) requiring that a retailer attempt to recover charges from a customer where a distributor does not disconnect within the time required in a service order and 15 requiring each of the distributor and retailer to refer a customer complaint to the other where it relates to the other parties contract (C3.6, page 33);
 41. There be no charge for providing a customer charter irrespective of how many times it is provided/requested (Annexure A, page 40 – clause 4.5);
 42. Bills must also be required to include information about the availability of the retailers internal dispute resolution, the ombudsman scheme, set out concession information, and disclose any restriction on certain payment methods (e.g. if it will only accept BPAY payments from certain accounts) or if a discount or surcharge applies to any payment methods (Annexure A, page 45 – clause 4.9.6); and

Energy Ombudsman

43. An Energy Ombudsman be established as a company limited by guarantee with industry businesses as members and with a single board of directors comprising an independent chair and an equal number of industry and consumer directors. There be a requirement for the Energy Ombudsman to report in relation to systemic issues. The jurisdictional limit be set at \$100,000. Customers excluded from FRC have access to the scheme (D, page 34).

PART A INTRODUCTION

A1 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. In addition specific funding was received from the Advocacy Panel to respond to the proposed FRC legislation and regulations. Without this funding and without the availability of expert consultants the Centre would not have had the capacity to respond substantively to these proposals. At the current time in Queensland there are no state funding resources for consumers to respond to these proposals.

A2 About this Submission

This submission was authored primarily by Natasha Leigh on behalf of the Centre for Credit and Consumer Law with the assistance of Catriona Lowe and Dr Tenzin Jane Bathgate. The Queensland Consumers Association, through the input of Ian Jarratt, also assisted with the preparation of this submission.

This submission follows on from and endorses the comments previously made by the Centre for Credit and Consumer Law and the Queensland Consumers Association in seven earlier submissions, a list of which is included in Annexure C. Many of our comments there have not been addressed in this latest re-write of the documents and legislative amendments and we reiterate key points here.

Our comments are in response to the proposed version 3 of the Electricity Industry Code (the **Code**) (including the Standard Retail Contract (**SRC**) and Standard Connection Contract (**SCC**)), the proposed although incomplete Standard Coordination Agreement (**SCA**) and the *Energy and Other Legislation Amendment Bill 2006* (the **Bill**), all of which include proposed amendments to take effect from 1 July 2007. We have also considered the Energy Competition Paper 'Proposed amendments to existing Queensland electricity and gas regulations for FRC', dated 21 August 2006 (the **Regulations Paper**).

This Submission does not concern Gas. However we note that where possible Gas provisions should mirror electricity provisions – or the intentions of these provisions. We also note that more detailed work and time to-date has been devoted by the Energy Competition Committee (ECC) to electricity rather than gas provisions and that more time and effort needs to be devoted to improving the standard of the Gas provisions.

A3 Parameters that we have used to evaluate proposals

In assessing the content of the documentation we have considered primarily whether the result will be sufficient to protect small customers, including vulnerable consumers. Where we point to examples from other jurisdictions it is because those requirements have, in our view, resulted in greater confidence, more participation and fewer complaints by residential customers. We think that robust but clear regulatory framework is the key to ensuring this. It has been demonstrated elsewhere that residential customers are vulnerable in an emerging energy retail market as a result of inertia, perceived poor payment records, low profitability or in some cases due to being heavily targeted because of high profitability.¹

A4 Overall view of proposed package

Overall we are pleased with the package proposed. Most importantly we support the adoption of standard form contracts (retail, connection and coordination, subject to our comments below) that will apply to all small customers that elect not to accept market-based terms.

We also support the attempt to capture in this documentation all of the various issues that FRC will raise, including metering and automated business-to-business processes. However, we stress that there is still more work to be done, not just in further consultation to perfect this package of documentation, but to ensure that various complementary guidelines are adopted on topics such as disconnection, early termination fees and use of credit information as has occurred in Victoria. With the well-developed Victorian model of how to deal with these issues, there is no reason for Queensland to delay in developing such policy guidelines.

A5 A note on the consultation process and amendment methodology

We are disappointed that there has been such a short timeframe to respond to these changes. We note the recent federal report of the National Taskforce on Reducing Regulatory Burdens on Business which outlines the need for coordinated and comprehensive consultation practices as part of a whole-of-government policy thereby lessening ‘...the risk of unintended consequences from intervention’ and enhancing ‘...

¹ Which may occur if the Government rebate is higher than the cost to serve, as is suggested will occur in the Brisbane area.

acceptance of (and compliance with) a regulation once adopted'.² Queensland consumers would benefit from a far more coordinated and transparent approach to consultation in the energy sector.

We are also disappointed that we have not been given the opportunity to view a final draft of the version 2 of the Electricity Industry Code that became effective as of 1 September 2006 and will operate until 1 July 2007. The timeframe for consultation in relation to provisions necessary to ensure an appropriate framework for full retail contestability in Queensland has coincided with consideration of provisions that are necessary prior to FRC as a result of the sun-setting of the *Electricity Regulations 2004*. As a result, the combined 'August Version' and 'FRC Version' of provisions in the Electricity Industry Code draft dated 2 June 2006 meant that the document was difficult to properly analyse. Our previous submissions have not focussed on the amendments that will take effect prior to 1 July 2006. Despite this, we had hoped to be able to view those provisions prior to them becoming effective.

We are grateful for the provision of a marked up version of the Electricity Act with the amendments that will result if the Bill is passed (document titled FRC Amendments to Electricity Act (Reflecting Parliamentary Counsel Bill version 10 August 2006)), however, note that not all of the proposed amendments in the Bill are included in that document. Notably, the replacement of Chapter 5 parts 1A to 1C has not been included in this document.

We look forward to commenting on the proposed new electricity regulations when those are released in October as well as the documentation to put in place an external dispute resolution (**EDR**) scheme.

² Australian Government (2006), *Rethinking Regulation. Report of the Taskforce on Reducing Regulatory Burdens on Business*, Productivity Commission, ACT, p.150. The UK Cabinet office recommends '...a minimum of 12 weeks for written consultation at least once during the development of the policy', p.153.

PART B THE BILL

Below are our comments on the Bill. They are not in the order of priority of issue but rather we have addressed the issues in the order that they appear in the Bill. Our recommendations identify our priorities.

B1 On-supply arrangements (Rec 1, Section 23)

Although on-supply arrangements in Queensland are more strictly regulated as compared to the other NEM jurisdictions our view is that the introduction of FRC in Queensland is an opportunity to ensure that on-supply arrangements do not become any more prevalent. In our view, new residential developments must be restricted from installing a single meter. We have also made comments in Part B of this submission about the need to ensure that customers in on-supply arrangements have access to EDR.

B2 Applying for customer connection services (Rec 2, Section 40(2))

While there are examples of triangular relationships elsewhere in Australia the model that is apparent in the Bill appears to go beyond this because the obligation on the retailer to arrange connection for small customers is not explicit. The default situation must be that the retail entity makes the application for the provision of customer connection services for small customers unless the small customer specifically requests to make the application. There has been no discussion about how any other arrangement would work in practice for small customers whose preference will almost certainly be to have a retailer arrange connection and to receive one bill. Clause 4.7.4 of the Code that proposes to deal with the retailer's responsibility for notifying the distributor does not adequately set out that the SCC comes into effect for small customers. We appreciate that a business customer may wish to negotiate their connection services contract and if this is the case then provision can be made for business customers to make an election for the retailer not to arrange connection on their behalf. However, at present, section 40(2) of the Act does not adequately accommodate residential customers. We therefore request that section 9 of the Bill regarding the insertion of section 40(2) of the Act be rewritten in the above terms.

B3 Distribution contract types – market connection contracts for small customers (Rec 3, Section 40CA(i))

We cannot see the benefit of permitting distribution entities to offer market connection contracts to small residential customers. This is inconsistent with a non-contestable service being provided by a regulated monopoly. We understand that the negotiated connection contract for small customers must still comply with the minimum terms of the Code, however, in our view, there will be scope for connection contracts to reduce the terms of the standard contract while still complying with the minimum terms of the Code. This is because the small residential customer is not likely to ever take notice of the proposed negotiated terms particularly because, unlike with retail services where this may

involve a change of retailer, for distribution services the supplier will remain the same. This is despite the proposed new section of the Act (section 40CB) that requires that a distribution entity notify the small customer that the energy ombudsman may hear a dispute about the terms. We do not think that this will increase the awareness of the customer in the case of distribution services.

We also think it is not likely that there will be any regulatory scrutiny of connection contracts and they may also therefore fail to comply with the minimum conditions of the Code. While such terms will be unenforceable, it is not likely to ever be raised by a small residential customer. Unlike retail contracts that may be more closely scrutinised by the small customer, industry competitors, the regulator and QCA, the commercial terms of individual connection contracts with small customers are more likely to be ignored.

We therefore propose that the new section 40CA(1) be amended to provide that only a large customer or a small business customer and a distribution entity may enter into a contract for the provision of connection services that is different to the standard connection contract provided for in the Code. The proposed new sections 40CA(2)(b) onwards and section 40CB can also therefore be removed from the Bill.

B4 Reversion policy (Rec 4, Sections 49 and 50)

B4.1 Which retailer?

A major problem with the reversion policy is how the small customer will become aware of which retailer is the financially responsible retail entity for the premises (effectively defined as the Financially Responsible Market Participant or FRMP, as that term is defined under the National Electricity Rules).

In other jurisdictions where the ‘host’, or to use the Queensland term ‘area’ retailer has the obligation to supply, the regulator and each host retailer specifies on their various websites the geographical area that each retailer is obligated to supply. Given that the retailer with financial responsibility for a NMI will change from time to time, we wonder whether there is a proposal in place to keep track of which retailer has the obligation from time to time. We also query how this information is to be relayed to small customers - so that at any given time they may know which retailer they must make the application to? We are concerned that other than the retailer that has the NMI allocated to it in CATS, NEMMCO is the only independent party that would be in a position to supply this information, and NEMMCO is not likely to agree to do this. Our concern is, if the FRMP did not wish to supply to a residential customer, it would not be difficult for that retailer to withhold the information.

B4.2 Subsidies

Despite the concern with how the reversion policy will operate in practice, expressed above, we support the initiative of sharing the supply obligation among all retailers. However, it is difficult for us to comment on how effective this is likely to be without any

information about the Government subsidy arrangement that is proposed. We are disappointed that this information has not been provided in the documentation to date.

B4.3 Extend the supply obligation

We had hoped that this innovative reversion policy would go further and allow small customers to switch back to either the FRMP or the area retailer (in cases where the FRMP is not the area retailer). In fact we think this approach would go some way towards alleviating the problem of small customers not always being able to ascertain who the FRMP is. If this approach was applied, the small customer would always at least know which area retail was responsible. In some cases then the area retailer may advise them if another retailer had responsibility for the NMI.

Of equal importance is the likelihood that, if small customers that did not want to negotiate terms or price, still had a choice to switch retailers in cases where the 'area' and 'FRMP' were different, this would, over time, boost small customers participation.

Section 22 of the Bill proposes a new clause section 55G to prevent Ergon Energy and any of its subsidiaries (**Ergon**) from competing. This means that as small customers switch Ergon will lose that customer forever. It is clear then that the Government's plan is for Ergon not to have any supply obligation. This does not however mean that Queensland cannot retain the concept of a retailer being responsible for supply within a geographical area. The Queensland Consumers Association has previously requested that the option of allowing retailers to bid to provide services to non-switching customers be explored and provided international examples of where such an approach has been adopted.³

B4.4 Drafting

Our understanding of the reversion policy is that a small customer is unrestricted in being able to revert back to a standard contract (and obtain electricity at a prescribed price). The retailer that is obligated to provide this is the financially responsible retail entity (see discussion above regarding what this means).

In contrast, a large customer cannot revert back to a standard contract if either:

- that customer has previously been on a negotiated contract (we assume this will be the definition of market customer still to be provided in the amendment to the Regulations); or
- a customer occupying the premises before them has had a negotiated contract.

We understand that the reversion policy in relation to large customers may still be subject to change. Nevertheless, as currently evident, if we have understood the policy correctly then the drafting in the proposed new sections 49 to 51 are not sufficiently clear.

³ Queensland Consumers Association *Submission to the Energy Competition Committee Consultation Paper No 3* 6 April 2006, p.21.

Firstly, there is no need to make the distinction in the headings of sections 50 and 51 between when an area retailer must provide the services to an applicant and when a non-area retailer must provide the services. This is because it is not relevant whether the retail entity is an area retail entity as it is only relevant if the entity is the financially responsible retail entity for the premises.

We propose the following section:

“50 When a retail entity must provide services

- (1) The entity that is the financially responsible retail entity for the premises must supply retail services to:
 - a. all small customers; and
 - b. large customers that are not:
 - i. market customers; or
 - ii. occupying premises that were occupied by a market customer immediately prior to the large customers occupation.”

The proposed new section 51 can therefore also be deleted.

A separate section taking into account our proposed amendment to the reversion policy to require area retail entities to supply small customers is also required. A variety of approaches mentioned in other submissions may be explored in determining and allocating responsibility to area retailers.

B5 Disconnection for failure to pay (Rec 5, Sections 40G and 55)

The amendments to sections 40G (distribution) and 55 (retail) are not appropriate. Firstly, these provisions should not be retained in the Act since the Code will now deal with this. These clauses are a relic of the Act prior to the existence of the retail and distribution sections of the Code and are too general now that the Code deals with these issues. We propose that these sections be removed altogether. At a minimum, the reference to ‘a regulation may provide’ needs to be amended to state ‘the Code will provide’ and the ability to disconnect for any breach of contract removed.

B6 Pre-contracting (Rec 6, Section 314)

We can accept the proposal to allow retailers to market to, and contract with, small customers prior to the commencement of FRC on 1 July 2007. If this is to occur, the current provision for a cooling-off period of 10 days applying from the commencement of FRC as is proposed in the Bill must be retained. However, in our view, the only way this cooling-off period can be of any use is if this requirement for a cooling-off is accompanied by an obligation that the retailer contact the small customer on 1 July 2007 or as soon as practicable after this date, to advise the small customer that their cooling-off

expires in 10 days. The small customer must be provided with 10 days within which to withdraw from the contract from this date of contact from the retailer.

We propose amendment to the transitional provisions in section 42 of the Bill, namely the new proposed section 314, to accommodate our concerns above.

B7 Coordination Agreement (Rec 7, Section 55H)

The Bill provides for a new Part 6A dealing with coordination agreements. We make a number of comments elsewhere in this submission on the detail of the proposed standard coordination agreement. The proposed new section 55H of the Act provides that a distributor and retailer may agree on a coordination agreement that is different from the coordination agreement provided for under an industry code. We recognise that a departure from the standard coordination agreement will be rare due to the difficulties that retailers and distributors have in negotiating these agreements. Nevertheless, we are not comfortable with the notion that the non-standard coordination agreement may apply to a small customer. While large customers will have the resources and interest in reviewing a retailer's coordination agreement and selecting its' retailer of choice based on this information (as one element in its overall decision), a small customer is highly unlikely to do this. For this reason, the Act should provide that for small customers the standard coordination agreement must apply.

B8 Role of the regulator and industry codes

B8.1 Amendments to section 63

We support the proposed deletion of sub-sections 63(b) and (c) of the Act. In our view it was never appropriate for the regulator, being the chief executive of the department, to make standards and codes for regulating the electricity industry or to assist in the settlement of disputes between electricity entities and others.

The remaining sub-sections of section 63 of the Act, namely subsection (d) dealing with the investigation of complaints by customers about the performance or operation of electricity entities and subsection (e) regarding monitoring compliance with the Act and with conditions of authorities, approvals and licences should also be removed.

Like the functions set out in subsections (b) and (c), QCA must be given the functions in subsections (d) and (e), subject to our comments below.

B8.2 New Part 1A retains ministerial oversight (Rec 8, Part 1A)

The proposed new section 120F regarding the power of QCA to make an industry code is irrelevant because in section 120F(2) the minister must approve any code or amendment. In our view QCA should be able to make and amend codes (provided it deals with the prescribed content) and those codes should have effect without the need for approval by the Minister. This approach is used in other jurisdictions of Australia including South Australia on which Queensland FRC framework is based. In South Australia there is clear

legislative intent for independence. Section 7 of the *Essential Services Commission Act 2002 (SA)* says that the ‘Commission is not subject to Ministerial direction in the performance of its functions’. The Essential Services Commission in Victoria reads its power broadly so as to have unfettered power to make codes by using section 36 of the *Electricity Act 2000 (Vic)* which sets out the terms and conditions that the ESC can set for contracts for relevant customers. On the other hand, on a national scale, the Ministerial Council on Energy is proposing a broad regulatory role for the Australian Energy Regulator that is comprised of members appointed by the Governor General of each State and Territory. It is therefore imperative that Queensland sets an example for independent regulation now so that it is not forced to accept a national regulatory structure for retail and distribution that may be tied by competing State interests. The importance of the independence of a regulator has been noted in a recent review of the outcome of electricity reform in Victoria⁴ and also set out in a Queensland Consumers Association submission on FRC in Queensland.⁵

Previously QCA had power under section 120C (proposed to be removed) to make conduct rules. The conduct rules were allowed to deal with, among other things, the advice distribution or retail entities give to customers. We appreciate the proposed additional content for the Code goes far beyond the matters that conduct rules were permitted to deal with. However, we fail to see why this would lead to such a departure from the independence that the QCA was previously permitted. That is, QCA was previously provided with the independence to deal with some of this content, yet in the Bill the independence to make rules has now been totally removed.

The new part 1A virtually does not change the role of the regulator (department) in making code (see sections 64FA and 64FB of the current Act which are proposed to be removed). This is because if the Minister and QCA may both makes codes, with the Minister having to approve any code made by QCA, it is likely that QCA will in practice consult with the Minister in making any code. This will diminish any benefit that might have resulted from QCA being an organisation that is separate to Government.

B8.3 Equipping the regulator with necessary skills (Rec 9)

Having made this argument for QCA to have independent code making functions we must stress that what we support is these functions being carried out by an independent regulator with skills and expertise to deal with consumer protection issues. Currently QCA does not have that skill set within its staffing and we would like a commitment from that organisation that it will immediately, in preparation for receipt of these additional functions, embark on a recruitment program to ensure that the appropriate skills are obtained. Further, considerable effort is required to make small customers aware of the existence of QCA. In a report on the consumer awareness of the Victorian Essential Services Commission in 2004 it was found that only 27% of the 250 residential

⁴ Consumer Law Centre Victoria and Centre for the Study of Privatisation & Public Accountability, *Electricity reform in Victoria: Outcomes for Consumers*, February 2006, p.81.

⁵ Queensland Consumers Association *Submission to the Energy Competition Committee Consultation Paper No 3* 6 April 2006, p.38.

consumers interviewed, were aware of the ESC.⁶ We would like to be consulted on the proposals for disseminating information to small customers in preparation for FRC.

B8.4 Keeping of the code (section 254B and 64FD)

While we support the insertion of the new section 254B providing for QCA to keep a register of the Code, this should not be coupled with the removal of section 64FD (proposed in section 25 of the Bill) which provided that the chief executive of the department must keep a copy of the code available for inspection, without charge, at the departments head office and on the department's website. At the very least the obligation to have the code available on a website, preferably QCA's website, must be retained.

B9 Enforcement (Part 1A)

We commend the introduction of Part 1A Division 6 setting out the ways in which the Code may be enforced. In particular, we commend the independent role of QCA in carrying out enforcement action. We support the adoption of civil penalty provisions that will make enforcement easier. We are also satisfied that the penalty amounts are appropriate and note that they are higher than those for breach of the NEL. We wonder, however, whether the infringement notice concept in the NEL which gives the entity served with the notice choice of whether to pay a lower amount (in the NEL the amount is \$4,000 and \$20,000 for individuals and corporations respectively) rather than defend the proceeding in court was also intended to be included in the Bill? We do not understand the intention of the notice of contravention set out in the new section 120Q and wonder whether this is intended to operate like the infringement notice of the NEL?

We also support the auditing powers of the QCA that, if utilised, will provide the tools to obtain information necessary for enforcement actions. We note that in no other Australian jurisdiction has the energy regulator used its' enforcement powers. This is with the exception of the newly introduced AER that, although not yet actually having commenced any legal action, has been active in investigating potential industry breaches. In our view this is because the staff that makes up the AER (being part of the ACCC) has the experience and expertise necessary to carry out enforcement. We therefore reiterate our comments at paragraph D8.2 above and ask that the QCA immediately embark on a recruitment campaign to ensure that it has the expertise necessary to carry out appropriate audits and enforcement actions.

B10 Pensioner rebate scheme (Rec 10 and 11, Section 90B)

The proposed new section 90B should be re-labelled so that it is not restrictive in the type of rebate or relief that can be provided under it. Sub-section (1) should also be amended to refer to the Ministerial power to make 'schemes' rather than 'a scheme'. The eligibility criteria should be moved to the Regulations so that the schemes can adequately accommodate the changing needs of Queensland consumers. We refer to the Queensland

⁶ Referenced in Consumer Law Centre Victoria and Centre for the Study of Privatisation & Public Accountability, *Electricity reform in Victoria: Outcomes for Consumers*, February 2006, p.84.

Consumers Association's earlier submission regarding the breadth of concessions that the Minister should consider when making rebate schemes.⁷ We endorse the recommendation number 8 of the Queensland Consumers Association that a range of concessions that exist in other jurisdictions be included in the concessions framework in Queensland.⁸

B11 Minor errors in the bill

It appears to us that section 16 of the Bill (nor any other section of the Bill) proposes that sections 51AA, 51A, 52, 52A, 53 and 54 of the Act be omitted. However we assume from the deletion of these sections in the mark-ups of the FRC Amendments to Electricity Act (Reflecting Parliamentary Counsel Bill version 10 August 2006), that the intention is to remove these sections. Please confirm if this is not the case.

⁷ QCA Submission, p.24.

⁸ Queensland Consumers Association *Submission to the Energy Competition Committee Consultation Paper No 3* 6 April 2006, p.24.

PART C THE CODE

C1 General Comments

C1.1 Inappropriate code objective and test for amendment (Rec 12, Clause 1.1.1)

The Code objective and Code amendment test are not appropriate for a document that is a code of conduct and is certainly not appropriate for the retail provisions. The objective does not include consumer protection or the facilitation of consumer participation in the retail market.

It is particularly important that the objective reflects the need to provide consumer protection and enhance competition particularly given that they required to be included by the QCA in future codes, must be referenced in making amendment to the present Code (clause 1.1.3) and in any relevant exercise of power by the QCA (clause 1.1.9)

We understand that it is now intended that the objective be moved to the Act. This does not alleviate our concerns that the objective itself is not appropriate. We propose that further consultation on the objective be carried out. We also think that an appropriate specific objective on consumer protection needs to be contained in the retail conduct part of the Code.

The test now contained in the Code has been taken from the test in the National Electricity Law that applies to the Australian Energy Market Commission for changes to the National Electricity Rules. This is a test that is appropriate for the rules that govern the trading and settlement of transactions in a wholesale market. It is not an appropriate objective for developing codes of conduct to protect vulnerable consumers.

C1.2 Too much information (Rec 13)

The Code in its current form is inaccessible to small customers. The decision of how to set out the content in the Code is a difficult one. On the one hand, if the information is contained in chapters all located together, it is less likely for a small customer to fail to realise that there are other documents that affect their rights. On the other hand, if the document is too large, a residential customer will have less ability (both in terms of time and resources) to locate the source of their rights and obligations. Given the size and complexity of this document and the fact that some of the content is not of use to small customers we feel that a single document is not workable for consumers. Besides the obvious need for the minimum protections that are contained in the Code, the document itself has an important function of providing information to small customers that will lead to confidence in the market and switching retailers. The retail chapter also needs to be accessible to retail service and sales staff who will need to rely on it. We therefore recommend that the current content of the Code be broken up into different codes as follows:

- Retail Code (using chapters 4 and 8 and containing the SRC);

- Marketing Code (using chapter 7);
- Transfer Code (using chapter 6);
- Distribution Code (using chapters 2 and 3 and containing the SCC); and
- Metering and Coordination Code (using chapters 9 and 5 and containing the standard coordination agreement).

This of course will replicate the approach taken in South Australia.

Below are our comments on each of the chapters as they appear in the current draft of the Code.

C2 Retail Provisions

C2.1 Chapter 4 – Customer Retail Services

We have a number of comments in relation to the detail contained in the content of chapter 4 and have set these out in Annexure A. Our main concerns, the clause references to which are contained in Annexure A, are:

- *Early termination fees restrictions (Rec 14, Annexure A, page 40 - clause 4.4.2(d))* – In our view, the number of small customers switching retailers will be boosted if early termination fees are not permitted. This would of course lead to a market where retailers compete on service items because small customers will have, over time, taken interest in these aspects. However, if early termination fees must be permitted, a maximum amount that can be charged to small customers is required. The Victorian Essential Services Commission review of early termination fees found that 2 to 2.5% of a customers annual charges was an appropriate benchmark for termination charges that represents cost recovery for retailers;
- *Disclosure of cooling-off rights (Rec 15, Annexure A, page 39 – clause 4.2.4)* – The need for cooling-off rights in a complex and highly competitive industry such as electricity is already recognised and has been provided for in clause 4.2.4 of the Code. However, we are strongly of the view that these rights must be accompanied by an obligation by retailers to prominently disclose cooling-off rights in all marketing material (including websites) and contracts with small customers;
- *Service standards for retailers (Rec 16, Annexure A, page 41 – clause 4.6)* – We support the reporting requirements that have been proposed in chapter 8 of the Code. We also know that as part of the GSL regime contained in the distribution services chapter, there are service requirements surrounding disconnections. However, in addition to these requirements there must be standards around retail call centres and information provision to small customers, modelled on the provisions in the Victorian Energy Retail Code. Also, it is not clear why retailers cannot have procedures for handling small customer inquires ready when it first provides customer retail services. Twenty business days is too long to wait for these procedures to be ready;

- *Pre-conditions to connection (Rec 17, 18 and 19, Annexure A, page 43 – clause 4.7.2)* – The list of items that a retailer may require from a small customer at the application stage is ill conceived. We enumerate a number of recommendations to address this issue;
 - i. Retailers should not be allowed to require as a pre-condition to acceptance of a negotiated contracts, payment of previous debts owed and an acceptable credit rating. This factor should only be allowed to determine whether a refundable advance is required and QCA must monitor that the restriction is being followed;
 - ii. Neither can we support retailers being able to require entry into a payment arrangement as a precondition to agreeing to a standard contract. In our view, this is at cross-purposes with the notion of protecting a minimum level of supply through the availability of standard contracts;
 - iii. Retailers should not be allowed to refuse a standard contract on the basis that a small customer does not provide estimated load information.⁹ We appreciate that this information may however be relevant to the type of negotiated contract that a retailer is prepared to offer;
 - iv. We do not agree with the definition of credit history information or that retailer is able to require that customers provide such information. Retailers have sufficient access to this information and should bear the costs of obtaining it. We also require that there be a definition of unsatisfactory credit history. This cannot be left to the retailer’s discretion as it is a matter that is central to ensuring supply and there must be equality across customers. In developing an appropriate definition guidance can be taken from the Victorian guideline that sets out the matters that can be taken into account when considering whether a customer has an unsatisfactory credit rating;¹⁰
- *Access to meter (Rec 20, Annexure A, page 44 – clause 4.7.2(f))* – Requirements on small customers to ensure safe and convenient access to the meter is appropriate as failure to access a meter has created significant delay and hardship for many small customers in other FRC jurisdictions. However, in our view, this customer obligation needs to be coupled with an obligation on retailers and distributors to better communicate with each other and the customer at the time of having access

⁹ Compare this to the restriction in paragraph 2.1 of Victoria’s Essential Services Commission *Guideline No 19 Energy Product Disclosure*, December 2005, which prevents a retailer from requiring the customer to provide consumption information prior to providing a product information statement.

¹⁰ *Electricity Industry Guideline No 4 - Credit Assessment, Public Version.*

difficulties. Too often, a distributor could access the meter if a telephone call was made to the retailer and then the customer;

- *Recovery for undercharging (Rec 21, Annexure A, page 45 – clause 4.11.1)* – These documents make provision for retailers to recover undercharged amounts in the previous 12 months. In Victoria this is limited to 9 months. We cannot understand why Queensland would deviate from a requirement that retailers in another jurisdiction already comply with;
- *Late payment fees (Rec 22, Annexure A, page 49 – clause 4.13.3)* – We cannot support the imposition of late payment fees by retailers in relation to residential customers. The imposition of such fees will exacerbate the problems of customers experiencing payment difficulties and make it more difficult for them to maintain access to supply. Nevertheless, if late payment fees must be allowed, there must be restriction on when these can be charged and the amount that can be charged. In Victoria retailers cannot charge a late payment fee until a disconnection warning has been issued (and therefore given the timing requirements for when that warning can be issued, afford the customer more time until the late payment fee will be incurred). As stated above, we are disappointed that the Queensland Government has not taken this opportunity to adopt those practices that have been deemed necessary in other FRC jurisdictions;
- *Disconnection notice periods (Rec 23, Annexure A, page 51 – clause 4.18.3(e))* – The requirements around disconnections in this chapter provide a minimum amount of notice from the issuing of a disconnection warning until the time of disconnection (five days) and the disconnection warning can only be issued after expiry of the time period set out in a reminder notice. However, there is no requirement for a certain time period in a reminder notice. In Victoria the reminder notice cannot be sent earlier than 14 days from the date of the bill and must provide a new pay date which is no earlier than 20 days from the date of the bill. The Code also fails to impose a limit on how long from the date of issuing of the bill these disconnection warning can be issued or when they can require payment. In Victoria it is 22 days and 28 days respectively. These time periods for requiring payment before disconnection must be replicated in Queensland;
- *Contracts of any length (Rec 24)* – While there is no precedent for regulating the term of negotiated contracts in the other jurisdictions, in our view, retailers need to be prevented from developing market contracts that attempt to lock small customers in for a significant length of time. In our view, retailers should not be allowed to offer a small customer a contract with a term of more than 2 years. Such a restriction will ensure that small customer continue to be engaged with the changing conditions of the retail market; and
- *Hardship programs (Rec 25 and 26, Annexure A, pages 49, 50 and 52 – clauses 4.2.1, 4.13.11 and 4.14)* – We refer to the Supplementary Submission of the Queensland Consumers Association provided on 13 July 2006 regarding the need for a

requirement that retailers develop appropriate hardship programs and our earlier submission dated 20 June 2006 that identifies the need to link hardship programs with the FRC implementation process (Annexure C). Retailers must be required to develop hardship policies to ensure early identification and response to customers experiencing payment difficulty. The policy must include flexible payment options and options for assistance with replacement of faulty or inefficient equipment designed for domestic use that draw electricity. QCA must be empowered to approve (or not approve where developed criteria are not met) hardship policies that must be submitted to it. We note that these are other requirements now apply to retailers in Victoria following the introduction of the *Energy Legislation (Hardship, Metering and Other Matters) Act 2006*. In addition the provisions of the Code requiring retailers to take into account customer's payment difficulties must be strengthened (Annexure A).

C2.2 Chapter 8 – Retail Market Information

- *Price fact sheets (Rec 27, Clauses 8.2 and 8.3)*

We commend the inclusion of a requirement that retailers provide price fact sheets and note that the clauses have been taken from the South Australian *Energy Price Disclosure Code*, January 2005. We suggest that the content of clauses 8.2 and 8.3 be amended to accommodate regulated prices. That is, the price fact sheets must be provided for all contract types, and not just negotiated contracts. In our view, it is important that small customers obtain information about regulated prices in the same way as negotiated prices so that these can be compared. The eligibility conditions for the regulated prices that will be set out in the price fact sheet will need to state that it is only available to customers for whom the retailer is the FRMP. The fact sheet will then also serve to assist small customers to understand the reversion policy.

We make a number of comments in section D8 below dealing with the role of QCA. This chapter of the Code raises some further aspects that will broaden QCA's role but we require additions to these as follows:

- *Review the developments of FRC (Clause 8.5).*
 - Clause 8.5.4 requires retail entities to report the number and types of complaints received in the previous month but do not set out what types of complaints must be disclosed. Without standardised complaint types QCA may fail to capture a full picture of the issues customers are experiencing and it will make it difficult to compare performance between retailers. The clause must be further developed to include a standard list of complaint types for the retail entities to report against (*Rec 28*).
 - These provisions also do not require QCA to provide any regular public reports on the development of FRC. QCA must be required to produce public reports at least every three years and the first after 12 months. Precedents for

these reports can be found in South Australian and Victoria. For instance information in these reports should include levels of switching, who has access to FRC, the number of retail markets and other appropriate indicators (*Rec 29*).

- Further, there must be a requirement that QCA carry out extensive consultation, including of residential customers, when reviewing the development of FRC. In order for there to be appropriate consultation of residential customers there must be a funding mechanism developed to enable consumer research and advocacy. This is provided for in Victoria and elsewhere.¹¹ This must be entrenched in legislation and already occurs on a national scale in respect of the Consumer Advocacy Panel¹² (*Rec 30*).
- Finally, QCA must be required to establish a customer consultative committee. The customer consultative committee of the Essential Services Commission Victoria should be used as a model. We note that there is precedent for enshrining the establishment of a customer consultative committee in legislation¹³ (*Rec 31*).
- *Develop and make available a price comparator* (Clause 8.4)
 - We welcome the commitment to develop a tool of this type from the commencement of FRC. In terms of features, it should be simple to find and navigate and have the capacity to calculate the price customers will pay under various offers if usage information is inputted.

In our view these aspects of chapter 8 dealing with the role of QCA are best located in the *Queensland Competition Authority Act 1997 (Qld)* and can be inserted into the Bill at Part 4.

C2.3 Chapter 7 – Marketing

- *Objectives and principles*

This chapter would be improved if an objectives, principles and monitoring section was added in line with the Victorian Code of Conduct for Marketing Retail Energy in Victoria (**CCM**).

¹¹ Refer to the precedents for funding consumer research and advocacy set out in section C2 of the *Queensland Consumers Association Submission to the Energy Competition Committee* 6 April 2006, p.45.

¹² See the Ministerial Council on Energy *Statement of Scope, A National Legislative Framework for Gas and Electricity* July 2006, p.32.

¹³ There is precedent for customer consultative committees being required by legislation. In New South Wales there is a legislative requirement for industry participants to have customer consultative committees. See section 89 of the *Electricity Supply Act 1995 (NSW)*.

- *In person time restrictions*

There is currently no restriction on the time period that a marketer is able to stay at a customer's premises and in our view this should be restricted to 30 minutes. The CCM restricts this to 1 hour, however, in our view 1 hour is too long. The difference is significant. An hour provides enough time for a customer to become uncomfortable, flustered and increase the likelihood of being pressured.

- *No contact lists (Rec 33)*

There is also no requirement for retailers to keep records of and comply with customer's requests to not be contacted or to respect no canvassing signs at a customer's premises. This is not a requirement of the State Fair Trading legislation yet in Victoria the Essential Services Commission decided that it is necessary to regulate the conduct of markets in the energy sector in this way. We are therefore at a loss as to why the Queensland Government would not borrow from these established principles and ensure that small customers are adequately protected from excessive marketing practices at the outset of FRC in Queensland. We do not view this restriction as excessive since it would only apply to a retailer that has already contacted that customer. Federally there is a Government proposal to introduce a system whereby households can opt out of telemarketing but this is not until later next year, thereby making observing no contact lists a critical requirement in the code. It is also important that the requirement to strictly observe no canvassing signs at premises be dealt with in the Code because door to door selling will become more prevalent if the federal opt out proposal is implemented. Consumer groups that we are associated with have specifically endorsed the federal proposal and asked for an opt-out mechanism to be included in the Code.¹⁴

- *Enforcement expenses (Rec 34, Clause 7.6(j))*

Clause 7.6(j) requires a retailer to provide a disclosure statement including the enforcement expenses that may become payable in the event of a breach of the retail contract. We are not comfortable with a retailer being able to set out enforcement expenses in any contract with a small retailer and understand that clause 4.2.8 of the Code intends to prevent clauses that seek to ensure recovery of these expenses beyond what would be allowed at law. The requirement that enforcement expenses be disclosed can therefore be removed.

- *Training and knowledge (Rec 35, Clause 7.8)*

A specific list of the training and testing that is required of marketers is essential. Clause 7.8 is far too general to have any effect. This is particularly since it only requires knowledge so as to comply with the contents of the chapter, which therefore does not include having knowledge of:

¹⁴ Feedback to Ian Jarratt, Queensland Consumers Association, Queensland Australian Pensioners and Superannuants Conference, Brisbane, September 6, 2006.

- terms and requirements of the Retail Code;
- general arrangements for competition in energy supply including government price protections;
- principles of general consumer protection laws like the *Trade Practices Act 1974* including an understanding of what is misleading and knowledge of the cooling-off provisions in the *Fair Trading Act 1989 (Qld)*; and
- how to deal with customers with special needs.

These items and more are included in clause 4.2 of the CCM that should be used as a model.

C2.4 Chapter 6 – Customer Transfer and Consent (Rec 36)

Our main concern with the content of this chapter is in clause 6.6(c) that prevents transfers occurring based on special meter reads until such time as QCA determines that transfers can occur on this basis. We appreciate the effort is to prevent distributors being swamped by requests for special meter reads and understand that an assessment has been made that this is a risk in the Brisbane area. We are of course supportive of efforts to ensure that distributors business processes are safeguarded. However, a potential time lag of 3 months could severely impact a small residential customer's decision to switch retailers. QCA should be required to carry out at least monthly assessments of whether the transitional restriction on special meter reads can be lifted. We also think that it is appropriate that where pre-contracting occurs, special meter reads are allowed. Also, where a scheduled read does not occur, the customer must be advised of this and told that they can request a special meter read free of charge. Fees that are allowed for special reads in other circumstances should be set by QCA. In the initial FRC environment where special meter reads are restricted there must be a requirement that customers are told that transfer will not occur until the next meter read and are advised of when this is likely to occur.

C2.5 Standard Retail Contract (Rec 37)

We are supportive of the approach taken in Queensland, modelled on South Australia¹⁵, to develop just one standard contract that will apply to all customers that do not wish to negotiate a contract irrespective of which retailer has the obligation to make the supply. This is in contrast to Victoria where the Essential Services Commission has approved the terms of each of the host retailers' standard contracts and NSW where retailers must have regard to the comments of their customer consultative committee in developing its standard form customer supply contract.¹⁶ Although the differences between the standard contracts of the host retailers in Victoria may be small, in our view, it is preferable for customers who select a standard contract to be afforded exactly the same contract

¹⁵ Although note that the requirements in sections 36 and 36AA of the *Electricity Act 1996(SA)* are not easily understood and it is only clear when read together with the Energy Retail Code that the Customer Sale Contract in Part B applies exclusively.

¹⁶ Section 39 *Electricity Supply Act 1995 (NSW)*.

irrespective of their location. We think that a contract that looks (and is) exactly the same wherever you happen to live in Queensland will, over time, make it easier for consumers to compare those terms to the various market-based contracts that may be on offer.

There are however some provisions of the proposed SRC that we think can be improved. We have highlighted these in Annexure B but list three main areas where the contract needs amendment below:

- various clauses make the contract (clause 4.7) and the Code commence when the retailer becomes responsible for the NMI in the wholesale market. Given the problems that have been experienced in other jurisdictions with transfer of small customers, a preferable approach is to allow the contract to commence but responsibility for payment under it not commence until transfer. This way, the retailer and customer will immediately have other responsibilities that will enable the transfer to occur;
- there is reliance placed on a distributor being able to access the meter (clause 11) yet no obligation on the distributor or retailer to take all reasonable steps to contact the customer at the relevant time to provide information or assistance with meter access; and
- deletion of the provision for a security deposit (clause 13) which, as noted above, is not appropriate for a customer that has protected supply, i.e. is on a standard contract.

C3 Distribution and Coordination Provisions

C3.1 Standard Connection Contract (Rec 38)

The specific comments that we have in relation to the SCC are:

- Clause 19.2 provides that the ending of one contract does not result in the ending of the other. We are concerned that there might be negative implications for small customers that will not be aware of the need to contact two entities to change their electricity supply. The clause should be redrafted with the presumption being that the SCC end whenever a retail contract ends unless the customer or retailer advises otherwise;
- Clause 12.7 provides for a reasonable fee for attendance of premises where a distributor attends the premises to disconnect because the customer has not complied with access obligations, and then on attendance the distributor does not disconnect because of discovering that access to the meter is now possible. This clause does not make sense because the customer is penalised for rectifying the access issue. For example, access to the premises or meter may be hindered through no fault of the customer. The customer takes action to provide access, and in so doing is required to pay a fee. The clause needs to be amended to include a test for when the fee is appropriate; and

- Clause 10.4 provides that the distributor may elect to bill a customer directly. Although we doubt that a distributor would elect to do this in respect of a small customer, the clause must be amended to remove the option from the contract because the potentially unsynchronised bills could have negative financial consequences for a small customer. Further, the additional bills double the occasions on which disconnection could occur.

C3.2 Chapter 2 – Management of distribution businesses (Rec 39)

We have the following comments about the guaranteed service levels. While we understand that GSL payments were established prior to the ECC we note that with the introduction of FRC the landscape of GSL delivery and payments has been significantly changed and therefore GSLs need be integrated into this new landscape by being responsive and flexible:

- All GSL payments should be made automatically. The distinction set out in clause 2.5.11 and also clause 2.5.13 is not necessary and customers should not be required to make an application for a GSL payment (clauses 2.5.11 and 2.5.13);
- The minimum service standard indicators should include a customer’s average interruption duration index (CAIDI), being the average time taken for supply to be restored, and should also include the momentary average interruption frequency index (MAIFI), being the total number of momentary interruptions that a customer can expect. These indicators are as important as total minutes and numbers of instances of interruptions as without them it is not possible to obtain a full picture of the quality of the service being supplied (clause 2.4.2);
- There should not be a cap on the entitlements to GSLs at all and certainly not on the basis of restricting the total dollar value of GSL payments to be made in a financial year. We cannot understand the logic behind capping GSL payments in this way and in fact, in our view, such a cap contradicts the purpose of the GSL scheme as it withdraws the incentive to meet service levels (clause 2.5.15);
- Customers with un-metered supply should not be excluded from the operation of GSLs. These customers are not excluded in other jurisdictions and should not be excluded in Queensland (clause 2.5.1(c));
- There needs to be some sort of indexing method to ensure that these compensation amounts do not become too low. This is particularly if the rigid method for amending the Code is retained;
- Time commitments and GSL payment amounts are needed for initial connections (in addition to the reconnections that are provided for in clause 2.5.5);

- A time commitment for reconnection of a long rural feeder or isolated feeder is required. We understand that longer time periods may be necessary for these feeders and that staffing levels need to balance being able to accommodate these sometimes significant resource requirements (i.e. because of needing to travel long distances) without being overstaffed, however some sort of time estimate is necessary to ensure certainty for the customer (clause 2.5.5);
- The payment amount for wrongful disconnections needs to be increased from \$100 to \$250 (the Victorian level) as this would provide an incentive for industry to minimise the number of wrongful disconnections. There should also be a requirement that the customer be provided with an explanation of the wrongful disconnection, including whether the retailer or distributor was responsible (clause 2.5.3); and
- Distributors must be required to note in any final summer preparedness plan whether any recommendations of QCA have been included or not included (clause 2.2.3).

C3.3 Chapter 3 – Customer connection services

We do not have any comments about this chapter.

C3.4 Chapter 5 – Services between distribution and retail entities

We do not have the resources to review the appropriateness of the timeframes and other detailed content in this chapter. The only comment that we can make is that this content must be aligned with the B2B Procedures under the National Electricity Rules because if they are not this will lead to either:

- technology and infrastructure costs for retailers entering the Queensland market, which will of course be passed on to consumers; or
- transfer and other errors.

It goes without saying that the content of this chapter is not useful for customers and we assume that this chapter of the Code is not intended for the use of customers. However, a useful addition to the information that is provided to customers in other jurisdictions regarding their expectations for distributor activity, would be to supply some of the information set out in clause 5.8.3 in a fact-sheet for small customers.

C3.5 Chapter 9 – Metering

We do not have any specific comments about this Chapter at this time.

C3.6 Standard Coordination Agreement (Rec 40)

The SCA was provided for comment at a stage of still being incomplete. Also, it is not clear where this document is to be located. We presume it will be a public document available either as part of the Code or on QCAs website.

We seek the following clarifications in relation to the SCA:

- The clause 11.1(a) proviso requires that a retailer exercise reasonable endeavours to recover relevant distribution and consumption charges from a customer where a distributor does not disconnect the customer within the timeframe for completion of a service order. It is not appropriate that a retailer should seek to recover from a small customer costs incurred as a result of a distributor error. We can contemplate a situation of where a small customer moves out of premises and even though the premises are vacant certain appliances still draw energy. However, those costs should be borne by the distributor as contemplated by this agreement and there should not be a requirement that the retailer endeavour to recover from the small customer. Beside the unreasonable detriment to the customer, such a provision will not provide the necessary incentive to the distributor to manage and prioritise services.
- Clause 15 requires that each of the distributor and retailer refer a customer to the other party where a complaint relates to that other parties contract. We are concerned about the situation where a customer is complaining about connection for example, but the retailer is able to, and must under this contract refer that complaint to the distributor. We would prefer a clause that entitled the retailer to refer the matter to the distributor but also required the retailer to participate in the resolution of the dispute at the retailer's own cost. We think this sort of obligation will provide an incentive to a retailer being more proactive early on in connection issues and taking responsibility for communication with a small customer. It will also help to lower the potential for customers to be bounced between the two parties each claiming the other is responsible.

The appropriateness of arrangements to ensure retailers can comply with their financial obligations to distributors are important to small customers because they impact the whole viability of full retail competition. However, we do not have the resources to comment on this aspect raised in clause 12 of the SCA.

PART D EXTERNAL DISPUTE RESOLUTION (EDR) (Rec 43)

At the time of writing the elements of the framework that relate to external dispute resolution are not complete. As such, save where otherwise noted we base our comments on the position as outlined in the Energy Competition Committee's Policy Decisions Paper No.2 *Electricity Full Retail Competition Final Policy Decisions* (the **Decisions Paper**).

The Decisions Paper proposes a model that is a significant departure from the external dispute resolution models adopted in other jurisdictions including Victoria, South Australia, New South Wales and New Zealand.

Of particular concern is the proposed structure of Energy Ombudsman- including the proposal that it will be accountable to Parliament through the Minister for Energy and established by an Act of Parliament. Further the Minister will have a high level of involvement in the operations of the scheme including approval of the budget for the scheme, appointment of customer representatives to the Advisory Council, determination of scheme objectives and appointment of the Ombudsman. No case is made for this deviation from the established and successful model adopted in other jurisdictions. We refer the ECC once again to the Issues Papers presented in our first submission. In particular Issue Paper 4 authored by Simon Cleary and Fiona Guthrie provides an outline of each jurisdictional scheme and discusses the issue of independence in the current Queensland system: this continues to be an ongoing issue.¹⁷ We also believe that a case for independence is made where Government owned corporations would be required to be subject to the scheme.

We refer to and reiterate the Queensland Consumers' Association submission in response to the Energy Competition Committee's *Consultation Paper No.3 Electricity Full Retail Competition – Proposed Policy Positions* on this issue, in particular that features of the Energy Ombudsman should include:

- Incorporation as a company limited by guarantee with electricity and gas businesses as members.
- A single board of directors comprising an independent chair and an equal number of industry and consumer directors.

¹⁷ Simon Cleary and Fiona Guthrie (2006) 'Structure matters: Solving disputes between consumers and electricity companies' and Appendix 1 (for Dist Benchmarks and history of development of scheme) in Jane Bathgate (Ed) (2006), *Electricity Issues: Interstate perspectives on full retail competition for residential consumers*, Centre for Credit and Consumer Law, Griffith University. For specific reference to National Benchmarks for Industry-Based Customer Dispute Resolution Schemes <http://www.consumersonline.gov.au/downloads/selfreg/benchmarks/BMARK1.rtf>
Hon Chris Ellison, Minister for Customs and Consumer Affairs, Benchmarks for Industry-based customer dispute resolution schemes, Canberra, 1997.

- Jurisdiction, including a monetary limit, sufficiently broad to encompass the majority of complaints arising in the industry.
- Compliance with appropriate benchmarks in structure, operations and policies, in particular the (then) Department of Industry Science and Tourism *Benchmarks for industry based customer dispute resolutions schemes*, 1997.
- Clear processes through which the Energy Ombudsman can raise systemic issues¹⁸ with the appropriate regulator/s and seek where possible to obtain voluntary solutions that will resolve the issue for all consumers affected i.e. not just those lodging a complaint.
- That decisions are made with reference to fairness, the law and good industry practice.
- The capacity to make decisions that are binding on member companies.¹⁹

The Queensland Consumers Association Submission also encouraged the Energy Ombudsman ‘to make links with other schemes for example through participation in ANZEWON, a network of existing Australian and New Zealand Independent Energy Ombudsman, and other industry based ADR scheme events.’ We are concerned that the proposed structure for the Energy Ombudsman and the various operational issues that flow from it could inhibit participation in these networks.

We note also that the Decisions Paper proposes a jurisdictional limit of \$20,000 with the capacity to increase the limit to \$50,000 if the parties agree. This mirrors the limits in place in schemes in other jurisdictions, however, reviews of those schemes have recommended increases to this limit. By way of comparison it is noted that the jurisdictional limits of State and Territory Magistrates’ Courts are as high as \$100,000.

Other issues relating the Energy Ombudsman scheme that require attention include:

- *Jurisdiction* – it should be explicit that the scheme’s jurisdiction includes transfer complaints and complaints involving consumers not participating in FRC. We understand that the intention is to second Department of energy staff into the proposed scheme’s office to deal with non-contestable customers in rural and regional Queensland. This is not presently clear in the Decisions Paper proposals. In our view, all Queensland customers must be able to access the same scheme staff to ensure equality and consistency in the outcomes.

¹⁸ The term ‘systemic issue’ refers to an issue that affects a significant number of consumers. It may be identified through an observed increase in complaint numbers regarding a particular issue or it may be apparent from a single complaint where that complaint discloses an issue that will affect a significant number of consumers e.g. a billing system issue.

¹⁹ Queensland Consumers’ Association, *Submission to the Energy Competition Committee – Consultation Paper No.3 Electricity Full Retail Competition – Proposed Policy Positions*, 6 April 2006, p.32-33.

- *Performance Benchmarks* – the (then) Department of Industry, Science and Tourism *Benchmarks for Industry Based Customer Dispute Resolution Schemes* and the Australian Securities and Investments Commission Policy Statement 139 set out tested and useful benchmarks for the measurement of industry based external dispute resolution. These benchmarks should be referenced extensively in the formulation of the structure and objectives of the Queensland scheme.
- *Systemic Issues* – a requirement that the Energy Ombudsman report in relation to systemic issues should be explicit. The scheme should also be given scope to pursue solutions to these issues where appropriate (see footnote 4).
- *Reporting* - provision should be made for the Energy Ombudsman to name members and their relevant market shares in the reporting of complaint statistics. Further a framework for data collection and reporting should be specified.
- *Promotion* – We note that the draft legislation includes an obligation for businesses to advise consumers of the existence of the Energy Ombudsman. In addition to this requirement notice of the scheme should be required on all disconnection notices and on at least two bills per year.

We look forward to the opportunity to provide more detailed comments when the EDR package is released.

Annexure A – Comments on Chapter 4 of Electricity Industry Code (Code)

Clause reference	Description	Changes Required	Comments
Preliminary	Preliminary information will need to be added to the stand-alone document in similar terms to the South Australian Energy Retail Code clauses A, B, C, E, I and J.	Our comments relating to the current chapter 1 of the Code, namely, the role of QCA in independently making and amending the stand-alone code, need to be reflected here.	The importance of a retail code of conduct that is created and amended independently, that it be a ‘live’ document, have been made elsewhere in this and previous submissions.
Preamble	How does chapter 4 apply	Delete this table and insert a sub-clause (c) into clause 4.1.1 and make clause (a) subject to both. Clause (c) can say that terms marked with * can be varied with explicit informed consent.	This table is not useful. In fact it is confusing. Clause 4.1.1 sets this out.
4.2.1	Terms of standard retail contact	Delete and insert: If you do not want to negotiate a contract with your retail entity then the contract set out in Annexure B to this Code will apply to you. If you do want to negotiate a contact with your retail entity then that contract must not be inconsistent with the terms of this Code.	The examples of this clause from South Australia and Victoria are not useful. Small customers do not need to see reference to the Act.

Clause reference	Description	Changes Required	Comments
4.2.2	Notice of a contract formed with a move-in customer	<p>Insert</p> <p>“A retail entity must, as soon as practicable after becoming aware that it is supplying electricity to a small customer on a standard contract, or if contacted by a small customer seeking connection, advise that small customer of”:</p> <p>Retain the sub-clauses (a), (b) and (c).</p>	<p>This clause and the definition of move-in customer does not make sense. The definition should refer to the new proposed section 54 and not section 49 of the Act. In any case, the definition is not needed. The objective of the clause is to oblige a retailer to inform a small customer of the existence of the default standard retail contract and their right to switch. We suggest a less complex way to do this.</p>
4.2.3	Minimum terms and conditions for negotiated retail contracts	<p>The whole of this clause must be deleted. The list of clauses that can be varied can be included under clause 4.1.1.</p>	<p>This clause is repetitive and therefore adds confusion. The role of the Code can be set out succinctly in the proposed clause 4.2.1 above.</p> <p>We asked for the content of sub-clause (b) of this clause to be deleted in our previous submission. We are disappointed that the only change made in this draft is the party with the power to approve the non-conforming terms, now being QCA. This does not alleviate our concerns that such a clause contradicts the intention of the Code. If anything, the clause could permit the request if made by a business customer. We defer to business customer advocates to comment on their desire for such a clause and note that clause 4.1.1(b) already provides scope for business customers to aggregate their premises to avoid the operation of the Code.</p>
4.2.4	Cooling-off (Rec 15)		<p>There must be an obligation on the retailer to</p>

Clause reference	Description	Changes Required	Comments
		Must refer to related contracts.	prominently disclose/display the cooling-off right in all dealings with the small customer.
4.2.6	Commencement of financial responsibility under negotiated retail contract	Redrafting to reflect our comments. Also, the reference to clause 4.3 in this clause does not work since the content of clause 4.3 no longer reflects clause 1.5 of the South Australian Energy Retail Code (see comments below).	This clause is taken from clause 1.3.5 of the South Australian Energy Retail Code but differs in a significant way. The South Australian version refers to the obligation to sell, or sell and supply, energy and for a small customer to pay for that energy. The proposed Queensland version refers to the obligation to supply <i>customer retail services</i> , which, as defined in the Act includes providing for the connection of the premises. As stated elsewhere, while financial obligations should be deferred until transfer, other obligations should not (although we appreciate that connection obligations need to be subject to requirements in the transfer and consent code).
4.2.8	No indemnity	None	We are pleased with the insertion of this clause that is taken from clause 17 of the Victorian Energy Retail Code that will prevent retailers from including a contractual right to be indemnified for loss that could not be recovered at common law or under statute such as solicitor-client legal fees and unforeseeable losses.
4.3.1	Commencement of standard retail contracts	Delete clause or reinstate South Australian version	The purpose of the South Australian clause is to specify that a date for when the retail entity may commence selling electricity may be agreed (under either a standard or negotiated contract). This clause as amended simply repeats the obligation in the standard contract and is therefore not necessary.
4.4.1	When a standard retail	Delete clause.	We have commented on this clause in the SRC and

Clause reference	Description	Changes Required	Comments
	contact ends		noted that an appropriate definition of safe access is required. We are otherwise satisfied with the clause as it provides more flexibility than the Victorian provision that allows retailers to ask for 28 days notice of termination, including for contracts resulting from the acceptance of a standing offer. However, in our view, since the clause is contained in the SRC (that cannot be varied) it does not need to be repeated here. It is not repeated in the South Australian Energy Retail Code.
4.2.2	When a negotiated contract ends	Make the notice period the same for in-situ and vacation of premises terminations. [how long?]	Although still almost identical, the re-ordering of this clause and slight re-drafting (in sub-clause (c)) is an improvement to the South Australian version. It is also better than the Victorian termination provisions at clause 24 of that code. ²⁰ However, we do not agree that notice for in-situ termination must be longer, particularly if retailers are able to cover their risk of termination with the imposition of fees.
4.4.2(d)	Early termination fees (Rec 14)	None. However, this clause must operate in conjunction with a code or guideline on appropriate amounts for early termination fees.	See our discussion on early termination fees in the body of our submission regarding the Essential Services Commission review.
4.5	Customer charter (Rec 41)	Remove clause 4.5.3. Replace clause 4.5.2:	Victoria does not permit retailers to charge for providing a customer charter irrespective of how many times it is provided/requested. The same should apply in Queensland especially since this is not likely

²⁰ Especially since it seems retailers have not competed on this notice period and are offering a long minimum period, see AGL General Terms for Gas and Electricity for Residential and Small Business Customers in Victoria using less than 10,000 GJ of gas and/or 160Mwh of electricity per annum.

Clause reference	Description	Changes Required	Comments
		<p>“A <i>retail entity</i> must, free of charge, send a copy of its Customer Charter to a <i>small customer</i> as soon as practicable following:</p> <p>(a) entry into a <i>retail contract</i> with that <i>small customer</i>; or</p> <p>(b) a request.”</p> <p>Insert a clause like 26.3 of the Victorian Energy Retail Code providing that retailers must give to a customer, on request, a copy of the Code.</p> <p>Insert a clause like 26.4 of the Victorian Energy Retail Code providing that a retailer must give advice on available tariffs (we note that this is different to and should be in addition to the new proposed clause 8.2 of the Code).</p>	<p>to be a very large document and can be provided by any means.</p> <p>Clause 4.5.2 is confusing so that it is not clear that the charter must be provided each time a small customer enters into a contract. See suggested redrafting.</p> <p>Clauses requiring provision of a copy of the Code and tariff information are also required.</p>
4.6	Dealing with small customers (Rec 16)	<p>Insert clause 2.2 from the South Australian Energy Retail Code.</p> <p>Delete clause 4.6.4 and replace it with clause 3.3 from the South Australian Energy Retail Code.</p>	<p>We are pleased with the content of clauses 4.6.1, 4.6.2 and 4.6.3 that are better than the South Australian version and in particular commend the inclusion of clause 4.6.3 dealing with complaint handling which has been taken from the Victorian Energy Retail Code. However, clause 4.6.4(c)(ii) should read that a small customer ‘will’ have a right to refer a complaint</p>

Clause reference	Description	Changes Required	Comments
			<p>to the Energy Ombudsman rather than ‘may’ have a right.</p> <p>It is important for service standards to be imposed on retail entities and we suggest a clause similar to clause 2.2 of the South Australian Energy Retail Code.</p> <p>Clause 4.6.4 is odd since it attempts to provide a deeming provision for the SRC that should be located in the contract. Further, the content of the customer communications clause 3.3 of the South Australian Energy Retail Code that deals with use of electronic mail is required.</p>
4.7.1	Applications and connections (application of clause)	Use plain language in clause 4.7.1 as follows – for example in the heading ‘No application to standard retail contract deemed to exist’.	As pointed out earlier, the definition of ‘move-in’ customer does not make sense. Further, there is no need for this term in this clause as the concept of deemed can be used (and it is plainly understood).
4.7.2	Application and connections (Retail entities requirements)	Replace with clauses 1 and 2 from the Victorian Energy Retail Code and consequential amendments regarding when a retailer may request a refundable advance and disconnect for failure to provide this.	<p>The replacement of clause 4.7.2 with the Victorian version of this clause in clause 1 of the Victorian Energy Retail Code, and the obligation to connect in clause 2 of that code, is critical. This is particularly since this clause (apart from sub-clause (b) of this clause) can apply to the SRC if elected by the small customer rather than deemed to exist.</p> <p>See specific comments about aspects of this clause</p>

Clause reference	Description	Changes Required	Comments
4.7.2(b) and (i) and (j)	<p>Provide credit history information when required (Rec 17)</p> <p>Pay any outstanding debt owed (negotiated contract)</p> <p>Enter into a payment arrangement (Standard contract)</p>	Delete these sub-clauses.	<p>below.</p> <p>Retail entities must not be allowed to ask for credit history information as this stage and must not be able to refuse connection under a negotiated contract on this basis. In Victoria a credit rating can only be used to determine that a refundable advance may be required (and then only when an instalment plan has not been accepted) and the requirement is the same for standard and negotiated contracts. In addition to this, a mechanism to monitor compliance with this code requirement is needed to ensure that retailers are in fact not refusing to offer small customers market contracts on the basis of an ‘unsatisfactory credit rating’. Appropriate restrictions on the information that may be used to determine an unsatisfactory credit rating is also required and we suggest basing this on Victoria’s Electricity Industry Guideline No 4 – Credit Assessment, Public Version.</p> <p>We would accept that where a debt is owed to this or another retailer the retailer can request a refundable and disconnect if that is not provided (i.e. the requirement in Victoria). We cannot accept a provision requiring as a pre-condition to connection, payment of an outstanding debt (for negotiated contracts, sub-clause (i)) or entry into a payment arrangement (for standard contracts, sub-clause (j)).</p> <p>Also, clauses 4.7.4 and 4.7.5 create confusion when</p>

Clause reference	Description	Changes Required	Comments
			read together with clause 4.7.2 – if a customer wishes to purchase, they must first – do the things in the sub-clauses.
4.7.2((f) and (g)	Provide safe and convenient access to meter and estimated electricity load (Rec 17)	Delete these sub-clauses	It is also not appropriate that estimated electricity load information be preconditions to a standard contract. Further, safe and convenient access to the meter is obviously required for connection but should not be a factor that is listed as a pre-condition to obtaining a contract. We do not see how this would work in practice in any case since the retailer and small customer will most likely not be aware of any access issue at the time of this application.
Definitions	Credit history information (Rec 18)	Delete and create a guideline on what types and when credit history information may be used.	The definition of credit history information is too broad and we note that it is not defined in the South Australian Energy Retail Code. This definition is of concern especially since retailers have means to obtain this information anyway and in which case it will be at their own cost so that a proper assessment of whether such information is necessary will be made ²¹ . The definition is also totally at odds with the Victorian Guideline on Credit Assessment and we ask that it be reviewed in that context, or the same

²¹ Retailers are considered to be credit providers and are therefore able to carry out credit history checks which are regulated under federal privacy legislation. See comments in Victorian Electricity Industry Guideline No 4 - Credit Assessment, April 2002, regarding the view of the Office of the Federal Privacy Commissioner recorded in their credit reporting advice summary, 4 April 2002.

Clause reference	Description	Changes Required	Comments
			guideline be adopted in Queensland.
4.7.4 and 4.7.5	Obligation to advise distributors of connection applications (and new NMI premises)	Clause 4.7.5 can be relocated to a different code.	<p>We noted above that clauses 4.7.4 and 4.7.5 create confusion when read together with clause 4.7.2 – if a customer wishes to purchase, they must first – do the things in the sub-clauses of 4.7.2. Amendments to clause 4.7.2 are required to make these clauses clear.</p> <p>Further, we refer to the note that these clauses are being reviewed in light of the B2B Procedures. We appreciate that Queensland is in a different position to the other jurisdictions that introduced retail competition because it is at a time of national interest in developing workable B2B Procedures through the IEC. However, we do not think this information is required in a retail code of conduct.</p> <p>Clause 4.7.5 is better placed in either the metering code, transfer code or distribution code.</p>
4.9.4	Simultaneous payments for gas and electricity	Use Victorian Energy Retail Code clause 4.5 with necessary amendments to accommodate consideration of Community Ambulance Cover Act 2003 (Qld)	This clause is very convoluted and a better version is located in the Victorian Energy Retail Code.
4.9.6	Particulars on each bill (Rec 42)	Refer to comments.	Bills must also be required to include information about the availability of the retailers internal dispute resolution and also the ombudsman scheme. We do not agree that displaying this information on a bill will be an incentive for small customers to lodge

Clause reference	Description	Changes Required	Comments
			unnecessary complaints. Instead we think that this information will ensure that issues are resolved early resulting in lower resolution costs. We also think this information will provide small customers with confidence in the retail market. Further, the bill must set out concession information ²² . Finally, where a retailer places restriction on certain payment methods, for example if it will only accept BPAY payments from certain accounts, these restrictions must be disclosed on the customer's bill.
4.10.1 and 4.10.2	Meter reading for billing purposes	Refer to comments.	<p>The first line of 4.10.1 being 'Subject to clause 4.10.2' must be a mistake.</p> <p>Clause 4.10.2 as now amended is repetitive and not necessary.</p> <p>Clause 4.10.1 is convoluted and the Victorian Energy Retail Code clause 5.1 setting out that bills must be based on meter readings should be used instead.</p>
Bill smoothing	Bill smoothing	Insert the Victorian Energy Retail Code clause 5.3	A clause dealing with bill smoothing does not exist here and is necessary especially since the drafting of clause 4.10.1(a)(ii) does allow estimates to be used. Therefore, a clause with restrictions on how estimates can be used (i.e. for bill smoothing) is required.

²² We support the need for a more robust framework for concessions and endorse the comments made in paragraph B2.3 of the QCA submission to the Energy Competition Committee regarding Consultation Paper No 3, dated 6 April 2006.

Clause reference	Description	Changes Required	Comments
			Failure to adopt this approach could require that a customer pay a substantial adjustment if the estimate proves to be inaccurate.
4.10.6	Pass through of cost where access is denied	<p>Insert proviso similar to clause suggested for the SRC regarding communication:</p> <p>“The retailer must make appropriate arrangements to communicate with the <i>distribution entity</i> to ensure that if the <i>distribution entity</i> attends the <i>premises</i> and is not able to access the meter, the <i>small customer</i> is notified immediately. The <i>retail entity</i> must take all reasonable steps to notify the <i>small customer</i> at this time so that the customer can provide instructions or attend the <i>premises</i> to enable access to the meter”.</p>	FRC in other jurisdictions has shown that too often there is a failure of communication because of the separation of businesses of the retailer and distributor. We appreciate that in some situations a customer’s actions do hinder access to the meter. Pass through of costs relating to a distributor attending premises must only be allowed where access does not occur directly as a result of the customer’s actions and despite all reasonable attempt by the distributor and the retailer to make contact with the customer at the relevant time.
4.11.1	Recover of undercharges from small customer (Rec 21)	Clause requires further consideration and clarification.	The reference to ‘as a result of an act or omission of the retail entity or the distribution entity’ creates confusion as to whether the retailer can recover where there is no act or omission? Any lack of clarity in the terms of the code will weaken its effectiveness for small consumers. See comments below.
4.11.2	Limitations on recovery where due to	Use the Victorian Energy Retail Code clause 6.2	As drafted this clause potentially means there is no limitation on recovery where the undercharging is not

Clause reference	Description	Changes Required	Comments
	retail entity or distribution entity error		<p>as a result of the retailer or distributor error. Terms of contracts must not be inconsistent with the Code. Currently the Code does not mention what is to occur where the error is not the retailers or distributor's error.</p> <p>The period of recovery for retailer/distributor error should be 9 months as in the Victorian Energy Retail Code.</p> <p>The reason for the distinction in calculating the time period – between using date of meter read on last bill or if no bill the date the customer is advised of the undercharging by the retailer – is not apparent. Please provide an explanation. The Victorian approach to use the date that the retailer notifies the customer as the date from which to calculate the 9 or 12 months is most probably preferable.</p>
4.11.3	Notice and payment to customer of overcharges	<p>Consider and clarify <i>retail entity/ distribution entity</i> error.</p> <p>Consider and clarify the purpose of sub-clause (c).</p>	<p>As drafted this clause potentially means there is no requirement to reimburse for overcharging where the undercharging is not as a result of the retailer or distributor error. It leads to confusion because the error could be the fault of a result of the meter data agent for example. While agency principles might import this error to be an error of the distributor, the drafting creates unnecessary confusion and the Victorian example is preferable.</p>

Clause reference	Description	Changes Required	Comments
			The purpose of sub-clause (c) is not clear since there is no mention of a 12-month restriction elsewhere in the clause.
4.13.3	Late payment fees (Rec 22)	Use the Victorian Energy Retail Code clause 7.4.	<p>The Victorian Energy Retail Code clause 7.4 is by far superior.</p> <p>The Queensland proposed clause does not require the retailer to consider a guideline on late payments fees or for QCA to approve the application of late payment fees for particular retailers.</p> <p>The proposed clause allows late payment fees to be levied at any time when payment is late and not just at the disconnection warning stage. It also does not include a requirement that the retailer waive the late payment fee where a new instalment plan is agreed.</p>
4.13.7	Other fees and charges	Clarification	We seek confirmation that this clause could not be used to recover dishonour and merchant service fees given that a negotiated contract must comply with these terms.
4.13.11	Payment difficulties (Rec 25)	Add – compliment this clause by inserting clauses 11.2 and 11.4 from the Victorian Energy Retail Code.	Clause 11.2 from the Victorian Energy Retail Code is a commendable example of an appropriate requirement that retailers observe whether their customers are in financial hardship. A similar clause should be included in the Code. The Victorian clause 11.4 regarding limitations on debt collection is also a necessary addition to the Queensland Code.
4.14	Paying by instalments	Delete the asterisk.	We commented in our last submission that the

Clause reference	Description	Changes Required	Comments
		<p>Delete sub-clause 4.14.2</p> <p>Insert clause 12.2 from the Victorian Energy Retail Code.</p>	<p>Victorian Energy Retail Code did not allow this clause to be varied and that the absence of a requirement for instalment arrangements in a negotiated contract will have significant negative consequences for small customers. We are disappointed that the clause has remained the same and that a rationale for its retention has not been provided to us in this version of the Code.</p> <p>Clause 4.14.2 makes clause 4.14.1(b) redundant. If a retailer may require payments in advance then their offering of payment of arrears by instalment is of no use. This clause 4.14.2 does not exist in the Victorian Energy Retail Code.</p> <p>Clause 12.2 from the Victorian Energy Retail Code providing for re-calculation of instalment amounts must be included in the Code.</p>
4.17.2 and 4.17.3	Security deposits (amounts)	<p>Change the language to refundable advance.</p> <p>Use the Victorian Energy Retail Code clause 8.1(b) for calculating the amount of the advance</p>	<p>Clause 4.17.3 allowing QCA to determine the average monthly bill for each category of small customer is not the best method for obtaining an accurate measure. Will the categories of small customer be residential and business? If so, just one category of residential customer is not appropriate since residential customers are different in their consumption patterns. QCA's determination is likely to disadvantage some sectors of residential customers.</p>

Clause reference	Description	Changes Required	Comments
			The Victorian Energy Retail Code provides a good example of a methodology that we consider to be fair.
4.17.4	Security deposits (residential customers) (Rec 19)	Specify that retail entity must not require a security deposit from residential customer on standard contract. Delete sub-clause (d).	A security deposit must not be able to be required for residential customers on a standard contract. Because the proviso of offering an instalment plan applies to each sub-clause this becomes a better provision than the one in the Victorian Energy Retail Code. However, sub-clause (d) enabling a security deposit from a residential customer because that customer has not provided credit history information is not appropriate. See our comments above about credit history information.
4.18.1(c)	Disconnection (Rec 25)	Insert proviso (taken from clause 13.1(a) of Victorian Energy Retail Code): ‘Provided the failure does not relate to an instalment under the customer’s first instalment plan with the retailer’.	Queensland should not adopt a policy on disconnections that is less accommodating for small customers than the best practice among the other Australian FRC regions. Victoria does not allow disconnection for failure to comply with a first instalment plan and this should be adopted in Queensland.
4.18.3(e)	Obligation prior to disconnection of residential customer (Rec 23)	See comments.	Include minimum timeframes for sending and allowing payment under a reminder notice and before sending disconnection notice. Use the Victorian timeframes in clause 13.1(b) of the Victorian Energy Retail Code as an example.
4.18.9(b)(iii)	Disconnection for denying access to a	Include after F:	Too many meter-reading failures occur because the distributor and retailer do not communicate and do not

Clause reference	Description	Changes Required	Comments
	meter (Rec 20)	“at the relevant time being the time when the distributor is trying to access the meter and using a mobile telephone number, if the customer has one, as the first contact method option”	attempt to communicate with the customer at the relevant time.
4.18.11 and 4.18.12	Disconnection for no security deposit or acceptable identification	See comments.	Use the Victorian Energy Retail Code clause 13.4 that covers this much more succinctly and in any event use the requirement to give 10 business days notice.
4.18.13	When a retail entity must not disconnect	See comments.	Add a clause like the Victorian Energy Retail Code clause 13.2 requiring the retailer to first comply with the requirements for assessing and assisting domestic customers with payment difficulties.
4.19.2	Time for reconnection	See comments.	This clause is useless for small customer who will have to refer back to other provisions regarding the timing agreed for carrying out of various service orders. Set out the time expectations here. Use clause 15.2 from the Victorian Energy Retail Code as an example.
4.21	Advice on the use of electricity	See comments.	Amend clause so that retail entity is also required to do the things mentioned in it when it considers that a customer may be experiencing payment difficulty, not just on request.

Annexure B – Comments on Standard Retail Contract (SRC)

Clause reference	Description	Changes Required	Comments
Preamble	Does not exist in SRC	The preamble from the South Australian Customer Sale Contract (with necessary amendments to legislation references) should be added.	The preamble is a succinct summary of how the contract works and would be useful for small customers.
1	The Parties	Revert back to the South Australian version. This contract is between – insert '[Insert Retailer Name]' and delete 'the <i>financially responsible retail entity</i> who provides you with <i>customer retail services</i> at our <i>premises</i> '.	The purpose of this document is not to set out the obligations of various retailers in different situations. The Electricity Act will do that. This document needs to be a simple contract for the use of a small customer that selects a standard rather than negotiated contract (or makes no selection).
3.1	These are our terms and conditions	This document – insert 'is Annexure A to the <i>Electricity Industry Code</i> and are the standard terms and conditions for supply of <i>customer retail services</i> to <i>small customers</i> in Queensland that do not wish to negotiate a contract with their retailer' and delete 'sets out the current terms and conditions for our <i>standard customer retail contracts</i> under the <i>Electricity Act</i> '.	This change is appropriate given that one standard retail contract will apply to all retailers in Queensland and will bind host retailers and FRMPs where small customers elect to revert back to the SRC.
3.2	Application of these terms and conditions	These terms and conditions apply to you delete 'under section 54 of the Electricity Act' and retain 'if you are a <i>small customer</i> and if'.	It is not necessary and not helpful to reference the Act in this contract because this contract will be annexed to the Electricity Industry Code. Reference to legislation is confusing for the <i>small customers</i> that this contract is designed to assist,

Clause reference	Description	Changes Required	Comments
			<p>i.e. those that do not wish to negotiate a contract. It will also make it more difficult to understand the contract as a whole and thus make comparison with market contracts more difficult. If customers are not able to compare this contract to market contracts they will not be motivated to switch and FRC will be ineffective.</p>
3.2	<p>Application of these terms and conditions – subparagraph (a)</p>	<p>(a) you have applied to us for <i>customer retail services</i> delete ‘under section 49 of the Electricity Act and we provide you with <i>customer retail services</i>’ and insert ‘on the basis of this contract and we are your <i>area retailer</i> or immediately prior to this contract you had a <i>negotiated retail contract</i> with us’</p> <p>New clause reads:</p> <p>“a) you have applied to us for <i>customer retail services</i> on the basis of this contract and we are your <i>area retailer</i> or immediately prior to this contract you or someone else occupying your premises had a <i>negotiated retail contract</i> with us”.</p> <p>Note – the definition of <i>area retailer</i> will need to be added to the contract. This terms has been taken from new definition to be inserted into the Electricity Act. Note also this clause is inconsistent with the policy apparent in the Bill,</p>	<p>As above, reference to Act not necessary.</p> <p>The second phrase ‘and we provide you with customer retail services’ is not appropriate as it (together with clause 4) results in the contract only coming into existence when transfer occurs, i.e the retailer becomes the FRMP. A preferable approach is for the contract to commence immediately but responsibility for payment under it, not commence until the NMI is allocated to the retailer. We require this because certain obligations of the retailer like arranging connection (discussed below at clause reference 6.2) should commence as soon as the conditions- precedent are satisfied.</p>

Clause reference	Description	Changes Required	Comments
		that there will not be any area retailer with an obligation to supply.	
3.2	Application of these terms and conditions – subparagraph (b)	<p>(b) insert ‘by default where’ and retain ‘your premises are connected to a supply network and’ delete ‘you have not applied for customer retail services for the premises and there is no <i>negotiated retail</i>’ insert ‘you do not have a’ retain contract [but take off italics] in force between a <i>retail entity</i> and you in relation to the <i>premises</i>’.</p> <p>New clause reads:</p> <p>“(b) by default where your premises are connected to a <i>supply network</i> and you do not have a contract in force between a <i>retail entity</i> and you in relation to the <i>premises</i>.”</p>	<p>The drafting needs to be simpler.</p> <p>The default application of this contract is an important element for a small customer to understand.</p> <p>For the above reasons we support the removal of clause 3.3 as existed in the South Australian Standard Contract.</p>
4.1	When does this contact start	‘Your contract with us will start’ insert ‘immediately upon your application to us under clause 3.2(a) but you won’t be obligated to make payments under the contract until’ delete ‘on’ and retain ‘the date we first provide you with <i>customer retail services</i> at your premises or if clause 3.2(b) applies to you then your contract will start when you first start using electricity at the <i>premises</i> ’.	The retailer should have connection obligations (that is obligations to communicate with the distributor via processes set out in the B2B procedures or otherwise) immediately upon a request from a small customer that is entitled to the benefit of this contract. This will afford the customer with a direct contractual resolution to failure to connect on time – although we recognise that a small customer is more likely to utilise alternative dispute resolution processes to

Clause reference	Description	Changes Required	Comments
			recover compensation rather than a legal contractual outcome they should nevertheless be entitled to this as part of their contractual rights.
4.2 and 4.3	When does the contract end	A definition of ‘safe access’ is required.	<p>We agree with the removal of the SA version of sub-paragraph (b) which is now covered in a simpler way in the new sub-clause (a)(ii).</p> <p>We commend the removal of sub-paragraph 4.3 that makes termination conditional on proper processing within the Consumer Administration and Transfer Solution (CATS), which is something that is outside of the customer’s control. It was also confusing as to why clause 4.3 would only apply if you were not vacating your premises. The new sub-clause (b) of clause 4.2 is preferable but safe access needs to be defined.</p>
5.1	What is covered by this contract	<p>Customer retail services in not italicised.</p> <p>The definition of <i>customer retail services</i> - “means the sale of electricity to the <i>premises</i>” - is too narrow.</p> <p>The new definitions should be:</p> <p>“Customer retail services means all of the services provided by a retailer in connection with the sale of electricity to the <i>premises</i> including billing arrangements, general information</p>	With the amendment of the definition of ‘customer retail services’ we are satisfied with no amendments being necessary to this clause 5.1. If the definition is not improved then clause 5.1 needs to be amended to reflect the retailers other obligations under the Code and in particular the obligation to arrange connection services (see discussion at clause reference 6.2 below).

Clause reference	Description	Changes Required	Comments
		provision and communication with the relevant distributor on behalf of the customer”.	
5.2(c)	What is not covered by this contract [distribution entity contract]	Revert back to the original sub-clause (c).	The amendments made to this sub-clause are not necessary, do not change its meaning, but do make the clause more difficult to understand.
5.3	Quality of electricity supplied to your premises	Add at the end of the clause: [rough draft of this clause below –needs to be re-worked]. ‘You should also be aware that a certain minimum levels of quality are guaranteed by your distribution entity and that failure to provide you with that level of service may entitle you to compensation payments which are set out in the distribution code.	We recognise information about the GSL will be contained in the <i>standard connection contract</i> and the <i>Code</i> . However, this <i>standard retail contract</i> is likely to be the primary contract and point of information for small customers and must therefore not assume that the customer will obtain a complete understanding of their rights from other documentation.
6.1	Application	The sub-heading ‘application’ is confusing and should be renamed ‘pre-conditions’. Either the pre-conditions must be specified or the exact locations where they can be found set out. The preconditions should be placed in just one location. The South Australian Customer Sale Contract says that any preconditions are set out in the Energy Retail Code.	The change from the reference to the Code and Regulations to ‘ <i>electricity legislation</i> ’ (which is an all encompassing definition) is concerning. Where are the preconditions are located? How will the small customer become aware of these pre-conditions? Reference to just the code is preferable
6.2	Connection	The clause should be switched around so that the last sentence appears first and is amended so that	The clause ‘In some cases, we can arrange for these things on your behalf’ is too uncertain. In

Clause reference	Description	Changes Required	Comments
		<p>it reads:</p> <p>“We will arrange connection for you unless”:</p> <p>the provisos remain the same as follows:</p> <ul style="list-style-type: none"> (a) “your premises is not already connected to a supply network, or (b) your existing connection or associated equipment requires modification or upgrading, <p>Insert ‘in which case’ retain ‘you will need to make arrangements with your distribution entity about your connection’.</p>	<p>our view, unless connection point changes are required, a retailer should arrange the ‘energisation’ of the premises with the distributor.</p>
8.1	What are our tariffs and charges	<p>The definition of notified prices is not clear enough.</p> <p>Our suggested definition is:</p> <ul style="list-style-type: none"> (a) The price per kilowatt hour of electricity usage; (b) a retail service fee amount per month; depending on the type of meter you have and whether you are a domestic-residential or business customer; and (c) charges that the <i>distribution entity</i> is 	<p>The changes to tariffs 11, 20 and 22 effective from 14 November 2005 should be reflected in this document. If the uniform tariff arrangement is changed it can be reflected in this contract at that time.</p> <p>Sub-clause (b) must be deleted. There should be no scope in this contract for the retailer to determine appropriate prices for electricity supplied.</p>

Clause reference	Description	Changes Required	Comments
		<p>allowed to charge you for <i>customer connection service</i>; all of which are set by the Queensland Government”.</p> <p>Also, in clause 8.1(a) the first word ‘if’ should be deleted and other consequential amendments.</p>	
8.2	Which tariff applies to you	This clause does not work with the definition of notified prices. Reference should be made to the tariff conditions or the definition suggested above should be used.	Is this clause trying to take into account the situation in other jurisdictions where different tariffs apply depending on where your premises are located.
8.4 and 8.5	Changes to tariffs	Clean up the use of the term ‘tariff’ if the defined term ‘notified prices’ is also to be used.	The use of the term ‘tariff’ with the defined term ‘price list’ worked in the South Australian Customer Sale Contract in the whole context of clauses 9.1 onwards but is confusing in the current drafting of this contract.
Pass through of taxes and charges	Does not exist in SRC	None	We agree with the removal of this clause 9.7 that existed in the South Australian Customer Sale Contract as it is covered in the new clause 8.1(d) that is a simpler version.
9.1	When bills are sent	Reinstate the deleted second paragraph.	This right will be afforded to the customer in any case by virtue of the Code but should be duplicated here to ensure that the small customer is aware of them.
9.2	Payments to the distribution entity	Delete the first paragraph	It does not make sense that this contract would exist if the small customer then negotiated a connection contract with the distributor. This clause can be inserted for relevant for business

Clause reference	Description	Changes Required	Comments
			customers.
9.4(a)	Estimating the electricity usage	Reinstate the deleted words at the end of the paragraph ‘and why an estimated reading has been used’.	We were pleased with the addition of the last sentence that improved the South Australian version and are disappointed that part of this has now been removed. It is important to ensure that estimated meter readings are only used when absolutely necessary and a requirement for the retailer to state why an estimate has been used will assist in meeting this objective.
9.4(d)	Where no meter	Reinstate deleted sentence	The national Metrology Procedures will not clearly come under the definition of <i>electricity legislation</i> and in our view the calculation of bills where no meter exists must be on the basis of data available in NEMMCO’s CATS system.
10.4	Late payments	This change depends on the resolution of the definition of <i>notified prices</i> . If the amount in the <i>notified prices</i> will be an amount set by the retailer then the South Australian version of this clause must be reinstated.	If the intention of this new clause is that the amount that may be charged for late payment will be an amount set by government regulation then we support this.
11	Meters	Add the following sentence: “We must make appropriate arrangements to communicate with the <i>distribution entity</i> to ensure that if the <i>distribution entity</i> attends the <i>premises</i> and is not able to access the meter, we are notified immediately. We will take all	This clause is disproportionate in its obligations and does not provide the customer with any opportunity to satisfy the obligation of convenient access. The retailer must be obligated to make arrangements for contact with the distributor and the customer at the relevant time. As many small customers live in apartment buildings where

Clause reference	Description	Changes Required	Comments
		reasonable steps to notify you at this time so that you can provide instructions or attend the <i>premises</i> to enable access to the meter”.	access is restricted it is imperative that this contract sets out requirements for communication to ensure access. Given the prevalence of mobile telephone equipment it should not be difficult for the communication to occur at the relevant time.
12.2	Overcharging	Reinstate the South Australian version of this clause.	As stated elsewhere above, despite some clauses of this contract being duplicated in the Code it is necessary that key protections for small customers be set out in this primary document.
13	Security deposits	Remove the clause	The requirement for a security deposit for small customers that have elected to be on a standard contact is totally inappropriate. What happens if the customer won't provide the security deposit? How is the connection obligation for this class of customer affected? The disconnection section does not specify that disconnection is allowed so it makes the requirement confusing.
16	Vacating a premises	<p>Revert back to the South Australian version of the clause with amendments as follows:</p> <p>Delete ‘you do not provide access to your meter’ and insert instead ‘we are not able to access your meter after following the procedures set out in clause # of this contract’.</p> <p>In particular, reinstate sub-clauses (a) to (c) of the South Australian version providing for other ways</p>	It is not reasonable that the contract does not provide for other circumstances that would provide the retailer with sufficient notice of the change of circumstance at the <i>premises</i> .

Clause reference	Description	Changes Required	Comments
		in which the customer's responsibility for electricity consumption at the <i>premises</i> will end.	
17.1	Use of electricity	Revert back to South Australian version	Sub-clause (a) does not make sense because the illegal use concept in clause 17.2 of the South Australian version arises because the electricity is used in breach of the contract and the law. Sub-clause (b) repeats sub-clause (d). Sub-clause (c) places an obligation on the small customer that they cannot foresee. Sub-clause (e) deals with tampering and it is not necessary to have a clause dealing with the possible results of that tampering.
Definitions	Instalment plan	Delete 'but, to avoid doubt, does not include an informal arrangement under which a customer is granted additional time to pay an amount owed'.	This definition is confusing and the suggested wording must be deleted unless and explanation of what is a 'formal arrangement' is included.

ANNEXURE C LIST OF RELEVANT SUBMISSIONS

Centre for Credit and Consumer Law, Griffith University

Electricity Full Retail Competition Proposed Policy Positions, 7 April 2006

Electricity Full Retail Competition Proposed Electricity Industry Code, 20 June 2006.

Electricity Customer Transfer and Consent Code and Retail Marketing Code of Conduct in the Electricity Industry, 30 June 2006.

Queensland Consumers Association Submissions

Consultation Paper 3, 6 April 2006.

Consultation Paper 5, 20 June 2006.

The Draft Retail Marketing Code of Conduct and the Draft Electricity Customer Transfer and Consent Code, 29 June 2006.

Supplementary Submission, 13 July 2006.