



**SACOSS' Submission to the
South Australian Department for Energy and Mining on the
Consultation on proposed amendments to customer
payment under the Remote Area Energy Supply (RAES)
Scheme Issues Paper
September 2021**

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Introduction

The South Australian Council of Social Service is the peak non-government representative body for health and community services in South Australia, and has a vision of *Justice, Opportunity and Shared Wealth for all South Australians*. SACOSS does not accept poverty, inequity or injustice. Our mission is to be a powerful and representative voice that leads and supports our community to take actions that achieve our vision, and to hold to account governments, business, and communities for actions that disadvantage South Australian customers in vulnerable circumstances.

SACOSS' purpose is to influence public policy in a way that promotes fair and just access to the goods and services required to live a decent life. We undertake policy and advocacy work in areas that specifically affect disadvantaged and low-income consumers in South Australia. With a strong history of community advocacy, SACOSS and its members aim to improve the quality of life for people disadvantaged by the inequities in our society.

SACOSS has a long-standing interest in the delivery of essential services. Our research shows that the cost of basic necessities like water and electricity impacts greatly and disproportionately on people with low incomes, low wealth, and people in vulnerable circumstances.

SACOSS would like to thank the Department for Energy and Mining (the Department) for the opportunity to comment on the *Consultation on proposed amendments to customer payment under the Remote Area Energy Supply (RAES) Scheme Issues Paper*, dated July 2021 (the Issues Paper). This submission will aim to address each of the consultation questions in the Issues Paper, and will also highlight our broader significant concerns around the:

- impact of mandatorily imposing the prepayment method on all customers in a prescribed class
- issues with focusing on a price signal to reduce consumption and demand in remote Aboriginal communities
- benefits and risks of the proposed payment options (involuntary prepayment vs. post payment with optional prepayment)
- proposed 'fit-for-purpose' consumer protection measures, as well as the overall inadequacy of the consumer protection framework for off-grid energy customers in regional and remote South Australia
- need to better identify and protect life support customers across the RAES scheme
- proposed implementation pathway and the inconsistency of the proposed regulatory amendment with National Laws and Rules.

At the heart of this submission is the principle that energy is an essential service; consumers have a right to access it on fair and reasonable terms, and must be protected from disconnection due to an inability to pay. SACOSS believes the South Australia Government's approach to solving the energy supply sustainability issues in the communities the subject of

this consultation must be shaped by robust transparent principles of equity, sustainability, affordability and fairness – ensuring all South Australian citizens are treated equally.

Summary of submissions

As outlined in the body of this submission, **SACOSS is calling for:**

1. The *Aboriginal Lands Parliamentary Standing Committee*¹ to urgently inquire into the issue of mandatory prepayment, energy insecurity and its impacts on the health and welfare of residents in the RAES Aboriginal Communities scheme.
2. The *Essential Services Commission of South Australia* to develop an Industry Code containing consumer protections for *all* customers of off-grid energy retailers in South Australia, with associated robust monitoring and compliance obligations.
3. The *Essential Service Commission of South Australia* to establish a compliance and enforcement priority objective to protect vulnerable consumers² by ensuring the existing protections for off-grid energy customers in South Australia are properly monitored and enforced. Including protections for prepayment customers.
4. The *Department for Energy and Mining* to accord submissions from health organisations significant weight in its consideration of how best to supply energy to households in the RAES Aboriginal Communities scheme, including emerging evidence from the Northern Territory that energy insecurity is a much greater driver of poor health outcomes than has been previously recognised.
5. The *South Australian Government* to look to other jurisdictions to investigate opportunities for integrating community energy solutions that empower communities, including remote community Rooftop Solar, stand-alone power systems and community owned energy schemes with training and job opportunities lifting households out of energy poverty, and reducing reliance on diesel generation. Investigating these opportunities aligns with the South Australian Government's current work program and national commitments under the *Addendum to the Trajectory for Low Energy Buildings*.
6. The *Department for Energy and Mining* to reduce the proposed tariff for RAES Aboriginal communities to start at 5 cents per kWh, from the stated 10 cents, and to keep the tariff low into the future.
7. The *Department for Energy and Mining* to shift its focus from a staged tariff introduction of 'working toward standard residential RAES tariffs', to addressing broader energy supply issues through community energy solutions.
8. The *Department for Energy and Mining* to continue to fund financial counselling and community support for residents in the RAES Aboriginal Communities Scheme beyond the completion of MoneyMob Talkabout's contract in June 2023.

¹ The [Aboriginal Lands Parliamentary Standing Committee](#)

² In Line with the [Australian Energy Regulator's Compliance and Enforcement Priorities for 2021/22](#)

9. The *South Australian Government*, the *Essential Services Commission of South Australia* and the retailer to work together to establish a formal register for life support customers, and supporting processes and procedures to identify and protect life support customers in affected communities *prior* to the introduction of mandatory prepayment.
10. The *Essential Services Commission of South Australia* to ensure the protections for life support customers of off-grid energy retailers in South Australia align with protections under National Energy Laws and Rules, including to ensure the category of 'other' equipment in the *Prepayment Meter Systems Code* includes '*any equipment that a medical practitioner considers essential for their patient*' in line with the Australian Energy Regulator's *Life Support Registration Guideline*.
11. The *Essential Services Commission of South Australia* to better communicate, monitor and enforce the broader protections for all life support customers serviced by small-scale networks in regional and remote South Australia.
12. The *Essential Services Commission of South Australia* to be adequately resourced to enable a strong compliance focus on protections for off-grid customers in vulnerable circumstances, including life support customers.
13. The *Department for Energy and Mining* to clarify whether it considers the proposed amendment to the *Electricity Act (General) Regulations 2012* is consistent with National Energy Laws and Rules, the *Racial Discrimination Act (Cth) 1975*, and aligns with Target 9b in *South Australia's Implementation Plan for the National Agreement on Closing the Gap*.
14. The *Department for Energy and Mining* to further consult on the form and content of the draft amendment to the *Electricity Act (General) Regulations 2012*, should the proposal proceed.
15. The *Department for Energy and Mining* to defer the introduction of charging in RAES Aboriginal Communities until codified protections are in place.

Background and context

This consultation relates to regulatory changes proposed by the South Australian Government that will significantly limit the choices, protections and energy security of customers in the Remote Area Energy Supply (RAES) Aboriginal Communities scheme.

The Department is seeking stakeholders' views on its proposal to amend the *Electricity (General) Regulations 2012* (the Regulations) to:

'...require ESCOSA to impose a licence condition on the retailer that customers of a prescribed class pay for electricity via a prepayment method. The licence condition will provide that the retailer, at their sole discretion, may provide an alternate payment method for a customer of the prescribed class. This will enable an alternative payment method for a life support customer if determined necessary in consultation with the customer.'

This class of customer would include residential customers in the remote Aboriginal communities and associated homelands of Anangu Pitjantjatjara Yankunytjatjara (APY), Yalata on Aboriginal Lands Trust (ALT) and Oak Valley on Maralinga Tjarutja (MT) supplied through the RAES Aboriginal Communities (AC) scheme.

Residential customers that currently pay for their electricity consumption will not be included in the prescribed class of customer³.⁴

SACOSS acknowledges prepayment for electricity can be a preferred method of payment for some customers, and accepts households having the ability to choose prepayment where strong consumer protections, as well as monitoring and compliance obligations, are in place.⁵

However, the effect of the proposed Regulatory amendment will be to remove choice, making prepayment for electricity mandatory for all residential customers in the RAES Aboriginal Communities scheme. This means those households will involuntarily have to pre-pay for energy at all times in order to have it supplied, raising concerns around increased rates of 'self-disconnection'⁶ leading to energy insecurity and associated negative

³ Residential customers that currently pay for electricity include service providers such as NGOs and State and Federal Government employees.

⁴ Department for Energy and Mining, [Consultation on proposed amendments to customer payment under the Remote Area Energy Supply \(RAES\) Scheme Issues Paper](#), July 2021, p.19

⁵ Noting there remains the overarching policy question of whether prepayment for electricity is an acceptable option at all in 2021, given developments in technology, available services and evidence of the negative impacts of energy insecurity on health and wellbeing.

⁶ SACOSS uses the term 'self-disconnection' throughout this submission, noting this experience should be more properly characterised as an 'involuntary disconnection due to inability to pay,' where households struggling with energy costs have no choice but to go without an energy supply, and are not supported to remain connected by their retailer.

health and social impacts. Residents in the affected communities will not have the option to post-pay for electricity, and will not have access to the same consumer protections as other post-payment or prepayment customers, which is out of step with the experience of all other energy consumers in the South Australian community.

The RAES Scheme

The entire RAES Scheme includes communities supplied under the RAES State / Independent Communities⁷ and the RAES Aboriginal Communities⁸ schemes. The Issues Paper points to 1,500 off-grid customers supplied across the RAES scheme, however the Department's website indicates that around 2,400 customers in 13 remote towns are provided with power subsidised by the State Government under the RAES State / Independent Communities Scheme, and around 1,000⁹ residential customers living in community housing in Amata, Iwantja, Kalka, Kaltjiti, Kanpi, Mimili, Murputja, Nyapari, Pipalyatjara, Pukatja, Umuwa, Watinuma, Yunyarinyi, Yalata, Oak Valley, and associated homelands connected to these networks, are provided with fully subsidised power by the State Government under the RAES Aboriginal Communities Scheme.

This consultation and the proposed regulatory changes impact the 1,000 – 1,500 residential customers who receive an energy supply under the RAES Aboriginal Communities Scheme, but has potential future implications for all residents provided with power under the RAES State / Independent Communities Scheme, should the proposed 'customer class' in the proposed regulatory amendment be extended.

The Future Sustainability Project

In May 2019, the State Government delivered its 2019-20 Budget which allocated \$5.6 million of expenditure over five years to *'implement a package of measures aimed at improving service delivery and realising operational efficiencies across the entire Remote*

⁷ See webpage:

https://www.energymining.sa.gov.au/energy_and_technical_regulation/energy_resources_and_supply/remote_area_energy_supply/raes_communities

⁸ See webpage:

https://www.energymining.sa.gov.au/energy_and_technical_regulation/energy_resources_and_supply/remote_area_energy_supply/raes_aboriginal_communities

⁹ Noting ESCOSA's [Off-Grid Energy Networks Performance Report 2019-20](#) identifies Cowell Electric supplies 1,499 connections at the APY lands, MT lands, Yalata on ALT, Oodnadatta, Parachilna, Marla, Marree, Nundroo, Glendambo, Kingoonya, Mannahill, Blinman, and Cockburn

Area Energy Supply (RAES) scheme, known as the 'Future Sustainability Project'.¹⁰ As summarised by the Department, the Future Sustainability Project involves:¹¹

- *'The installation of Smart Meters to improve energy efficiency and service delivery.*
- *The introduction of **more flexible payment options**, including **the development of a customer pre-payment framework, to reduce the level of customer indebtedness.***
- *The staged **introduction of electricity charging** for residents in the Anangu Pitjantjatjara Yankunytjatjara (APY) Lands, Oak Valley and Yalata.'*

The Department's Future Sustainability Project is well underway, and SACOSS understands that:

- the installation of smart meters with prepayment capability commenced in July 2020 and have now largely been installed in households throughout the RAES Scheme¹²
- the three-year engagement and education program delivered by MoneyMob Talkabout in RAES Aboriginal Communities commenced over 12 months ago in July 2020¹³
- staged charging for electricity in the RAES Aboriginal Communities was scheduled to commence in July 2021, but has been delayed to July 2022 due to licensing requirements and ESCOSA's review of the Prepayment Meter System Code (the Code).¹⁴

As the Department's website states, it was initially intended that prepayment would be an *option* for customers to consider under the RAES scheme:

*'Smart metering will enable **a range of flexible payment options to be considered, including pre-payment**, which will assist customers to manage their electricity bills and consumption. These are being developed in consultation with the Essential Services Commission of South Australia (ESCOSA), **to ensure consistency with its regulatory and licencing requirements.***

¹⁰ See webpage:

https://www.energymining.sa.gov.au/energy_and_technical_regulation/energy_resources_and_supply/remote_area_energy_supply/future_sustainability

¹¹ See webpage:

https://www.energymining.sa.gov.au/energy_and_technical_regulation/energy_resources_and_supply/remote_area_energy_supply/future_sustainability

¹² See contract for [Provision of Smart Meters and data services for homes and business in remote South Australian towns and Aboriginal communities under the RAES Scheme](#). Executed in December 2019 for completion in December 2024

¹³ See contract for [RAES Future Sustainability Education Program](#) relating to the provision of engagement and education services for the introduction of smart meter education, electricity payment and energy efficiency education, starting 1 July 2020 for completion on 30 June 2023

¹⁴ ESCOSA, [Prepayment Metering Systems Code Review](#)

However, the proposed amendment to the Regulations represents a departure from this approach of considering ‘a range of flexible payment options’, and ‘ensuring consistency with regulatory and licensing requirements’. Instead, as outlined in the Issues Paper, the State Government’s preferred approach is now to change the law to mandate prepayment as the only available payment method for households in the affected communities, overriding existing regulatory and licensing requirements that operate to ensure prepayment is a customer’s choice, and that work to protect prepayment customers from repeated involuntary disconnections.

The existing framework

Under the existing regulatory and licensing framework in South Australia, the energy retailer for the RAES Aboriginal Communities Scheme, Cowell Electric Supply Pty Ltd (Cowell Electric), is required as a condition of its licence to:¹⁵

- comply with the provisions of ESCOSA’s *Prepayment Meter System Code* (Clause 7.2 of the licence)
- obtain ESCOSA’s prior written approval to adopt a prepayment metering system (Clause 39.1 of the licence).

The Essential Services Commission of South Australia’s (ESCOSA) *Prepayment Meter System Code 2013* (the Code) regulates the operation of prepayment systems by off-grid energy retailers that are not covered by the National Energy Laws and Rules. The Code was developed by ESCOSA after lengthy consultation and in recognition of the risks for consumers associated with prepaying for their energy supply,¹⁶ it establishes minimum consumer protection requirements for customers using prepayment systems, and requires the customer’s explicit informed consent to enter into a prepayment arrangement.¹⁷

In response to the Future Sustainability Project and the installation of smart meters with prepayment capability across the RAES Scheme, ESCOSA is currently undertaking a review of the Code to ensure it remains fit for purpose. SACOSS has provided a submission to that Review which is **attached** in support of this submission on the Department’s consultation on the proposed amendments to the Regulations. SACOSS is seeking to ensure the Department consider the matters raised in our submission on the review of the Code, as part of this consultation.

It is worth noting that when the Code was first created in 2005, technology and the energy system, as well as available payment solutions, the understanding of energy essentiality and the impact of energy poverty, were all very different. Advanced metering and a range of flexible services and applications weren’t available or cost effective then, as they are now,

¹⁵ [Cowell Electric Supply Pty Ltd, Electricity Retail, Distribution, Generation Licence](#), 19 November 2020

¹⁶ ESCOSA, [Prepayment Meter System Code Draft Final Decision](#), March 2005

¹⁷ ESCOSA, [Prepayment Meter System Code 2013](#), Clause 2.2

and arguably these developments have made prepayment not only unnecessary, but obsolete.¹⁸

The effect of the Department's proposed amendment to the Regulations which is the subject of this consultation, will mean prepayment will not be a choice for affected households, and therefore a large number of the existing consumer protection provisions in the Prepayment Meter System Code will no longer apply to customers in those affected communities. Most notably, explicit informed consent to enter into a prepayment arrangement will not be required, customers who are experiencing multiple self-disconnections as a result of inability to pay will not be offered the option of reverting back to post-payment, and the prohibition on retailers entering into a prepayment arrangement with a life support customer under the Code will no longer apply.¹⁹

As outlined further below, removing the requirement for explicit informed consent and the right to revert to post-payment, represent a policy response that intentionally creates a structural gap between residents of RAES Aboriginal Communities and the rest of the South Australian community, raising questions about whether the proposal aligns with the South Australian Government's recently released *Implementation Plan for the National Agreement on Closing the Gap*.²⁰

In recognition that the proposed Regulations will remove these existing protections for prepayment customers in the affected communities, the Department has drafted and is consulting on proposed 'fit-for-purpose' consumer protections for residents in the RAES Aboriginal Communities scheme. These consumer protections are summarised in the Issues Paper, and are discussed in more detail below. SACOSS understands these protections will not be contained in ESCOSA's Code (in line with the consumer protections for prepayment customers outside of the RAES Aboriginal Communities scheme), but rather will form part of the standard terms and conditions between the affected resident and the retailer (Cowell Electric).

The health implications of mandatory prepayment

SACOSS has significant concerns about the health impacts of repeated 'self-disconnections' and associated energy insecurity resulting from the introduction of mandatory prepayment in these communities, and we are not satisfied the potential health impacts have been adequately considered or addressed by the Department in its Issues Paper.

¹⁸ SACOSS is of the view that in granting a retailer prepayment approval, South Australia's current energy context should be taken into consideration by ESCOSA as a threshold matter, to determine whether prepayment remains a relevant payment option.

¹⁹ ESCOSA, Prepayment Meter System Code, Clause 2.5.1 (h)

²⁰ SA Government, [South Australia's Implementation Plan for the National Agreement on Closing the Gap](#), September 2021

Recent research conducted by Tangentyere Council Aboriginal Corporation (TCAC) in the Northern Territory shows unequivocally that households with pre-payment meters overwhelmingly experience a high number of involuntary self-disconnections due to poverty.

TCAC's *Supplementary Submission to the Inquiry into Homelessness*²¹ analysed consolidated prepayment meter self-disconnection data provided by Jacana Energy for Darwin, Katherine, Alice Springs, and Tennant Creek. TCAC has advised SACOSS that the data for Alice Springs is most relevant for this consultation, as the climate of Alice Springs has more in common with communities under RAES Aboriginal Communities scheme than other regions. Also, there is a higher proportion of Town Camp houses in Alice Springs than other regional centres, and TCAC considers the profile of Town Camp housing is more similar to remote than urban housing.

Concerningly, the self-disconnection data for Alice Springs and its Town Camps for the 2019/20 year shows that 91% of prepayment meter households 'self-disconnected' on average 13.6 times per quarter for an average of 6 hours and 42 minutes per event. That means those households disconnected 59 times for 395 hours (or 16 days) in 2019/20.²² Relevantly, evidence provided to the Energy and Water Ombudsman of NSW in relation to the risk of self-disconnection and prepayment meters indicated that just six-hours without energy may have severe consequences for children, the elderly or those with chronic illness.²³

Additional evidence from a specialist medical professional working in the NT, provided at the online forum on this consultation, clearly communicated the devastating and profound impacts this level of energy insecurity has on the health and wellbeing of people living in those communities. SACOSS understands submissions to this consultation will be provided by health organisations working in the Northern Territory as well as academics from the Australian National University, and SACOSS urges the Department to accord those submissions significant weight in its consideration of how best to supply energy to households in the RAES Aboriginal Communities scheme. SACOSS also understands there is more emerging (soon to be published) evidence from the NT that energy insecurity is a much greater driver of poor health outcomes than has been previously recognised, and

²¹ TCAC, Supplementary Submission 2 to the House of Representatives Inquiry into Homelessness in Australia, No.165.2 see:

https://www.aph.gov.au/Parliamentary_Business/Committees/House/Social_Policy_and_Legal_Affairs/HomelessnessinAustralia/Submissions

²² See TCAC's submission and supplementary submission to the Homelessness Inquiry (#165) that addresses the issue of energy insecurity on the Town Camps and other parts of the NT

https://www.aph.gov.au/Parliamentary_Business/Committees/House/Social_Policy_and_Legal_Affairs/HomelessnessinAustralia/Submissions

²³ EWON, [An analysis of prepayment option for customers](#), November 2014, p. 5

SACOSS is seeking those studies be considered by the Department once they become available.

Disconnection from an energy supply can be life-threatening and at the very least leads to high levels of hardship for people in vulnerable circumstances. Research by the Consumer Utilities Advocacy Centre (CUAC) in Victoria has highlighted the many health, wellbeing, and safety impacts in Aboriginal households due to under-consumption of energy:²⁴

- people with diabetes and asthma are more sensitive to extreme temperatures and are thus more reliant on effective cooling and heating
- some mental illnesses are exacerbated by hot temperatures
- some chronic health conditions require treatment with energy-intensive machinery or refrigerated medications (e.g. insulin)
- lack of sufficient energy for refrigeration, cooking and washing leads to poor nutrition and hygiene
- use of fire, propane, kerosene, or candles as alternative sources of heating, cooking and lighting leads to safety risks from fire or carbon monoxide poisoning
- stress, anxiety and depression can also result from having no energy, or the constant stress that disconnection is imminent, leading to self-rationing.²⁵

International research has also found that in response to energy insecurity households in vulnerable circumstances are more likely to:²⁶

- engage in risky behaviours to meet their energy needs including using high-interest payday loans
- rely on dangerous heating sources, such as space heaters or ovens
- forego other basic needs, such as food and medical care
- remain in poverty for longer periods of time
- suffer adverse mental and physical health consequences, including increased incidences of death - these impacts are especially prevalent for children and the elderly.

We also know that an inadequate energy supply will negatively affect five of Health Habitat's 9 Healthy Living Practices²⁷ reliant on electricity (washing people = hot water, washing clothes = washing machine, storing food = fridge, reducing impacts of overcrowding = houses disconnected lead to overcrowding of connected houses, controlling temperature

²⁴ Consumer Utilities Advocacy Centre, Wein, Paen, Ya Ang Gim: Victorian Aboriginal Experiences of Energy and Water, 2011, pp. 4–5.

²⁵ Noting the UK Regulator Ofgem's [Self-disconnection and Self-Rationing Decision](#), 19 October 2020.

²⁶ Marmott, T, [Sociodemographic disparities in energy insecurity among low-income households before and during the COVID-19 pandemic](#), 18 January 2021

²⁷ Heath Habitat, [Safety and the 9 Healthy Living Practices](#)

= heating/air-conditioning). This evidence raises serious concerns about the potentially negative health, economic and social impacts of mandatory prepayment and repeated self-disconnections on households in the RAES Aboriginal Communities scheme.

In view of the recent studies around prepayment, energy insecurity and health in the Northern Territory outlined above, SACOSS is suggesting the question of mandatory prepayment, self-disconnections and energy supply should urgently be referred to the *Aboriginal Lands Parliamentary Standing Committee*²⁸ for a broader inquiry into its potential impacts on the health and welfare of Aboriginal people in the affected Communities.

Price signal

The Department has identified high consumption as the main problem to be addressed in RAES Aboriginal Communities. The Issues Paper points to the need to reduce demand on the electricity network to avoid expenditure on expanded generation and to mitigate the increased risk of blackouts. The Department's Future Sustainability Project has focused on introducing 'a price signal' as a means for residents to understand their energy consumption and to provide a financial incentive to reduce usage.

SACOSS acknowledges the objective to reduce electricity consumption in fully subsidised RAES Aboriginal communities, and we also accept it is appropriate for those communities to have some charges introduced for the electricity services they receive. However, we do not consider that a price signal is a reasonable or effective tool to reduce consumption in remote Aboriginal communities covered by the RAES scheme.

In establishing a reasonable price signal, the structural inability to reduce energy use in RAES Aboriginal communities must necessarily be a consideration for the Department. The extreme weather conditions, poor quality housing, inefficient appliances and overcrowding all work against households being able to control their usage and respond effectively to a price signal. Bushlight's 2013 *Report into Prepayment Meters and Energy Efficiency in Indigenous Households* pointed to the range of 'structural and socio-cultural barriers to improving energy efficiency and managing energy costs',²⁹ faced by households in the surveyed communities. In these circumstances, price is not a signal to reduce demand, but rather an extra financial penalty applied to households who are potentially very vulnerable.

In addition to the structural barriers to reducing energy consumption, there is no competitive energy market available to customers in these communities. Households on low-fixed incomes are supplied by a monopoly retailer with no option to access a range of market offers or tariffs. Applying a price signal to people with structural limitations on their

²⁸ The [Aboriginal Lands Parliamentary Standing Committee](#) is established under section 6 of the *Aboriginal Lands Parliamentary Standing Committee Act 2003*, and can inquire into various matters set out in that section, including 'matters concerning the health, housing, education, economic development, employment or training of Aboriginal people, or any other matter concerning the welfare of Aboriginal people' (section 6(d)).

²⁹ Centre for Appropriate Technology, Bushlight, [Prepayment Meters and Energy Efficiency in Indigenous households](#), 2013, p.32

ability to respond represents an unreasonable financial penalty. SACOSS considers that without addressing structural issues related to housing, appliances and living conditions, a community education program to understand energy use (whilst important), is not sufficient to address consumption. From a risk perspective, it is also important for policy makers to bear in mind the impacts of climate change will further exacerbate temperature extremes and increase energy requirements in remote areas.

If the problem, as defined by the Department, is high consumption and increased demand on the network, then SACOSS urges the South Australia Government to look to additional alternative energy solutions and efficiency upgrades, rather than relying only on the imposition of a price signal.

The need to support vulnerable households with energy efficiency upgrades (including households in regional and remote areas, as well as public, aboriginal and community housing) was recognised in COAG's *Addendum to the Trajectory for Low Energy Buildings—Existing Buildings* (the Addendum).³⁰ The Addendum recommends progressing Recommendation 6.6 of the Finkel Review,³¹ and calls for other targeted initiatives to be identified, including for regional and remote areas; public, Aboriginal and community housing; and low income and vulnerable households.

The work program timeline under the Addendum envisaged that by the end of 2020, Commonwealth, State and Territory governments would:

*'complete investigations of additional opportunities for Commonwealth, State and Territory **financial incentives that support energy efficiency upgrades**, including for regional and remote areas; public, **aboriginal and community housing**; and other low income and vulnerable households.'*³²

SACOSS urges the government to look to other State and Territory programs in remote Aboriginal communities that are integrating community energy solutions to empower communities, including remote community Rooftop Solar, stand-alone power systems and community owned energy schemes with training and job opportunities that lift households out of energy poverty, and also reduce reliance on diesel generation. Investigating these opportunities aligns with the government's current work program and national commitments under the *Addendum to the Trajectory for Low Energy Buildings*. The Department could look to the following interstate examples that aim to set communities on

³⁰ COAG Energy Council, [Addendum to the Trajectory for Low Energy Buildings—Existing Buildings](#) November 2019

³¹ **Recommendation 6.6 of the Finkel Review** stated that the COAG Energy Council should identify opportunities to accelerate the roll out of programs that improve access by low income households to distributed energy resources and improvements in energy efficiency; and identify options for subsidised funding mechanisms for the supply of energy efficient appliances, rooftop solar photovoltaic and battery storage systems for low income consumers.

³² COAG Energy Council, [Addendum to the Trajectory for Low Energy Buildings—Existing Buildings](#) November 2019, Figure 1

the path to long term sustainability and empowerment, rather than entrench disadvantage, ill-health and debt:

- 'As part of the \$3.6 million Decarbonising Remote Communities program, 4 Indigenous communities in Queensland's far north will have new renewable energy systems installed to reduce the use of diesel power. Participating Aboriginal and Torres Strait Islander Councils are key project partners in planning and delivering these projects. Using renewables such as solar and battery storage directly benefits remote communities that run on diesel by creating jobs and power savings, as well as bringing the environmental benefits of reduced emissions.'³³
- 'The Northern Territory government has laid the foundations for plans to transition scores of remote indigenous communities to renewable-based power systems by 2030, with the announcement of \$2 million in funding and a competitive tender process.'³⁴
- 'Horizon Power will install hundreds of kilowatts of solar and battery energy storage systems in six Kimberley communities including Kalumburu, Warmun, Ardyaloon, Beagle Bay, Djarindjin, and Bidyadanga as part of the Remote Communities Centralised Solar Project. This project will help deliver significant environmental benefits with a reduction of CO2 emissions by more than 2000 tonnes each year, which is the equivalent of taking 425 cars off the road. It will also reduce the cost of supplying electricity to remote towns.'³⁵
- 'AGL will help transform energy reliability in Western Australia's regional communities, after being appointed as a supplier by Western Power to deliver Australia's largest rollout of stand-alone power systems (SPS).'³⁶

In view of the relative ineffectiveness of the price signal and given the genuine inability of households to respond due to housing quality and climate, SACOSS submits the proposed tariff should start at 5 cents per kWh, not 10 cents. We also believe the tariff should be kept low, shifting the Department's focus from a staged tariff introduction of 'working toward standard residential RAES tariffs', to addressing broader energy supply issues through low cost generative community energy solutions.

SACOSS does not consider standard RAES tariffs (the equivalent of average on-grid energy costs) will ever be affordable for households living in regional and remote South Australia who experience structural inequalities. This was made shockingly clear in the case studies examined by the Ombudsman SA's *Investigation into financial debts for the sale of electricity*

³³ <https://www.epw.qld.gov.au/about/initiatives/solar-remote-communities>, 5 August 2021

³⁴ [NT to shift all remote communities to renewable microgrids](#) April 12, 2021

³⁵ Remote Communities Centralised Solar [How Horizon Power is powering regional communities](#) December 9 2020

³⁶ [AGL connecting WA regional communities in Australia's largest SPS rollout](#) 17 March 2021

*and water to members of Coober Pedy's Aboriginal Community.*³⁷ Making prepayment for electricity mandatory will simply ensure the retailer, as the provider of an essential service, has no responsibility to manage debt and offer pre-disconnection supports (in the way on-grid retailers must) leading to increased disadvantage and poor health and social outcomes for affected households.

In addition, and in response to the issues raised in the Ombudsman's Report, we would also like to repeat our previous submissions made in response to ESCOSA's Small Scale Networks Inquiry³⁸ and Prepayment Code Review,³⁹ that ESCOSA consider developing an Industry Code containing additional consumer protections and service standards to apply to small-scale and off-grid energy licensees.⁴⁰ As outlined in more detail below, we believe more payment options using smart-meter technology under the post-payment framework, coupled with stronger and more defined protections under an Industry Code developed by ESCOSA could work together to achieve better energy security across all RAES communities.

Benefits and risks of the proposed payment options

Consultation Question 1

Are there any other benefits or risks that can be identified based on the above options?

Whilst a discussion of the risks and benefits of prepayment versus post-payment is necessary, SACOSS considers such a discussion should be placed within the wider context of whether prepayment can now (in 2021) acceptably be proposed as a solution to any of the identified issues, given the advances in technology (smart meters), available services and overwhelming evidence of the impacts of energy insecurity on households. In circumstances where customers are now able to access flexible, bespoke payment solutions, SACOSS is seeking the South Australian Government consider the bigger policy question of whether prepayment is now an acceptable payment option at all.

In relation to this consultation, SACOSS considers it is once again important to bear in mind that under existing laws in South Australia, customers of a licensed prepayment retailer can *already* choose to prepay for their energy supply, and will receive corresponding protections under the Prepayment Meter System Code.

³⁷ Ombudsman SA's Investigation into financial debts for the sale of electricity and water to members of Coober Pedy's Aboriginal Community, July 2021

³⁸ SACOSS, [Submission to ESCOSA's Draft Inquiry Report into the regulatory arrangements for small-scale water, sewerage and energy services](#), September 2020

³⁹ SACOSS, [Submission to ESCOSA on the Prepayment Meter System Code Review](#), May 2021

⁴⁰ SACOSS, [Submission to ESCOSA's Draft Inquiry Report into the regulatory arrangements for small-scale water, sewerage and energy services](#), September 2020, p.22

In essence, this consultation is on the Department's proposal to change the law so *customers in a defined class do not have the ability to choose*, and will be required to prepay. The proposal will deprive Aboriginal people who reside in the areas covered by the RAES Aboriginal Communities scheme of rights and protections all off-grid energy customers in South Australia currently enjoy under existing frameworks. As a threshold question, SACOSS is seeking the Department consider whether the proposed amendment to the Regulations is consistent with the national guarantee under the Commonwealth's *Racial Discrimination Act 1975*⁴¹ that rights shall be enjoyed equally by all people regardless of their race.⁴²

The Issues Paper outlines two payment options 'to facilitate the introduction of charging for electricity':⁴³

Option 1 - Standard Option

Utilise the current post payment system as the default payment method for the relevant customers, with the option for customers to 'opt in' to the use of prepayment.

Option 2 – Prepayment Option

Require payment prior to electricity being consumed as the only payment method for the relevant customers.

In relation to the benefits and risks of both options, SACOSS refers the Department to our submission to the Essential Services Commission of South Australia (ESCOSA) on its Prepayment Meter Code Issues paper, which we have **attached** to be considered in conjunction with this submission.

It is possible that households in some circumstances may opt to pre-pay for their energy, but we are opposed to an option which *requires* households to do so, encourages them to do so, or in any way deprives households of the ability to receive their essential energy services in a manner that is consistent with the broader South Australian community.

We are opposed to the Department's preferred Option 2, which involves amending Regulations to require prepayment as the *only* payment method for households in the RAES Aboriginal Communities scheme. As noted above, whilst there is a discussion to be had about the merits or otherwise of prepayment and the ability of post payment to address those issues, this proposed amendment takes the additional step of purposefully creating and embedding a structural inequality between how RAES Aboriginal Communities are

⁴¹ [Racial Discrimination Act 1975 \(Cth\)](#)

⁴² Williams And Reynolds — [The Racial Discrimination Act And Inconsistency Under The Australian Constitution](#), ALR 36(1), Ch12, 241

⁴³ Department for Energy and Mining, [Consultation on proposed amendments to customer payment under the Remote Area Energy Supply \(RAES\) Scheme Issues Paper](#), July 2021, p.7

provided with an essential service, and how other communities under the RAES scheme (as well as the wider South Australian community) are provided with an essential service.

As we have previously noted, prepayment undermines the fundamental principle that no one should be disconnected from an energy supply because of an inability to pay (hence ESCOSA's development of additional protections for prepayment customers under the Prepayment Code in 2005). The Department's proposal will impose prepayment on all households, removing choice and existing consumer protections under the Code.

As detailed above, we know prepayment for electricity results in households suffering through significant periods of 'self-disconnection', and that disconnection from an energy supply can be life-threatening and at the very least leads to high levels of hardship for people in vulnerable circumstances. Unlike post payment, prepayment puts all the risks and impacts on individual households, not the retailer.

Option 1, (characterised as the 'standard option') refers to the existing payment framework for off-grid energy customers across South Australia. Under this Framework, off-grid residential customers have the option to choose prepayment as a payment method if they are supplied by a licensed prepayment retailer. SACOSS accepts that some people may chose prepayment, and that should properly be the individual customer's choice to make under the current payment system, with those customers receiving protections from the identified risks⁴⁴ of prepayment under the Prepayment Meter System Code. Off-grid residential customers who don't chose to prepay for their energy, would post-pay in line with the rest of the South Australian community, and would be covered by the (somewhat limited) consumer protections contained in their retailer's licence.⁴⁵

SACOSS strongly rejects the contention in the Issues paper that post-payment is inherently a risk and a challenge for households in RAES Aboriginal communities. We consider that, conversely, post-payment is actually a risk and a burden for the retailer. Prepayment simply ensures that households assume all of the impact and risk, with immediate effect. The principle underpinning post-payment is that a retailer is a larger entity able to manage costs, able to identify, aggregate and thus mitigate risks over time, whereas these options are simply not available to households.

Relevantly, a 2004 research report into access to energy and water in Victoria, found:⁴⁶

⁴⁴ See KPMG, [Consumer Issues with Prepayment](#) Final Report, April 2004. This Report was commissioned by ESCOSA to identify consumer issues prior to the development of the Prepayment Meter System Code and Informed the development of the Prepayment Meter System Code which now contain consumer protections for off-grid prepayment customers in South Australia.

⁴⁵ SACOSS refers to our submission on ESCOSA's Prepayment Meter Code consultation and our call for stronger codified protections for off-grid energy customers.

⁴⁶ N Rich and M Mauseth, Access to Energy and Water in Victoria – A research report, Consumer Law Centre Victoria and Consumer Utilities Advocacy Centre, 2004, p 118

‘...prepayment meters discourage suppliers from improving their processes for dealing with customers in hardship as they are able to disengage from these issues.[...] If suppliers are of the opinion that the provision of alternative or flexible payment arrangements is a worthy objective in itself, they should ensure that the flexibility and range of alternative payment plans, billing cycles and payment methods offered by them are optimal and meet the demands of customers before embarking on such risky changes as the introduction of prepayment meters.’

Post-payment recognises electricity is an essential service, and customers have rights and retailers have obligations in relation to the supply of that essential service. Post-payment recognises that if a customer is struggling to pay for their energy supply, then the retailer must support the customer to maintain access to that supply through payment plans and hardship supports. This existing framework is based on principles of fairness and the need to avoid the harmful impacts of disconnection, recognising that retailers of an essential service are better placed than households to identify and manage any debt risk, and support households to remain connected. Prepayment removes the retailer debt risk and the obligation to assist the customer to maintain their essential service, by removing that essential service. Customers don’t accumulate debt, but only because they don’t get the essential service. This is not a ‘solution’ focussed on the household.

The Issues Paper contends the following potential benefits can arise from the use of prepayment meters:⁴⁷

- *budgeting*
- *lower risk of debt*
- *instant consumption feedback*
- *account responsibility*
- *easier reconnections*
- *close to real-time data*
- *familiarity*
- *assistance.*

These potential benefits do not require prepayment and are capable of being realised using advanced meters under the current post-payment framework. For example, shorter payment timeframes (weekly or fortnightly), bill smoothing, and tools that allow top-ups from cards, via text or even using QR codes could all be utilised in a post-pay framework to better address community issues, manage debt and enable contributions from transitory household members.

SACOSS submits ‘familiarity’ should not necessarily be characterised as a benefit of mandatory prepayment, and SACOSS urges the Department to discuss the impacts of energy

⁴⁷ Department for Energy and Mining, [Consultation on proposed amendments to customer payment under the Remote Area Energy Supply \(RAES\) Scheme Issues Paper](#), July 2021, p. 10-11

insecurity in the Northern Territory with local medical experts and Land Councils, as outlined earlier in this submission.

SACOSS considers there is a third payment option for the Department to consider in order to meet the listed benefits, that would not involve the creation of additional structural inequalities.

Option 3 would involve the retention of the post-payment framework but with a range of requirements for how a post-payment default must address the needs and circumstances of RAES Aboriginal Communities. This would work to avoid the harmful impacts of prepayment and sustainably address the problems of debt accumulation and energy consumption that the introduction of prepayment is intended to address.

To properly provide for, monitor and enforce these requirements, SACOSS repeats our call for ESCOSA to develop an Industry Code to apply across all small-scale and off-grid electricity networks and retailers in regional South Australia,⁴⁸ that requires licensees to:

- give effect to the central principle that customers are only ever disconnected from their energy supply as a measure of last resort⁴⁹
- proactively identify (through changes in payment patterns, energy bill debt) customers who may be having trouble paying their energy bill, early in the debt cycle
- offer appropriate payment plans that consider any arrears owing by the customer (in addition to the customer's capacity to pay and usage needs)
- offer and apply bill smoothing with more regular payments (including Centrepay deductions)
- offer and apply weekly, fortnightly or monthly billing
- allow customers to prepay at will, for credit against their account
- offer prepayment discounts to encourage customers to keep their accounts in credit
- advise the customer and apply concessions or rebates, linking to financial counsellors and state government agencies
- provide advice on energy efficiency / referral to an advisory service
- be prohibited from taking debt recovery action if the customer is complying with a payment plan, or the retailer has not offered support to pay the bill

⁴⁸ See SACOSS' submissions on ESCOSA's [Small scale networks Inquiry](#) and [Prepayment Meter System Code consultation](#)

⁴⁹ See discussion in the Essential Services Commission Victoria, [Payment difficulty framework](#), Final Decision, 10 October 2017, p. viii

- be prohibited from disconnecting for non-payment if the customer informs the retailer they are having trouble paying their bill, is complying with a payment plan, is part of the hardship program, or has applied for concessions
- develop a flexible ‘top-up’ mechanism that utilises cards, phone apps, texts, QR codes and other mechanisms – ideally developed in consultation with the community – to help meet the community needs and adapt to how households in the community work
- have simplified usage and billing information available through apps/phone or other mechanisms.

SACOSS has also strongly urged ESCOSA to consider introducing additional reporting and transparency requirements⁵⁰ for off-grid energy licensees supplying customers in remote communities. Additional performance indicators could cover the number of customers in debt, the number of customers on payment plans, on hardship programs, and the number of customers receiving concessions and using Centrepay.

‘Option 3’ aligns with the principle of energy as an essential service, and is in step with broader community expectations and experiences around the supply of essential services. Option 3 also has the benefit of using smart meter technology for the community, rather than the retailer, and could support and augment measures to empower the community through larger investments in community level solar generation infrastructure to offset local demand requirements.

We acknowledge further work would be required to pursue this option, in tandem with the work ESCOSA is currently undertaking through its review of the Prepayment Meter System Code, and suggest the introduction of charging in RAES Aboriginal Communities be deferred until codified protections are in place.

Consumer Protection measures

Consultation Question 2

The department seeks stakeholders’ views on the proposed fit for purpose customer protection measures discussed below, as well as any suggestions for further protections.

As outlined above, making prepayment mandatory for people living in the areas covered by the RAES Aboriginal Communities scheme, will result in a large number of the consumer protection provisions in ESCOSA’s Prepayment Meter System Code no longer applying to

⁵⁰ To ensure accountability and demonstrate compliance, SACOSS considers ESCOSA must also require the licensee to ‘monitor and report on levels of compliance with those minimum standards’ in accordance with the sections 24(2)(i) and 23(1)(n)(v) of the [Electricity Act 1996](#)

prepayment customers in those affected communities. Most notably, affected households will no longer receive the protections of the following requirements under the Code:⁵¹

- **Clause 2.2 Consent** - A retailer must obtain the explicit informed consent of a small customer to enter into prepayment meter standard terms and conditions (clause 2.2.1 – 2.2.7).
- **Clause 2.3 Written Disclosure Statement** – certain requirements will no longer apply including details of any right conferred on the small customer to rescind the prepayment meter standard terms and conditions (Clause 2.3.1(j)) and details of the trial period at or before the expiry of which the small customer may terminate the contract (Clause 2.3.1 (k)).
- **Clause 2.5 Minimum Terms and Conditions** - requirements relating to the Mandatory three-month trial period (clause 2.5.1(a)), rights to termination and removal of the prepayment meter system (clause 2.5.1(b)), rights to information about standard terms and conditions options (clause 2.5.1(b)(iii)).
- **Clause 2.5.1(h) – 2.5.1(j) Life support equipment** - including the prohibition on the retailer entering into a prepayment arrangement with a customer who requires life support equipment and the requirement on the retailer to immediately revert the prepayment system to post-payment for customers who require life support equipment.
- **Clause 3.4 Payment Difficulties and Hardship** - including the requirement that where a small customer has self-disconnected three or more times in any three-month period for longer than 240 minutes on each occasion the retailer must contact the small customer to offer to make immediate arrangements for the removal of the prepayment system, and revert the customer to standard prepayment mode at no cost to the customer (clause 3.4.2).
- **Clause 4.1 Customer termination and request for removal** - where if requested by the customer the retailer must make immediate arrangements for the removal of the prepayment system, and provide information about standard terms and conditions options (clause 4.1.1).

In recognition that the proposed Regulations will remove these existing protections for prepayment customers in the affected communities, the Department has drafted and is consulting on proposed ‘fit-for-purpose’ consumer protections for residents in the RAES Aboriginal Communities scheme that aim to ensure:

- appropriate processes are in place for self-disconnection, monitoring and reconnection support
- prepayment customers have access to the same concessions and financial support as post payment or on-grid customers

⁵¹ ESCOSA, [Prepayment Meter System Code](#)

- support is provided for customers experiencing hardship through Cowell Electric and on-ground financial counselling services.

SACOSS understands these consumer protections will not be codified by ESCOSA, but rather will form part of the standard terms and conditions between the affected resident and the retailer (Cowell Electric). This raises questions around monitoring, compliance and enforcement of the proposed protections.

SACOSS considers that if ‘fit-for-purpose’ consumer protections are to be established for *mandatory* prepayment customers, then those protections should properly be developed by ESCOSA in accordance with its consultation requirements, and should form part of an enforceable Industry Code with corresponding reporting obligations for the retailer, in line with ESCOSA’s *statutory functions* set out in section 5 of the *Essential Service Commission Act*.⁵²

- (a) *to regulate prices and perform licensing and other functions under relevant industry regulation Acts;*
- (b) ***to monitor and enforce compliance*** *with and promote improvement in standards and conditions of service and supply under relevant industry regulation Acts;*
- (c) ***to make, monitor the operation of, and review from time to time, codes and rules relating to the conduct or operations of a regulated industry or regulated entities;***
- (d) ***to provide and require consumer consultation processes*** *in regulated industries and to assist consumers and others with information and other services;*
- (e) *to advise the Minister on matters relating to the economic regulation of regulated industries, including reliability issues and service standards;*
- (f) *to advise the Minister on any matter referred by the Minister;*
- (g) *to administer this Act;*
- (h) *to perform functions assigned to the Commission under this or any other Act;*
- (i) *in appropriate cases, to prosecute offences against this Act or a relevant industry regulation Act.*

This approach accords with SACOSS’ previous submissions that consumer protections for *all* off-grid energy customers should be contained in a separate Industry Code developed by ESCOSA in accordance with its powers and consultation obligations under the *Essential Services Commission Act*,⁵³ with all retailer requirements strongly monitored and enforced by ESCOSA.

⁵² [Essential Services Commission Act 2002](#), section 5

⁵³ See SACOSS’ submissions on ESCOSA’s [Small scale networks Inquiry](#) and [Prepayment Meter System Code consultation](#)

The current regulatory framework for the electricity industry in South Australia (which includes the establishment of ESCOSA as an independent regulator),⁵⁴ reflects the nature of energy as an essential service, and the intention of the legislature to ensure that the long-term interests of energy consumers are protected. In this context, SACOSS considers it is not appropriate for consumer protections to be contained in a *contract* between the retailer and the customer.

That said, should the proposal to make prepayment mandatory proceed in line with the process described in the Department's Issue Paper, SACOSS submits the standard terms and conditions containing the consumer protections should be submitted to ESCOSA for approval in accordance with conditions under Cowell Electric's licence. Clause 30 of Cowell Electric's licence deals with standard contractual terms and conditions, and provides:

*30.1 The licensee **must develop and submit for the Commission's approval a set of standard terms and conditions on which it will sell and supply electricity to customers.***

30.2 Upon receipt of the Commission's approval of the standard terms and conditions under clause 30.1, the licensee must publish those terms and conditions in accordance with the requirements of section 36 of the Act.

30.3 The licensee must advise the Commission before it makes a significant amendment to the standard terms and conditions and must publish the amended terms and conditions in accordance with the requirements of section 36 of the Act

Under section 36(3) of the Electricity Act, standard terms and conditions:

- (a) **must comply with the conditions of the electricity entity's licence; and***
- (b) come into force on the day specified by the electricity entity in the notice of the standard terms and conditions published in the Gazette under this section, being a day not earlier than the day on which the notice is published; and*
- (c) when in force **are contractually binding on the electricity entity and the class of customers to which the terms and conditions are expressed to apply; and***
- (d) will, if they vary or exclude the operation of section 120(1) of the National Electricity Law, form an agreement between the electricity entity and each of the customers to which they are expressed to apply for the purposes of that section.*

SACOSS submits the development of a new set of standard terms and conditions between the retailer and the prepayment customer must be developed after the granting of the prepayment licence by ESCOSA, and in accordance with the conditions under that licence. Also, SACOSS considers new prepayment standard terms and conditions cannot be characterised as an amendment to the existing contract between Cowell Electric and the customer, and must be submitted to ESCOSA for approval.

⁵⁴ [Essential Services Commission Act 2002](#), section 7

Broadly speaking, and given the impact of the proposed regulatory changes, SACOSS welcomes the Department's consideration and focus on the development of consumer protections for mandatory prepayment customers, however, we believe it is ESCOSA's function to undertake that task. That said, we strongly support the application of concessions and the establishment of Centrepay, but remain concerned about customers experiencing payment difficulty cycling through repeated 'self-disconnections' with no real protections or alternatives provided by the retailer to ensure a consistent energy supply. We also consider options for dispute resolution and access to the Energy and Water Ombudsman Scheme should be clearly communicated to customers. SACOSS will briefly comment on each of the proposed consumer protections, below.

Life support customers

SACOSS is gravely concerned about the removal of protections for life support customers and strongly rejects the proposal that the payment method for life support customers should be a matter of retailer discretion. The Issues Paper states that 'for customers who fall into this category payment arrangements will be made with the customer on a case by case basis'.⁵⁵ We believe this approach is completely inappropriate and represents a failure to properly appreciate the full extent of the risks of disconnection for these customers. We outline our concerns around protections for life support customers in more detail, below.

Identification of hardship customers

As outlined in the Issues Paper, mandatory prepayment will result in customers experiencing payment difficulty not having the option to revert to post payment (as is currently provided for under the Prepayment Meter System Code).

To address this, for households that have 'self-disconnected three or more times in any three-month period for longer than 240 minutes on each occasion' (clause 3.4.2 of the Code) the protections on 'managing self-disconnections' developed by the Department will be applied. SACOSS does not consider the minimum contact requirements set out in the Policy are sufficient or will result in meaningful support being offered to customers to enable reconnection to an energy supply, as quickly as possible.

As outlined below, SACOSS considers the payment difficulty indicator identified in the Prepayment Code (self-disconnected three or more times in any three-month period for longer than 240 minutes on each occasion) is an appropriate threshold to require the retailer to make immediate *personal* contact (phone, face-to-face, an actual conversation), and to speak with the customer to determine the household's circumstances and offer all available supports to ensure reconnection. A text message from the retailer is not sufficient or appropriate after multiple lengthy disconnections. Noting that under the post payment framework, where disconnection is an option of last resort, the retailer would be *required* to offer *all available supports prior to any disconnection*.

⁵⁵ Department for Energy and Mining, [Consultation on proposed amendments to customer payment under the Remote Area Energy Supply \(RAES\) Scheme Issues Paper](#), July 2021, p.14

Managing ‘self-disconnections’

SACOSS has concerns around the operation of the ‘friendly credit’ provisions and the requirement that ‘friendly credit must be paid back before new credit is added to the meter’. Evidence from the Northern Territory suggests this requirement results in some households having to choose, on Monday morning, between buying food or paying for power. We consider this is an unacceptable outcome.

SACOSS considers there is a real likelihood that the burden of debt will simply be transferred from retailers (where it can be monitored and addressed early, with support, while staying connected) to risky finance operators and pay-day lenders where it will not be visible, is poorly regulated, and there is no responsibility for assistance and early intervention or support. This will result in an outcome where both the energy supply and the debt issue are unresolved.

SACOSS notes the recent decision of the UK Regulator Ofgem to introduce new requirements on suppliers to identify PPM customers who are self-disconnecting and to offer short-term support through emergency and friendly-hours credit.⁵⁶ Ofgem has outlined the policy intent of this decision is *‘to ensure that if a customer is having difficulty in repaying the full amount upon their next top-up, a manageable repayment rate must be agreed to enable the customer to return to supply and fund their ongoing consumption, whilst clearing the debt owed to the supplier’*.

Should the proposal the subject of this consultation proceed, SACOSS submits the Department (or more appropriately ESCOSA) should consider ways in which households can maintain a connection to an energy supply through manageable repayments of visible (monitored and reported) energy debt accumulated through ‘friendly credit’.

Monitoring

The Issues Paper states the two main focus areas of customer monitoring will be:⁵⁷

- any customer who falls into ESCOSA’s potential hardship criteria as defined by the Code (240 minutes, three-times over a three-month period)
- any customer who has been self-disconnected for 24 hours or more (a measure in addition to the requirements of the current Code).

The Issues Paper indicates ‘customers who have been identified in one of the focus areas will then need to be contacted to establish the reason for self-disconnection’. SACOSS supports these criteria being triggers for personal retailer contact and the application of all available supports.

The first threshold was identified by ESCOSA as being appropriate for the retailer to offer to revert the customer to pre-payment, and therefore we consider this threshold is

⁵⁶ Ofgem, [Self-disconnection and self-rationing: decision](#), 19 October 2020

⁵⁷ Department for Energy and Mining, [Consultation on proposed amendments to customer payment under the Remote Area Energy Supply \(RAES\) Scheme Issues Paper](#), July 2021, p.16

appropriate for the retailer to, as soon as possible, make personal contact (either by phone or face-to-face) with the household and offer the range of available supports and relevant assistance outlined in the Issues Paper, including:

- education on payment
- energy efficiency assessment and advice
- Centrepay deductions
- access to concessions / emergency payments
- referral to a financial counsellor / support service

We also support the addition of the second trigger for retailer contact, where a customer has been disconnected for 24 hours or more.

Reporting

SACOSS supports ESCOSA requiring Cowell Electric to provide a weekly report of all self-disconnections including:

- the number of self-disconnections
- self-disconnections that are flagged on the customer monitor list
- report of actions taken for customers on monitor list
- support provided to customers identified in hardship, including credit applied to the meter.

In addition to reporting on the number of self-disconnections, we also consider Cowell Electric should report on the **duration of self-disconnections**, perhaps using sub-indicators relating to specified time-frames of (for example) less than 6 hours, between 6 and 12 hours, between 12 and 24 hours, more than 24 hours. It would also be useful to better understand the operation of the ‘friendly credit’ provisions, and suggest reporting indicators on the number of households accumulating friendly credit, and the amount of that credit.

We support the generation of a public quarterly reports to ensure the impact of prepayment on households is properly monitored and as transparent as possible.

On-ground support and customer contact

SACOSS strongly submits ongoing support should be properly funded and made available to households in the community, beyond the 3-year Future Sustainability education program (due for completion on 30 June 2023).⁵⁸ Continuation of support from financial counsellors and community service representatives will be key to ensuring the impacts of self-disconnection are minimised.

SACOSS supports the customer contact arrangements and, if not in place already, suggests MoneyMob Talkabout formally link in with health providers to better identify and support households with life support or other energy-dependent demand requirements resulting

⁵⁸ See: [SA Tenders and Contracts Website](#)

from medical conditions or the need to access specialised equipment (in line with the Australian Energy Regulator's life support equipment examples, below).

Application of concessions

SACOSS strongly supports the arrangements made in relation to accessing appropriate concession and emergency payments.

Transitional arrangements

SACOSS supports an introductory tariff of 5 cents per kWh. We also consider the welfare of the affected communities should be of paramount concern in determining increases to the tariff which we submit should be kept low (urging the Department to move away from the goal of reaching the level of average on-grid energy costs). As outlined earlier in this submission, we also consider the Government should examine energy efficiency and alternative generation options to reduce consumption.

Life support customers

SACOSS has serious concerns about the adequacy of protections for life support customers under the proposed changes to energy payment arrangements in the affected areas. As noted earlier, due to the heightened risk of disconnection, ESCOSA's Prepayment Meter System Code prohibits retailers from entering into a prepayment meter supply contract with a customer who requires a life support system.⁵⁹ Under the proposed changes, *all* customers in the affected areas will prepay for their energy supply as a default arrangement, and it will be up to the retailer exercising its 'sole discretion' to change the payment arrangements for a life support customer on a 'case by case basis'.

On the issue of life support, the Issues Paper states:⁶⁰

'Due to the remoteness of the RAES townships and communities, there are no customers on the RAES scheme registered as utilising designated life support equipment. If a life support customer is recognised in the scheme, special arrangements will be provided to ensure these customers remain connected, in so much as the system allows.'

On proposed implementation pathway, the Issues Paper states:⁶¹

*The licence condition will provide that the retailer, **at their sole discretion**, may provide an alternate payment method for a customer of the prescribed class. This will enable an alternative payment method for a life support customer if determined necessary in consultation with the customer.*

⁵⁹ Clause 2.5.1(h) of the ESCOSA's [Prepayment Meter System Code 2013](#)

⁶⁰ Department for Energy and Mining, [Consultation on proposed amendments to customer payment under the Remote Area Energy Supply \(RAES\) Scheme Issues Paper](#), July 2021, p.14

⁶¹ Department for Energy and Mining, [Consultation on proposed amendments to customer payment under the Remote Area Energy Supply \(RAES\) Scheme Issues Paper](#), July 2021, p.19

SACOSS is concerned that the staged introduction of charging, and the proposed implementation of mandatory prepayment, will significantly increase the risk of customers who require life support equipment experiencing the harmful (and potentially life-threatening) effects of disconnection from their energy supply. We know prepayment for electricity results in households suffering through significant periods of 'self-disconnection'. As mentioned earlier in this submission, recent studies in the NT have shown that in 2019/20 in Alice Springs and its Town Camps 91% of prepayment meter households 'self-disconnected' on average 13.6 times per quarter for an average of 6 hours and 42 minutes per event. That means those households disconnected 59 times for 395 hours in 2019/20, and this has had a profound impact on the health and wellbeing of those people.

A joint submission to ESCOSA's Prepayment Meter Systems Code Issues Paper from academics at the Australian National University (unpublished) highlighted the significant health risks of disconnection, stating:

'...the health implications associated with the complete loss of essential services provided by electricity are significant. Disconnections can mean that vital healthcare equipment no longer functions. This would impact oxygen concentrators, sleep apnoea machines, and other essential medical devices. Such events could result in notable harm. Emergency credit for pre-pay will only delay disconnection in such circumstances, unless additional protections are given to customers with medical conditions necessitating uninterrupted access to electricity.'

The existing protections for prepayment customers with life support equipment contained in clause 2.5.1 of ESCOSA's Prepayment Code provide that:

*If a small customer notifies the retailer that he or she now requires a life support system, **the retailer must make immediate arrangements for:***

- (i) the **removal or rendering non-operational of the prepayment meter system** at no cost to the small customer,*
- (ii) the installation of a standard meter or the reversion of the prepayment meter system to a standard operating mode so that the prepayment meter system operates as a standard meter at no cost to the small customer; and*
- (iii) provide information about, and a general description of, the standard terms and conditions options available to the small customer.*

For the purposes of this clause 2.5, "life support system" means:

- (j)(i) An oxygen concentrator; or*
- (ii) An intermittent peritoneal dialysis machine; or*
- (iii) A haemodialysis machine; or*
- (iv) A ventilator for life support (polio only); or*
- (v) **Other equipment as notified by the Commission from time to time.***

SACOSS has contacted ESCOSA to determine whether 'other equipment' has been notified by the Commission, and we have been advised that, at this stage, it has not. SACOSS is strongly of the view that the life support customer protections for all off-grid energy

customers should align with the on-grid customer protections under the *National Energy Customer Framework* (NECF).⁶² On this basis, SACOSS has submitted to ESCOSA that the category of 'other' equipment in the Prepayment Code should include 'any equipment that a medical practitioner considers essential for their patient' in line with the Australian Energy Regulator's *Life Support Registration Guideline*, listed below:⁶³

Importantly, the definition of life support equipment includes a category for 'other', being any equipment that a medical practitioner considers is essential for their patient. 'Other' life support equipment may include, but is not limited to, the following:

- external heart pumps
- respirators (iron lung)
- suction pumps (respiratory or gastric)
- feeding pumps (kangaroo pump, or total parenteral nutrition)
- insulin pumps
- airbed vibrator
- hot water
- nebulizer, humidifiers or vaporizers
- apnoea monitors
- medically required heating and air conditioning
- medically required refrigeration
- powered wheelchair.

SACOSS understands ESCOSA will be looking into this as part of its review of the Code.

SACOSS further submits the payment method for a life support customer should not be a matter for the discretion of the retailer, as is proposed. This proposal is in stark contrast with the mandatory obligations under the Retail Licence, the Prepayment Code and under the NECF for on-grid customers. We believe the proposed amendment to the Regulations *must* mandate that the retailer *cannot permit* customers with life support equipment to prepay for their energy supply, and those customers must be protected from disconnection under the post payment method, ensuring an uninterrupted access to electricity supply.

SACOSS suggests there are currently no customers registered as requiring life support systems in the RAES Aboriginal Communities scheme, because residents have not been at risk of disconnection due to fully subsidised electricity costs. For other customers in the RAES Independent Communities Scheme, SACOSS suggest there are no registered life support customers due to customers being generally unaware of their rights. This raises questions around how best to identify and protect life support customers of off-grid energy licensees:

- Will health professionals in the affected communities be advised of the requirement to notify the retailer if a patient has 'life support equipment'?

⁶² The National Energy Customer Framework (NECF) is a suite of legal instruments that regulate the sale and supply of electricity and gas to retail customers. The main NECF documents are the:

- the [National Energy Retail Law \(Retail Law\)](#)
- the [National Energy Retail Rules \(Retail Rules\)](#) and
- the [National Energy Retail Regulations](#) (Regulations)

⁶³ AER's [Life Support Registration Guideline](#), p. 5

- Will the 'door to door' questionnaire and education visits from MoneyMob adequately identify life support customers and cover the health requirements of households (the need for medical heating and cooling, the need for refrigerated medications like insulin)?
- Are there processes in place for life support customers to be identified in conjunction with local health professionals?

Under Cowell Electric's retail licence⁶⁴ (clause 51) '*where a customer provides the licensee with confirmation from a registered medical practitioner or a hospital that a person residing at the customer's supply address requires life support equipment*', the licensee must **register the supply address as a life support equipment address**. Will the retailer and the SA Government be required to maintain a register? Also, as the licensed distributor, what are Cowell Electric's obligations to life support customers for planned / unplanned interruptions of the energy supply?

SACOSS strongly submits that a register, as well as supporting processes and procedures, need to be established to protect life support customers in affected communities, *prior to* the introduction of mandatory prepayment. We also submit the broader protections for all life support customers serviced by small-scale networks in regional and remote South Australia need to be better communicated, monitored and enforced.

Relevantly, and in recognition that customers using life support equipment are particularly vulnerable to disconnection of their energy supply and must be protected, the Australian Energy Regulator has recently focused on ensuring compliance with retailer's life support obligations. In November 2020, Alinta Energy paid penalties totalling \$200,000 for breaching requirements around the *registration* of life support customers.⁶⁵ SACOSS strongly supports ESCOSA being adequately resourced to enable a strong compliance focus on protections for off-grid customers in vulnerable circumstances, including life support customers.

Proposed Implementation Pathway

Consultation Question 3

The department seeks stakeholders' views on the proposed implementation pathway.

As outlined in the Issues Paper and above, the Department's preferred approach is to make the prepayment method mandatory for residential customers in remote Aboriginal communities currently supplied with electricity through the RAES Aboriginal Communities scheme. Customer consent will not be required, the customer will not have the option of paying for their electricity supply using any of the methods under the post-pay system, and

⁶⁴ Cowell Electric, [Electricity Retail / Distribution / Generation licence](#)

⁶⁵ AER, [Alinta pays penalties for life support breaches](#), 26 November 2020

the retailer will retain the sole discretion to allow for an alternative method of paying for electricity.

To implement its preferred approach, the Department is proposing to amend the *Electricity (General) Regulations 2012* (the Regulations) requiring ESCOSA, in accordance with section 21(2) of the *Electricity Act 1996* (Electricity Act), to impose a licence condition on the retailer that:

- customers of a prescribed class must pay for electricity via a prepayment method, and
- the retailer, at their sole discretion, may provide an alternate payment method for a customer of the prescribed class.

The 'prescribed class' would include:

- residential customers in the remote Aboriginal communities and associated homelands of Anangu Pitjantjatjara Yankunytjatjara (APY), Yalata on Aboriginal Lands Trust (ALT) and Oak Valley on Maralinga Tjarutja (MT) supplied through the RAES Aboriginal Communities (AC) scheme, and
- residential customers that currently pay for their electricity consumption will not be included in the prescribed class of customer.

The Issues Paper does not include a proposed draft of the amendment to the Regulations, and SACOSS is seeking further consultation on the form and content of the draft amendments, should the proposal proceed.

SACOSS considers it is useful to place the proposed implementation pathway, section 21(2) of the Electricity Act, in its legislative context.

Section 21(2) falls under Part 3 of the South Australian Electricity Act. Part 3 of the Electricity Act deals with the electricity supply industry in South Australia. Under that Part, section 14 of the Electricity Act declares the electricity supply industry to be a regulated industry for the purposes of the *Essential Services Commission Act 2002* (the Essential Services Commission Act). This means that together, the Electricity Act and the Essential Services Commission Act provide ESCOSA with functions and powers to regulate the electricity supply industry in South Australia. Importantly, ESCOSA must exercise these functions and powers in accordance with its overarching objective to protect the long-term interests of South Australian consumers with respect to the price, quality and reliability of essential services.⁶⁶ This is in recognition of the fundamental principle that energy is an essential service, and consumers have a right to access it on fair and reasonable terms.

Division 1 of Part 3 of the Electricity Act deals with the licensing of electricity entities. The provisions under Part 3, Division 1, cover (*inter alia*):

⁶⁶ *Essential Services Commission Act 2002*, section 6(1)

- the requirement for an electricity entity to have a licence to carry on operations in the electricity industry (section 15)
- applications for a licence (section 16)
- matters ESCOSA must have regard to when determining whether to issue a licence, in addition to the general factors specified in Part 2 of the Essential Services Commission Act, (section 17).

Section 21 in Division 1 of Part 3 of the Electricity Act deals with licence conditions, and provides that ESCOSA must make a licence subject to certain conditions determined by ESCOSA requiring (*inter alia*):

- compliance with applicable codes or rules made under the *Essential Services Commission Act* (section 21(1)(a))
- compliance with technical or safety standards (section 21(1)(b))
- compliance with the requirements of any scheme approved by the Minister for the provision by the State of customer concessions or the performance of community service obligations (section 21(1)(h))

In addition, Section 21(2) provides ESCOSA must make a licence subject to further conditions that it is required *by regulation* to impose on the issue of such a licence. This is the subsection of the Act the Department is proposing to use to implement mandatory prepayment for RAES Aboriginal communities.

Section 24 under Part 3 deals specifically with licences *authorising retailing* and provides that ESCOSA must make retail licences subject to certain conditions. Relevantly, for the purposes of this consultation, section 24(2) provides ESCOSA must make licence conditions requiring (SACOSS' emphasis):

- the retailer to comply with code provisions as in force from time to time (which the Commission must make under the *Essential Services Commission Act 2002*) relating to standard contractual terms and conditions to apply to the sale of electricity to small customers (section 24(2)(e))
- the retailer to comply with **code provisions imposing minimum standards of service** for customers that are at least equivalent to the actual levels of service for such customers prevailing during the year prior to the commencement of this section and take into account **relevant national benchmarks** developed from time to time, and requiring the entity to monitor and report on levels of compliance with those minimum standards (section 24(2)(i))
- the retailer to comply with **code provisions limiting the grounds on which the supply of electricity to customers may be discontinued or disconnected** and prescribing the process to be followed before the supply of electricity is discontinued or disconnected (section 24(2)(j))
- a specified process to be followed to **resolve disputes** between the retailer and customers as to the sale of electricity (section 24(2)(k))

- the retailer to participate in an **ombudsman scheme** if the retailer sells electricity to customers with an annual electricity consumption level of less than 750MW.h per year (section 24(2)(l)).

Importantly, section 24B in Part 3 of the Electricity Act deals with licence conditions and the national energy laws, providing (SACOSS' emphasis):

Despite the preceding provisions of this Part, the Commission is not to impose a condition on a licence if the Commission is satisfied that the condition would duplicate, or be inconsistent with, regulatory requirements under the National Electricity (South Australia) Act 1996, National Electricity Rules, National Energy Retail Law (South Australia) or National Energy Retail Rules.

Similarly, section 6A of the Electricity Act provides for ESCOSA's functions and powers under that Act (which are in addition to the functions and powers under the Essential Services Commission Act), with Section 6A(4) providing that:

In performing functions under this Act, the Commission must (in addition to having regard to factors specified in this Act or the Essential Services Commission Act 2002) have regard to the provisions of the National Electricity Rules and National Energy Retail Rules and the need to avoid duplication of, or inconsistency with, regulatory requirements under those Rules.

SACOSS considers it is arguable that sections 24B and 6A(4) of the Electricity Act are intended by parliament to ensure that, as much as possible, energy customers in regional and remote South Australia who are supplied with energy by off-grid energy licensees regulated by ESCOSA, receive similar (or, at least, not inconsistent) protections to those customers supplied by on-grid retailers regulated by the Australian Energy Regulator. This interpretation would align with the ESCOSA's objectives under section 6 of the *Essential Services Commission Act*, that in performing its functions ESCOSA '**must have as its primary objective protection of the long-term interests of South Australian consumers with respect to the price, quality and reliability of essential services**', and at the same time, must have regard to the need to '**promote consistency in regulation with other jurisdictions**' (section 6(b)(vii) of the Act).

Therefore, SACOSS considers that when imposing a condition on a licence under Part 3 of the Electricity Act, whether in accordance with section 21(2) or otherwise, ESCOSA must be satisfied that the licence condition is **not inconsistent with** regulatory requirements relating to prepayment meter systems under the National Energy Retail Laws and Rules. We have set out the relevant requirements below, which we believe are inconsistent with the proposed regulatory amendment and resultant condition.

Part 2, Division 10 of the *National Energy Retail Law*⁶⁷ deals with prepayment meter systems and provides that a retailer:

- must not provide customer retail services to small customers using a prepayment meter system under a standard retail contract (civil penalty provision) (section 57(2))
- who provides customer retail services to a small customer using a prepayment meter system must ensure that the prepayment meter market retail contract complies with both the market retail contracts set out in the Rules and the prepayment meter market retail contract set out in the Rules (section 58)
- must not enter into a prepayment meter market retail contract with a small customer in relation to premises where one or more persons require life support equipment (civil penalty provision - section 59(1))
- If a small customer with a prepayment meter market retail contract in relation to premises notifies the retailer that one or more persons at the premises require life support equipment, the retailer must make immediate arrangements for—
 - o the removal of the prepayment meter system at no cost to the small customer; and
 - o the installation of a standard meter at no cost to the small customer; and
 - o the provision of information to the small customer about, and a general description of, the customer retail contracts available to the customer (section 59(2)(a)-(c))

Part 8 of the *National Energy Retail Rules*⁶⁸ broadly mirrors the provisions of ESCOSA's Prepayment Meter System Code, and provides:

- Before the formation of a prepayment meter market retail contract between a retailer and a small customer, the retailer must provide the additional required information to the customer in relation to the contract (tier 1 civil penalty provision – Rule 128).
- A residential customer who enters into a prepayment meter market contract has the right to a trial period of three months (Rule 130).
- A small customer with a prepayment meter market retail contract must inform the retailer if a person residing at the customer's premises has or requires life support equipment (Rule 139(1)).
- The retailer must, as soon as practicable after being so informed, advise the small customer of the retailer's obligations under section 59 of the Law, outlined above (this is a tier 1 civil penalty provision under the *National Energy Retail Regulations* – Rule 139(2)).

⁶⁷ [National Energy Retail Law](#), Part 2, Division 10

⁶⁸ [National Energy Retail Rules](#), Part 8

- Rule 141 deals with payment difficulties and hardship and is a tier 1 civil penalty provision. Relevantly, Rule 141 provides that if a customer is experiencing payment difficulties, or retailer's management system identifies to the retailer that a small customer has self-disconnected 3 or more times in any 3-month period for longer than 240 minutes on each occasion, the retailer must contact the customer as soon as possible and offer to remove the prepayment system at no cost to the customer. The retailer must also:

- o provide information about retail contract options
- o provide a referral to government concession and relief schemes
- o provide information about its hardship policy
- o provide information about financial counselling services.

SACOSS accepts it is a matter for ESCOSA to determine whether or not it is satisfied that the Department's proposed amendment to the Regulations require retail licence conditions that are inconsistent with the regulatory requirements under the National Laws and Rules. However, SACOSS strongly considers the operation of the proposed amendment and resultant conditions will be inconsistent with the national prepayment requirements outlined above.

Importantly, the prepayment framework under the National Laws and Rules is predicated on the basis of choice and provides for a blanket prohibition on prepayment for life support customers. There is no provision for 'retailer discretion', in fact, retailers can be subject to the highest penalty under the National regime, with section 59(1) and Rule 139(2) classified as a Tier 1 civil penalty provisions (considered the most severe breach). Tier 1 provisions carry maximum penalties for retailers of **\$10 million**. This reflects the legislators' and rule makers' view that the risks associated with disconnection of life support customers are too high to allow prepayment as an option, and therefore SACOSS considers the prepayment method for life support customers should not be a matter for retailer discretion.

If ESCOSA is satisfied the condition proposed to be included in the Regulations would be inconsistent with the National framework, then SACOSS submits that, arguably, it must not impose that condition in line with its obligations under section 24B and 6A of the Electricity Act.

Whilst this inconsistency will be a matter for ESCOSA to consider, SACOSS submits that when deciding whether to pursue the proposed amendment, the Department should bear in mind the overarching purpose and intent of the regulatory framework for electricity in South Australia, is to protect the interests of all South Australian consumers.⁶⁹ In addition, and in line with established regulation-making practice, SACOSS is calling for the

⁶⁹ Objects of the [Electricity Act 1996](#), section 3(e)

Department to properly scrutinise the effect of the proposed amendment to the Regulations to ensure:⁷⁰

1. that it is in accordance with the objects and provisions of the Electricity Act
2. that it does not trespass unduly on personal rights and liberties
3. that it does not unduly make the rights and liberties of citizens dependent upon administrative decisions which are not subject to review of their merits by a judicial or other independent tribunal, and
4. that it does not contain matter more appropriate for parliamentary enactment.

Relevantly, SACOSS also notes the South Australian Government has recently released *South Australia's Implementation Plan for the National Agreement on Closing the Gap*⁷¹ (the Implementation Plan). It has been described as a plan to stamp out 'institutional racism, discrimination and unconscious bias' across the public sector.⁷²

Under the Implementation Plan, both the Future Sustainability Program and the RAES Aboriginal Communities Scheme are listed as actions⁷³ under Target 9b to achieve Outcome 9 of the National Agreement on Closing the Gap. Socioeconomic Outcome Area 9 under the National Agreement is that 'Aboriginal and Torres Strait Islander people secure appropriate, affordable housing that is aligned with their priorities and need'.⁷⁴

Under the SA Implementation Plan, in support of Outcome 9, Target 9b is that (SACOSS' emphasis):

'By 2031, all Aboriginal and Torres Strait Islander households:

(i) Within discrete Aboriginal and Torres Strait Islander communities receive essential services that meet or exceed the relevant jurisdictional standard

(ii) In or near to a town receive essential services that meet or exceed the same standard as applies generally within the town (including of the household might be classified for other purposes as part of a discrete settlement such as a 'town camp' or 'town based reserve').'

SACOSS requires clarification from the Department about whether it considers the proposed amendment to the Regulations the subject of this consultation, aligns with the Target 9b, ensuring Aboriginal households in the affected areas are receiving essential services that meet or exceed the relevant jurisdictional standard, or the same standard as applies

⁷⁰ See Parliament of Australia, Odgers' Australian Senate Practice, [Chapter 15: Delegated legislation, scrutiny and disallowance](#)

⁷¹ SA Government, [South Australia's Implementation Plan for the National Agreement on Closing the Gap](#), September 2021

⁷² Indaily: [SA unveils new closing the gap plan to tackle institutional racism](#), 1 September 2021

⁷³ SA Government, [South Australia's Implementation Plan for the National Agreement on Closing the Gap](#), September 2021, p.71

⁷⁴ See Australian Government Closing the Gap [Dashboard](#)

generally within the nearest town. SACOSS submits the Department's proposal potentially represents a backwards step in the move towards the equitable provision of essential services to households in remote Aboriginal communities in South Australia.



**SACOSS' Submission to the
Essential Services Commission of South Australia on
the Prepayment Meter System Code Review
May 2021**

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Introduction

The South Australian Council of Social Service is the peak non-government representative body for health and community services in South Australia, and has a vision of *Justice, Opportunity and Shared Wealth for all South Australians*. SACOSS does not accept poverty, inequity or injustice. Our mission is to be a powerful and representative voice that leads and supports our community to take actions that achieve our vision, and to hold to account governments, business, and communities for actions that disadvantage vulnerable South Australians.

SACOSS' purpose is to influence public policy in a way that promotes fair and just access to the goods and services required to live a decent life. We undertake policy and advocacy work in areas that specifically affect disadvantaged and low income consumers in South Australia. With a strong history of community advocacy, SACOSS and its members aim to improve the quality of life for people disadvantaged by the inequalities of our society.

SACOSS has a long-standing interest in the delivery of essential services. Our research shows that the cost of basic necessities like water and electricity impacts greatly and disproportionately on vulnerable and disadvantaged people.

SACOSS would like to thank the Essential Services Commission of South Australia (ESCOSA) for the opportunity to comment on the *Prepayment Meter System Code Review – Issues Paper*, dated March 2021 (the Issues Paper). This submission will aim to address each of the consultation questions in the Issues Paper, and will also highlight our broader significant concerns around the use of prepayment meters for vulnerable customers and the overall inadequacy of the consumer protection framework for off-grid energy customers in regional and remote South Australia.

Background

As noted in the Issues Paper, the *Prepayment Meter System Code* (the Code) was initially made in 2005 and last amended in 2013 to reflect the introduction of the *National Energy Customer Framework* (NECF)¹ in South Australia. SACOSS understands the prepayment meter provisions of the *National Energy Retail Law* (Part 10 of the NERL) and *National Energy Retail Rules* (Part 8 of the NERR) were modelled on ESCOSA's Code.

This current review of the Code has been prompted by the State Government roll-out of prepayment meters in remote and regional South Australia as part of its 'Future Sustainability Project'.² The 2019-20 State Government Budget provided for expenditure of \$5.6 million over five years to 'implement a package of measures aimed at improving service delivery and realising operational efficiencies across the entire Remote Area Energy Supply (RAES) scheme', which involves (SACOSS' emphasis):³

- *'The installation of Smart Meters to improve energy efficiency and service delivery.*
- *The introduction of **more flexible payment options**, including **the development of a customer pre-payment framework, to reduce the level of customer indebtedness.***
- *The staged **introduction of electricity charging** for residents in the Anangu Pitjantjatjara Yankunytjatjara (APY) Lands, Oak Valley and Yalata.'*

The entire RAES Scheme includes communities supplied under the RAES State / Independent Operator⁴ and RAES Aboriginal Communities⁵ schemes. Under the RAES State / Independent Communities Scheme, around 2,400 customers in the following 13 remote towns are provided with power subsidised by the State Government:

¹ The National Energy Customer Framework (NECF) is a suite of legal instruments that regulate the sale and supply of electricity and gas to retail customers. The main NECF documents are the:

- the [National Energy Retail Law \(Retail Law\)](#)
- the [National Energy Retail Rules \(Retail Rules\)](#) and
- the [National Energy Retail Regulations](#) (Regulations)

² See webpage:

https://www.energymining.sa.gov.au/energy_and_technical_regulation/energy_resources_and_supply/remote_area_energy_supply/future_sustainability

³ See webpage:

https://www.energymining.sa.gov.au/energy_and_technical_regulation/energy_resources_and_supply/remote_area_energy_supply/future_sustainability

⁴ See webpage:

https://www.energymining.sa.gov.au/energy_and_technical_regulation/energy_resources_and_supply/remote_area_energy_supply/raes_communities

⁵ See webpage:

https://www.energymining.sa.gov.au/energy_and_technical_regulation/energy_resources_and_supply/remote_area_energy_supply/raes_aboriginal_communities

- South Australian government owned infrastructure:
 - o Blinman
 - o Cockburn
 - o Glendambo
 - o Kingoonya
 - o Manna Hill
 - o Marla
 - o Marree
 - o Nundroo
 - o Oodnadatta
 - o Parachilna
- Independent owner-operators:
 - o Andamooka
 - o Coober Pedy
 - o Yunta.

The installation of smart meters with prepayment capability for customers in these townships commenced in July 2020.

Under the RAES Aboriginal Communities Scheme, the State Government says around 1,000 customers and consumers are provided with subsidised power (ESCOSA's *Off-Grid Energy Networks Performance Report 2019-20*⁶ identifies Cowell Electric supplies 1,499 connections at the APY lands, MT lands, Yalata on ALT, Oodnadatta, Parachilna, Marla, Marree, Nundroo, Glendambo, Kingoonya, Mannahill, Blinman, and Cockburn). According to the State Government website, the RAES Aboriginal Communities Scheme applies in the following communities:

- Amata
- Iwantja (Indulkana)
- Kaltjiti (Fregon)
- Mimili
- Pukatja (Ernabella)
- Umuwa
- homelands connected to the Central Power House grid, including Yunyarinyi and Watinuma.

⁶ ESCOSA, [Off-Grid Energy Networks Performance Report 2019-20](#), p.2

Power stations are also located within the following communities:

- Pipalyatjara, also servicing Kalka (APY Lands)
- Murpatja, also servicing Kanpi and Nyapari (APY Lands)
- Yalata (ALT)
- Oak Valley (MT).

The installation of smart meters with prepayment capability was due to commence in the first half of this year for remote Aboriginal Communities.

The state government has pointed to smart metering enabling ‘a range of flexible payment options to be considered, including pre-payment, which will assist customers to manage their electricity bills and consumption’, and has indicated it is working with ESCOSA on regulatory and licensing requirements.

Given these developments will impact energy customers who are already disadvantaged by location, absence of choice, inadequate housing, limited access to supports and fixed low-incomes, SACOSS welcomes ESCOSA’s consultation on the Code and would like to take this opportunity to highlight some of our broader concerns with using prepayment meters as a method of assisting customers to ‘manage their energy bills and consumption’. We would also like to repeat our previous submission made in response to ESCOSA’s Small Scale Networks Inquiry⁷ that ESCOSA consider developing an Industry Code containing additional consumer protections and service standards to apply to small-scale and off-grid energy licensees.⁸

Broader concerns with the use of Prepayment Meters

The Issues Paper identifies the following potential benefits arising from the use of prepayment meters:⁹

- *greater payment flexibility*
- *the inability to accrue significant debt (and the associated distress this causes)*
- *the sharing of energy costs amongst household members, visitors and community members*
- *avoided costs associated with the issuing of bills, reminder notices and general account queries – benefiting both retailers and consumers.*

The Issues Paper also outlines the potential risks of using prepayment meters, including:

- *disconnections occur more frequently for prepayment customers*

⁷ SACOSS, [Submission to ESCOSA’s Draft Inquiry Report into the regulatory arrangements for small-scale water, sewerage and energy services](#), September 2020

⁸ SACOSS, [Submission to ESCOSA’s Draft Inquiry Report into the regulatory arrangements for small-scale water, sewerage and energy services](#), September 2020, p.22

⁹ ESCOSA, [Prepayment Meter System Code Review – Issues Paper](#), March 2021, p.8

- *energy costs are higher for customers using prepayment systems, than for post-pay customers*
- *customers are required to be more actively involved in ensuring their energy supply is ongoing, and these additional responsibilities may prove too onerous for many consumers*
- *customers are not issued with a bill from their retailer, which makes it harder to track energy use and costs.*

SACOSS agrees there are well-documented risks associated with using prepayment meters (particularly for customers in vulnerable circumstances). Apart from the avoided costs of issuing bills (which largely benefits the retailer), SACOSS considers all of the listed benefits can be achieved using the post-pay system coupled with appropriate payment supports and hardship measures, thereby avoiding all the potential risks of prepayment systems.

In 2014, SACOSS was a signatory to a Joint Submission made to the Energy and Water Ombudsman of New South Wales (EWON) on its prepayment meter discussion paper (the Joint Submission).¹⁰ We have **attached** a copy of the Joint Submission in support of this submission. Importantly, the Joint Submission addresses the ‘problem’ prepayment meters are purported to fix - namely, budgeting, bill shock, debt and energy consumption, stating:

*‘Yes, unaffordable payments and energy bill related debt are problems. But these are just factors or symptoms of the fundamental problem of low-income households not having reliable access to sufficient energy – the social problem advocates for vulnerable consumers are ultimately concerned with. **Prepayment metering solves the debt problem but not the energy problem.** Thus it ultimately solves problems for energy retailers, not their customers. We therefore disagree with any notion that prepayment meters are one of the options available to address energy affordability.’*

Rather than solving the debt problem, the submission stated that prepayment meters actually harm customers in vulnerable circumstances, as they:¹¹

- *do not solve the problem they are supposed to*
- *offer nothing to vulnerable consumers that cannot be delivered by other means*
- *cannot provide all the elements of the customer protection framework*

In fact, prepayment meters operate to ‘give people a poorer service, and often encourage them to restrict energy use at the expense of their health and well-being... (prepayment meters also) **undermine the fundamental principle that no one should be disconnected from supply because of an inability to pay.** Indeed, the euphemistic term ‘self-

¹⁰ In addition to SACOSS, the other signatories were the Victorian Council of Social Service, Alternative Technology Association, Community Information and Support Victoria, Consumer Utilities Advocacy Centre, Financial and Consumer Rights Council, Consumer Action Law Centre, St Vincent de Paul Society and COTA see [Joint consumer submission to EWON prepayment meter discussion paper](#), August 2014

¹¹ [Joint Submission to EWON prepayment meter discussion Paper](#), August 2014, p.1

*disconnection, 'implies that a free choice to go off supply has been exercised by the householder'.*¹²

Relevantly, Social Policy Manager Michael Klerck from Tangentyere Council Aboriginal Corporation (TCAC) in the Northern Territory has advised SACOSS that households with pre-payment meters experience a high number of involuntary self-disconnections due to poverty. *TCAC's Supplementary Submission to the Inquiry into Homelessness*¹³ analysed consolidated prepayment meter self-disconnection data provided by Jacana Energy for Darwin, Katherine, Alice Springs, and Tennant Creek which found, on average:

- 72% of prepayment meters (or 5,988 PPMs) in Darwin, Katherine, Alice Springs and Tennant Creek self-disconnected during 2019-20
- these prepayment meters self-disconnected on 11.7 occasions during a three-month period, or averaged 46.8 occasions of self-disconnections during the 2019/20 year
- each incident of self-disconnection of prepayment meters in Darwin, Katherine, Alice Springs and Tennant Creek was for a duration of between 313 and 402 minutes during a three-month period in 2019-20 – amounting to an average duration for each self-disconnection event of between 5.2 and 6.7 hours
- in 2019-20, 72% of PPMs in Darwin, Katherine, Alice Springs and Tennant Creek self-disconnected on 46.8 occasions for an average duration of between 5.2 hours and 6.7 hours each occasion
- in Alice Springs alone, 91% of prepayment meters self-disconnected on around 55 occasions for a combined duration of around 15 days per annum.¹⁴

SACOSS suggests a similar outcome in regional and remote South Australia would be devastating for communities, and would be incompatible with both ESCOSA's primary objective of protecting the long-term interests of South Australian energy consumers, as well as the core principle that disconnection for inability to pay should be a measure of last resort.

SACOSS agrees with the Joint Submission that there are other ways for retailers to support customers to better manage their energy costs, rather than resorting to prepayment and risking its harmful impacts. To manage energy costs and consumption, SACOSS supports

¹² [Joint Submission to EWON prepayment meter discussion Paper](#), August 2014, p.1

¹³ TCAC, Supplementary Submission 2 to the House of Representatives Inquiry into Homelessness in Australia, No.165.2 see:
https://www.aph.gov.au/Parliamentary_Business/Committees/House/Social_Policy_and_Legal_Affairs/HomelessnessinAustralia/Submissions

¹⁴ See TCAC's submission and supplementary submission to the Homelessness Inquiry (#165) that addresses the issue of energy insecurity on the Town Camps and other parts of the NT
https://www.aph.gov.au/Parliamentary_Business/Committees/House/Social_Policy_and_Legal_Affairs/HomelessnessinAustralia/Submissions

retailers offering payment options and hardship measures outlined in further detail below, which could be included in an Industry Code to apply to off-grid retailers in South Australia.

Inadequate consumer protections for off-grid energy customers

SACOSS would like to see the consumer protections for off-grid energy customers bolstered and contained in an Industry Code to apply to all off-grid energy licensees.

ESCOSA's *Off-Grid Energy Networks Regulatory Performance Report 2018-19*¹⁵ states that 'customers of off-grid electricity licensees are afforded similar consumer protections to customers of on-grid energy licensees'. However, as previously submitted to ESCOSA as part of its small-scale networks inquiry,¹⁶ SACOSS suggests that customers of off-grid licensees are afforded much more limited consumer protections than those afforded to on-grid customers under the NECF.¹⁷ Customers of on-grid energy retailers who experience payment difficulty are able to access the benefits of competition, must be made aware of and offered a suite of hardship supports (if identified as a hardship customer), and are protected from disconnection if in a hardship program or on a payment plan. Whereas customers of off-grid licensees cannot choose their retailer, and do not have access to basic hardship supports.¹⁸

Currently, the consumer protections afforded to customers of off-grid electricity networks are contained in the individual licence of the retailer / network (there are no hardship provisions in off-grid energy licences). Given these protections and service standards are contained in individual licences, it follows that these important (although limited) obligations to assist customers experiencing payment difficulties and prohibit disconnection in certain circumstances may vary depending on the licensee. This may result in inconsistency in not only the protections customers are afforded under law, but also in the application of those protections. Codifying the protections would provide consistency and certainty for both customers and retailers.

¹⁵ Energy Fact Sheet –Off-grid Energy Networks Regulatory Performance Report 2018-19
<https://www.escosa.sa.gov.au/ArticleDocuments/539/20200313-Energy-OffgridNetworksPerformanceReport2018-19-FactSheet.pdf.aspx?Embed=Y>

¹⁶ See: ESCOSA, [Inquiry into regulatory arrangements for small-scale and off-grid water, gas and electricity services](#)

¹⁷ The NECF is comprised of the National Energy Retail Law, the National Energy Retail Regulations and the National Energy Retail Rules. The NECF provides energy-specific consumer protections and operates alongside the Australian Consumer Law.

¹⁸ SACOSS notes the District Council of Coober Pedy's Hardship Policy (May 2019) has been adapted to include electricity, water and sewerage customers. DCCP sought approval from ESCOSA (under section 37(3) (b) if the WI Act) to adopt this policy, and approval was given on 24 September 2019. See: ESCOSA, [Compliance Review District Council of Coober Pedy– Report water and electricity](#), January 2021, p.12

As set out in ESCOSA's *Fact Sheet on Off-Grid Energy Networks Regulatory Performance*,¹⁹ the consumer protections and service standards contained in the various licences of off-grid energy suppliers generally extend to:

- *Customer supply contracts*
- *Customer dispute resolution procedures*
- *Supply obligations*
- *Customer service obligations – requirements to provide regular bills, specific information in bills and conduct regular meter readings.*
- *Dealing with billing disputes (including requirements relating to undercharging and overcharging), minimum payment methods, offering flexible payment arrangements and rules relating to security deposits.*
- *Disconnections and restoration of supply – obligations around disconnecting customer supply for non-payment, prohibitions on disconnection and timeliness for restoration of supply.*

For example, the *Retail / Distribution Licence for the District Council of Coober Pedy*²⁰ (which will have prepayment systems installed for all its residents under the Future Sustainability Project) contains the following clauses relating to payment difficulties, paying by instalments and protection from disconnection (SACOSS' emphasis):

'33 Payment difficulties

*33. 1 Where **a residential customer informs the licensee** in writing or by telephone that the residential customer is experiencing payment difficulties, **the licensee must advise the residential customer**, as soon as is reasonably practicable, **of instalment plan options** offered by the licensee at that time and, where appropriate: (a) the right to have a bill redirected to a third person, as long as that third person consents in writing to that redirection; (b) **information on independent financial and other relevant counselling services.***

33.2 Where a residential customer requests information or a redirection of its bills, under this clause, the licensee must provide that information or redirection free of charge.'

'35 Paying by instalments

*35. 1 **The licensee must offer residential customers at least the following payment options: (a) a system or arrangement under which a residential customer may make payments in advance towards future bills; and (b) an interest and fee free instalment plan or other arrangement under which the residential customer is given***

¹⁹ ESCOSA, [Energy Fact Sheet – Off Grid Energy Networks Regulatory Performance Report 2019-20](#), p.4

²⁰ District Council of Coober Pedy - [Electricity Retail / Distribution Licence](#) p.12

more time to pay a bill or to pay arrears (including any disconnection or reconnection charges).

35.2 The licensee may require a residential customer to pay by instalments in advance if the residential customer is in arrears or as an alternative to the residential customer paying a security deposit.

35.3 The licensee does not have to offer a residential customer an instalment plan if the residential customer has, in the previous 12 months, had 2 instalment plans cancelled due to non-payment. In such a case, the licensee must offer another instalment plan only if the licensee is reasonably satisfied that the residential customer will comply with that instalment plan.

35.4 The licensee offering an **instalment plan must**, in determining the period of the plan and calculating the amount of the instalments, **take into account information from the residential customer about the residential customer's usage needs and capacity to pay.**

35.5 Nothing in this licence limits the payment options that a licensee may offer to a customer.'

'40 Obligations prior to disconnection

40.1 Prior to effecting a disconnection under clause 39.2, the licensee must have:

(a) **used its best endeavours to contact the residential customer personally** either:
(i) by telephone; (ii) by mail; (iii) by email; (iv) by any other method approved by the Commission from time to time;

(b) **given the customer a reminder notice;**

(c) after the expiry of the period referred to in the reminder notice, **give the customer a written disconnection warning** with 5 business days' notice of its intention to arrange for the disconnection (the 5 business days shall be counted from the date of receipt of the disconnection warning);

(d) **in the case of a disconnection arising under clause 39.2(a), offered the customer alternative payment options of the kind referred to in clause 36²¹** (provided that licensee is not obliged to offer an instalment plan as where the customer has in the previous twelve months had two instalment plans cancelled due to non-payment);

(e) in the case of a disconnection arising under clause 39.2(d): (i) given the customer an opportunity to offer reasonable alternative access arrangements; and (ii) on each of the occasions access was denied, given the customer written notice requesting access to the meter or meters at the supply address and advising of the licensee's ability to arrange for disconnection.'

²¹ SACOSS is assuming this is meant to refer to clause 35, as clause 36 relates to the review of the bill.

It is worth noting that even though the consumer protections for off-grid energy customers are more limited than those of on-grid customers, they do still offer a level of support and protection from disconnection that prepayment meter customers will not have access to. For example, under the District Council of Coober Pedy's licence, it is not permitted to disconnect a customer *once* without having first used its best endeavours to contact the customer, send notices and offer payment options. Whereas the Prepayment Code envisages a customer self-disconnecting three or more times in any three-month period for longer than 240 minutes on each occasion, before being contacted by their retailer.

SACOSS agrees with the Joint Submission that 'more regular billing, early identification of people experiencing payment difficulties, and a proactive hardship response by energy retailers could also prevent the build-up of high arrears, especially with remotely-read meters'.²² To avoid the harmful impacts of prepayment systems and to address the problems of debt accumulation and energy consumption that the introduction of prepayment is intended to solve, SACOSS would welcome ESCOSA developing an Industry Code to apply across small-scale and off-grid electricity networks and retailers in regional South Australia, that requires licensees to:

- give effect to the central principle that customers are only ever disconnected from their energy supply as a measure of last resort²³
- proactively identify (through changes in payment patterns, energy bill debt) customers who may be having trouble paying their energy bill, early in the debt cycle
- offer appropriate payment plans that consider any arrears owing by the customer (in addition to the customer's capacity to pay and usage needs)
- offer and apply bill smoothing with more regular payments (including **Centrepay** deductions)
- offer and apply monthly or fortnightly billing
- allow customers to prepay at will, for credit against their account
- offer prepayment discounts to encourage customers to keep their accounts in credit
- advise the customer about concessions or rebates, linking to financial counsellors and state government agencies
- provide advice on energy efficiency / refer to an advisory service
- be prohibited from taking debt recovery action if the customer is complying with a payment plan, or the retailer has not offered support to pay the bill
- be prohibited from disconnecting for non-payment if the customer informs the retailer they are having trouble paying their bill, is complying with a payment plan, is part of the hardship program, or has applied for concessions.

²² [Joint Submission to EWON prepayment meter discussion Paper](#), August 2014, p.4

²³ See discussion in the Essential Services Commission Victoria, [Payment difficulty framework](#), Final Decision, 10 October 2017, p. viii

As previously submitted to ESCOSA, the introduction of ‘user pays’ under the Future Sustainability Program, lends greater urgency to the need to ensure customers in remote South Australia are adequately protected from the accumulation of energy debt, and disconnection from an essential service. SACOSS strongly urges ESCOSA to consider introducing increased consumer protections and additional reporting requirements²⁴ for off-grid energy licensees supplying customers in remote communities. Additional performance indicators could cover the number of customers in debt, the number of customers on payment plans, on hardship programs, and the number of customers receiving concessions and using Centrepay.

The Issues Paper points to ESCOSA’s decision that all small-scale network licensees must become members of the Energy and Water Ombudsman of SA (EWOSA).²⁵ SACOSS considers that whilst these schemes are important, contacting the Ombudsman is a later step in resolving an ongoing dispute, not an initial step in receiving support. As noted by the ACCC, contacting the retailer is the first step in getting support:

‘We consider that internal dispute resolution is an important first step, especially given that energy ombudsman schemes will not consider complaints where the consumer has not first sought to resolve these with the retailer.’²⁶

There is also the question of how customers will know of their right to contact EWOSA. If the contact information is provided on a bill, then prepayment customers will not be aware of this dispute resolution option and are unlikely to benefit.

SACOSS acknowledges a balance must be struck between the burden of regulation for businesses on the one hand, and the benefits of regulation for customers on the other – ensuring regulation is ‘proportionate and responsive’. We do, however, strongly believe the impacts of being without an energy supply (which is essential to life) and burgeoning energy debt hold significant weight, and suggest that perhaps there is a broader role for government in ensuring the balance is found and an equitable outcome is achieved. We strongly believe that using prepayment to manage debt and consumption is not in the long-term interests of consumers, and refer ESCOSA to a 2004 research report into access to energy and water in Victoria, which found:²⁷

²⁴ To ensure accountability and demonstrate compliance, SACOSS considers ESCOSA must also require the licensee to ‘monitor and report on levels of compliance with those minimum standards’ in accordance with the sections 24(2)(i) and 23(1)(n)(v) of the [Electricity Act 1996](#)

²⁵ ESCOSA, [Prepayment Meter System Code Review – Issues Paper](#), March 2021, p.11

²⁶ ACCC, *Retail Electricity Pricing Inquiry Final Report*, June 2018, p. 290
https://www.accc.gov.au/system/files/Retail%20Electricity%20Pricing%20Inquiry%E2%80%94Final%20Report%20June%202018_0.pdf

²⁷ N Rich and M Mauseth, *Access to Energy and Water in Victoria – A research report*, Consumer Law Centre Victoria and Consumer Utilities Advocacy Centre, 2004, p 118

‘...prepayment meters discourage suppliers from improving their processes for dealing with customers in hardship as they are able to disengage from these issues.[...] If suppliers are of the opinion that the provision of alternative or flexible payment arrangements is a worthy objective in itself, they should ensure that the flexibility and range of alternative payment plans, billing cycles and payment methods offered by them are optimal and meet the demands of customers before embarking on such risky changes as the introduction of prepayment meters.’

Having said that, we understand that some retailers have highlighted the potential usefulness of prepayment systems for seasonal workers in regional South Australia. We accept the choice to use prepayment meters and avoid disconnection and reconnection fees may hold some attraction for both customers and retailers, in circumstances where workers may be away for months at a time. However, we are also mindful that prepayment meters have been rolled out, or will be rolled out, throughout the entire RAES Scheme, and the option to use this system will potentially be open to all those remotely located customers (many of whom may be in vulnerable circumstances). It is therefore extremely important that customers are well-informed of the risks, provided with adequate protections, and the impacts of prepayment are thoroughly monitored and evaluated.

Consultation questions

As a broad principle, SACOSS considers the option to use prepayment should only be voluntarily taken up by customers with full knowledge of the potential risks, and with explicit informed consent. We do not support prepayment being implemented (or imposed) on customers to ‘reduce the level of customer indebtedness’, as was identified by the state government (for reasons outlined above). Where prepayment is used, SACOSS strongly supports the implementation of robust consumer protections for prepayment meter customers, with corresponding prescriptive reporting obligations for retailers.

Given our earlier submission that the potential benefits of prepayment can be achieved using post-pay arrangements together with appropriate measure of support, we would always encourage using post-payment, in place of prepayment systems for customers in vulnerable circumstances.

That said, we will aim to provide feedback on the issues identified by ESCOSA in the issues paper.

Consultation questions:

- Is there a need for retailers to provide an emergency credit facility for customers? If so, how should the required amount of emergency credit for electricity and gas be set? And why?

In 2016 the Citizens Advice Organisation in the United Kingdom published its first good practice guide for energy suppliers on how to respond to prepayment customers who self-disconnect.²⁸ Citizen's Advice identified the following four areas as core good practice:

- Get the consumer back on supply.
- Reassess debt repayment arrangements.
- Provide further financial assistance.
- Offer energy efficiency measures.
- Check if a PPM is still safe and reasonably practicable

SACOSS agrees with Citizens Advice that 'self-disconnection presents an immediate risk to the health and wellbeing of the consumer and other members of their household. Suppliers should help consumers get back on supply by offering a discretionary top up or, where necessary, clearing any outstanding charges from the meter'.²⁹

While the UK's best practice guide is not completely transferrable to the prepayment systems proposed in South Australia, it does have some useful commentary and suggested practices. In terms of the question of emergency credit, Citizens Advice proposes an additional support of 'discretionary credit' for customers who are self-disconnecting and struggling to pay for energy costs. This involves suppliers providing a loan to the customer which they can pay back in instalments, with the loan based on the customer's consumption and expectations of available income. It is envisaged 'discretionary credit' would be offered together with the following supports:³⁰

- *Arranging a suitable repayment plan – if the customer is receiving social security payments, the repayment should be capped at a low amount and Centrepay arrangements offered and established*
- *Accommodating repeat requests and provide additional support – there shouldn't be an arbitrary cap on the number of times discretionary credit should be provided*
- *Clearly explaining how to claim the credit*
- *Checking that the customer has collected the credit*
- *Offer free 'wind-ons' – for smart prepayment customers in South Australia, this would involve a free remote top up of credit*
- *Clearing any outstanding charges.*

SACOSS supports ESCOSA examining the applicability of 'discretionary credit', and the associated supports outlined above, in the South Australian context.

²⁸ Citizens Advice, [Supplier good practice guide: Responding to prepayment customers who self-disconnect](#), April 2016

²⁹ Citizens Advice, [Supplier good practice guide: Responding to prepayment customers who self-disconnect](#), April 2016, p.1

³⁰ Citizens Advice, [Supplier good practice guide: Responding to prepayment customers who self-disconnect](#), April 2016, p.2

SACOSS also acknowledges ESCOSA's observation on finding the balance between the amount of emergency credit made available to customers, and the amount of debt which then accrues to the customer. It is worth noting that just because the customer is pre-paying for energy doesn't mean the customer is not accruing energy-related debt. There is no visibility of how customers are paying for their energy when they top up the meter - debt may be accruing elsewhere to cover energy costs. For example, customers may be going without other essential items (food, medicines) or using credit cards with high interest rates to top up the meter. Emergency credit may be the only *visible* marker of debt, but there will be other broader impacts if the customer can't afford to pay for their energy. Implementing practices and measures which allow a customer with limited fixed income and inefficient housing to maintain their energy supply and avoid the impacts of disconnection should be the primary concern. The issue of energy debt and energy affordability is not a simple one, and the existence of emergency credit – although important – will not work to solve the bigger problems.

It follows that, in addition to emergency credit, there needs to be holistic supports in place for prepayment customers to be able to maintain an energy supply. The Citizens Advice Organisation has published a Good Practice Guide covering Holistic Support for energy consumers who self-disconnect from their pre-payment meter.³¹ The Guide acknowledges the many interrelated issues which need to be understood and addressed to help people avoid self-disconnection, and identifies a number of key areas with which prepayment users who self-disconnect may need support:³²

Figure 1. Overview of good practice areas

Support area	Good practice
Benefits and income	• Resolving benefits problems • Income maximisation
Debt	• Help with PPM debt • Help with wider debts
Energy efficiency	• Behavioural advice • Home improvements
Managing a PPM	• Budgeting on a PPM • Understanding the PPM
Alternative payment methods	• Safe and reasonably practicable • Debt repayment options • Making it easier to manage money • Accessing cheaper tariffs

³¹ Citizens Advice, [Good Practice Guide: holistic support for energy consumers who self-disconnect from their prepayment meter](#), December 2017

³² Citizens Advice, [Good Practice Guide: holistic support for energy consumers who self-disconnect from their prepayment meter](#), December 2017, p.6

SACOSS supports ESCOSA in considering these broader supports in its review of the Code. We consider there is a need for an emergency credit facility for prepayment customers, but also encourage consideration of additional measures, including alternative payment methods (Centrepay). The equation of 'the amount of emergency credit will equal the amount of debt accrued' is too simplistic, and doesn't take into consideration what sacrifices customers will make in other areas of their lives, or how they will source money to pay for their energy. A customer repeatedly going into emergency credit should work as a red flag to the retailer to provide advice, offer payment options (Centrepay / direct debit), link the customer with government and financial counselling supports, and prompt the customer to consider reverting to post-pay.

On balance, SACOSS supports a time-frame for emergency credit as opposed to an amount, within which it would be optimal for the retailer to send a message to the customer informing them of the supports available if they can't pay the cost of their energy. The first 'top up' to cover emergency credit should be made in concert with the supplier offering more flexible payment arrangements, or reverting to post-pay.

Consultation questions:

- ▶ Is there a need for retailers to actively monitor disconnection data as a way of identifying customers who may be experiencing payment difficulties? If so, what measures and metrics should be monitored?
- ▶ Is there a need to require retailers to revert customers experiencing payment hardship back to post-pay arrangements without charge? Should any other assistance be provided?
- ▶ What information, if any, should retailers be required to report publicly on self-disconnections?

Monitoring disconnection data

SACOSS strongly supports ESCOSA requiring retailers to actively monitor disconnection data to identify customers who may be experiencing payment difficulties, we also consider retailers should monitor the number of times a customer uses emergency credit as an indicator of payment difficulty, to ensure the retailer can offer more holistic supports and avoid self-disconnection.

Currently, the Code requires the retailer's prepayment management system to identify a customer as potentially experiencing payment difficulties when a customer 'has self-disconnected three or more times in any three-month period for longer than 240 minutes on each occasion'.³³ As outlined above, in recognition that energy is an essential service, the fundamental goal of the consumer protection frameworks in the NEM (the NECF and Victorian Payment Difficulty Framework) is to avoid disconnection and its associated health, wellbeing and safety impacts. The prepayment system flips that fundamental goal on its head - disconnection is the first response to payment difficulty, rather than a measure of last resort. This has the potential for devastating impacts in remote South Australia.

³³ ESCOSA, [Prepayment Meter System Code 2013](#), cl. 3.4.2.

Given the remote location of the roll-out of smart prepayment meters in South Australia, it is worth noting the Essential Services Commission of Victoria's recently released Draft strategy to regulate essential services with vulnerable consumers in mind, called '*Getting to Fair – breaking down barriers to essential services*'.³⁴ The Draft Strategy identifies the gap between the needs of First Nations consumers and the supports and engagement available. This gap has been identified in the broader consumer protection framework in Victoria (as prepayment is currently not permitted).³⁵ The Draft Strategy states:

*Rates of disconnections do not affect all Victorians equally. First Nations consumers experience far higher rates of energy disconnection or other credit-related complaints than those who do not identify as Aboriginal and Torres Strait Islander.*³⁶

*Increased rates of disconnection are not the only barrier facing First Nations consumers. It was found that for Aboriginal and Torres Strait Islander communities accessing support and information remains a significant barrier to interacting with the market.*³⁷

The Joint Submission also highlighted the impacts on Aboriginal households due to under-consumption of energy, including:

- *people with diabetes and asthma are more sensitive to extreme temperatures and are thus more reliant on effective cooling and heating*
- *some mental illnesses are exacerbated by hot temperatures*
- *some chronic health conditions require treatment with energy-intensive machinery or refrigerated medications (e.g. insulin)*
- *lack of sufficient energy for cooking and washing leads to poor nutrition and hygiene*
- *use of fire, propane, kerosene, or candles as alternative sources of heating, cooking and lighting leads to safety risks from fire or carbon monoxide poisoning*
- *stress, anxiety and depression can also result from having no energy.*³⁸

Monitoring and reporting on self-disconnections

Given these documented impacts of disconnection, and the data from TCAC around the rates of self-disconnection in the NT referred to above, SACOSS strongly supports measures

³⁴ ESC Vic, *Getting to Fair – breaking down barriers to essential services - Draft*, 6 May 2021, p.45
p.<https://engage.vic.gov.au/building-strategy-regulate-consumer-vulnerability-mind>

³⁵ The ban on prepayment meters was introduced by amending the *Electricity Industry Act* and the *Gas Industry Act* to give the Victorian Government the powers to prohibit or regulate the introduction of prepayment meters in Victoria

³⁶ Energy and Water Ombudsman, 'Missing the Mark: EWOV insights on the impact of the payment difficulty framework', December 2020, p13

³⁷ See ESC Vic, *Getting to Fair – breaking down barriers to essential services - Draft*, 6 May 2021, p.45
p.<https://engage.vic.gov.au/building-strategy-regulate-consumer-vulnerability-mind>

³⁸ Consumer Utilities Advocacy Centre, Wein, Paen, Ya Ang Gim: *Victorian Aboriginal Experiences of Energy and Water*, 2011, pp. 4–5.

under the Code which will lead to early identification of customers who may be struggling to pay for their energy. This could include monitoring both the number of times a customer goes into emergency credit, as well as the number of times a customer self-disconnects. SACOSS considers further discussion with relevant stakeholders may be useful to identify the particular measures and metrics involved, but early identification, holistic supports and avoiding disconnection should be key goals.

ESCOSA's 2005 Final Draft Decision on a Pre-payment Meter System Code³⁹ highlighted two 'overarching consumer issues', including:

- the potential for actual rates of disconnection to be hidden from support services and regulatory scrutiny, and
- the potential lack of safety net for prepayment meter customers – hardship policies, time-to-pay and other matters dealt with by the Energy Retail Code for quarterly billed customers

These concerns are still highly relevant, and SACOSS considers public reporting of actual rates of self-disconnection will be crucial in monitoring the impacts of prepayment on customers. At a minimum, retailers should be required to report quarterly on the following metrics:

- consumption kWh
- expenditure (\$)
- number of self-disconnections, and
- duration of self-disconnections.

Reverting customer back to post-pay arrangements

As outlined earlier in this submission, SACOSS is of the view that prepayment should not be an option for customers struggling to pay their energy bills. We therefore strongly support reverting all customers who are having difficulty paying their energy costs back to post payment without charge, and offering and applying all the supports outlined earlier (including tailored payment arrangements, Centrepay, relevant concessions, energy efficiency advice), with a view to Codifying those supports in the future.

Consultation questions:

- ▶ The Code requires retailers to establish a Prepayment System Customer Consultation Group: what should be the purpose and membership of the group and how should it best engage with and provide feedback to retailers and the Commission?
- ▶ Should there be a single group or should each retailer form its own group?

SACOSS supports the establishment of a single 'umbrella' Prepayment System Customer Consultation Group comprised of relevant stakeholder representatives, including: members of remote communities / townships, ESCOSA, Government, licensees, representatives from

³⁹ ESCOSA, [Final Draft Decision on a Prepayment Meter System Code](#), 2005, p. 5

community organisations (familiar with providing and linking to energy-debt support in remote areas), and a consumer advocacy organisation that has standing and experience with prepayment issues. SACOSS also considers there should be the option for input into the Group from communities or organisations outside of South Australia who have experience of prepayment systems (for example, Jemena and /or TCAC in the NT).

The purpose of the Group could be to monitor the ‘on the ground’ impacts of prepayment systems (hidden debts / health impacts), and provide feedback to retailers and ESCOSA on what is working, and what needs addressing.

It would be useful for a website to be established containing information on prepayment systems, which could be managed and updated by the State Government as part of a broader information campaign on prepayment and the RAES Scheme.

Consultation questions:

- ▶ Are the current information requirements on retailers appropriate and sufficient to enable customers to make an informed decision to enter a prepayment arrangement, appropriate and sufficient? If not, what other information should be provided by a retailer?

SACOSS strongly supports the information and explicit informed consent (EIC) requirements under the Code. These are central to ensuring customers are aware of, and consent to, the risks of prepayment prior to entering into a prepayment arrangement. There are numerous requirements relating to EIC under the NECF, and it has been observed that three essential components must be met to ensure EIC is meaningfully obtained:⁴⁰

1. **‘Consent must be informed:** to be informed there must be a two-way discussion between a business and a customer in a way that is balanced and transparent. Information provided to customers must be current, complete, and presented without jargon and in plain simple English;
2. **Consent must be voluntary:** the customer must be given a genuine opportunity to provide or withhold their consent. The customer must be free from pressure, undue influence or duress.
3. **The customer must have the capacity to provide consent.** To have the required level of capacity, the customer must be able to understand and use the information presented to make an informed decision. This means that any disability that may impact on a person’s capacity to provide consent must be considered and communication must be tailored accordingly.’

Currently the Code requires the retailer to provide the customer with the following information:⁴¹

⁴⁰ See: <https://www.compliancequarter.com.au/explicit-informed-consent-what-does-it-actually-mean/>

⁴¹ ESCOSA, [Prepayment Meter System Code Review – Issues Paper](#), March 2021, p.18

- *Costs (including tariffs and all fees associated with prepayment)*
- *A written disclosure statement, including:*
 - *all applicable costs, fees and charges, including tariffs, connection and installation costs and how consumers will be informed of any changes to these costs*
 - *how overcharging and undercharging will be identified and resolved*
 - *how the retailers will ensure any relevant State Government energy concessions will be applied*
 - *how customers can top up their balance, and the amount of emergency credit that will be provided*
 - *dispute resolution options, and contact details for emergencies, customer enquiries and complaints and*
 - *the process the retailer will use to terminate a prepayment system and revert a customer back to a standard post-pay arrangement, including applicable costs to the customer and how any credit balance will be refunded to the customer.*
- *Operating instructions.*

SACOSS supports the inclusion of all this information, and also seeks ESCOSA consider requiring the retailer to provide information on different payment options available for prepayment meter customers, including Centrepay and direct debit arrangements.

Consultation questions:

- What minimum information should retailers be required to provide to customers about their historical energy usage?

SACOSS supports retaining the current requirement in the Code around the provision of energy consumption information to customers on request. Customers should always have the option to seek information about their energy use from their retailer, particularly in circumstances where those customers are not issued with a quarterly bill containing usage details. Historical energy usage can provide the customer with useful comparisons and benchmarks for energy efficiency and housing improvements.