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Dear Aaron

Electricity Distribution Code Review Issues Paper

Consumer Action Law Centre (**Consumer Action**) welcomes the opportunity to comment on the Essential Services Commission (**ESC**) *Electricity Distribution Code Review Issues Paper*.

Consumers rely on energy distribution businesses to ensure a consistent supply of their essential electricity services. It is important that these businesses are regulated effectively so that consistent supply is maintained with only efficient costs being imposed on consumers. It is also essential that all consumers receive effective communications from businesses about outages as well as fair and timely compensation for failures in electricity networks. If a consumer is delivered electricity in an embedded network, they should expect the same protection and compensation as their peers in mainstream arrangements.

Our comments are detailed further below and a summary of recommendations is available at **Appendix A**.

About Consumer Action

Consumer Action is an independent, not-for profit consumer organisation with deep expertise in consumer and consumer credit laws, policy and direct knowledge of people's experience of modern markets. We work for a just marketplace, where people have power and business plays fair. We make life easier for people experiencing vulnerability and disadvantage in Australia, through financial counselling, legal advice, legal representation, policy work and campaigns. Based in Melbourne, our direct services assist Victorians and our advocacy supports a just marketplace for all Australians.

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Customer service standards

Notifying customers during an unplanned power outage

Should we set an obligation on distributors to proactively contact vulnerable (such as life support) customers before a potential unplanned outage?

Consumer Action supports regulatory obligations being put in place to formalise distributors' responsibility to appropriately inform vulnerable consumers of an unplanned outage. The code already requires distributors to inform government departments of potentially long unplanned outages. If they can inform government, it is only reasonable that they inform vulnerable consumers of the same. Electricity is an essential service, it is clearly an emergency when very vulnerable consumers (including those who require life support equipment) will be without electricity.

In developing a framework to inform vulnerable consumers about potential unplanned outages, it should be recognised that consumers can be vulnerable for a variety of reasons beyond life support equipment. For instance, mental health issues can be exacerbated by exposure to uncomfortable temperatures during weather events. Obligations should go beyond just consideration of the most extreme instances of vulnerability and should be in place to ensure that businesses work proactively to reduce potential harm. The ESC could look to the examples of circumstances in the guidance note for the Payment Difficulty Framework in considering what vulnerabilities may be affected by an unplanned outage.¹

Wherever possible, communication about an unplanned outage should be direct to households, timely and tailored to individual household's preferences so as to be effective. Effective communication is likely to require multiple, staggered communications, for example, text, emails and phone calls. Given much communication infrastructure relies on electricity (e.g. mobile phones), consideration should be given to other ways to communicate as well. Information communicated should also include arrangements for assistance and safety information appropriate to the circumstances of the outage. If the distributor has the contact details and preferences of effected households these should be utilised.

RECOMMENDATION 1. Set obligations on distributors to proactively contact vulnerable customers about unplanned outages requiring multiple, staggered forms of communication.

How should we update the current obligation on distributors informing government departments of unplanned long outages?

The threshold for the period of potential outage that warrants informing government agencies should be reduced from 24 hours. Much shorter periods of time without essential electricity services can have significant impacts on households and require co-ordination of relevant government services. Departments should also be notified of any unplanned outage that may pose a serious safety risk (like an unplanned outage where a household requires life support). The obligation may also need to be reflexive to weather conditions or other factors that may put the greater community health and safety risk (for instance an unplanned outage during a heatwave) so that government departments are well informed and able to provide appropriate services to the community.

RECOMMENDATION 2. Update obligations on distributors to inform government departments of unplanned outages to better align with the consequences consumers may face.

¹ ESC, 2017. *Energy Compliance and Enforcement Policy: Guidance note – Payment Difficulty and disconnection*, p, 19-20.

Notifying customers of planned power outages

What form of notification or engagement should be provided to customers by electricity distributors before a planned outage?

Consumers expect adequate notification of planned disruption to their essential electricity supply. Wherever known, distributors should use consumers preferences around contact method and timing when communicating the planned outage to households. Distributors should also be required to use multiple methods of communication, and stagger those communications. We consider one letter, which is sufficient under existing obligations, may not be effective to reach customers.

A requirement of 'best endeavours', similar to that which applies to energy retailers when providing tailored assistance under the Payment Difficulty Framework,² could be adapted for this purpose. This should, as far as possible, be framed as an outcome-based regulatory obligation, so it's more likely that the communication is actually received. We note that distributors already have an obligation to use best endeavours to restore the customer's supply following a planned outage as quickly as possible. Alternatively, the code could be more prescriptive and require specific types of communications, for example, text message, letters, phone calls etc.

Wherever contact is made with a household, distributors should be required to check with consumers whether anyone at the household requires life support equipment but has not registered this. The distributor should also inform the customer of relevant safety and assistance information.

Consumers should also be informed of the reason for the outage and have the ability to request a change in timing or compensation (at the expense of the responsible party) where works requested and paid for by another consumer (like relocation of cables underground) are not critical to the network.

RECOMMENDATION 3. Impose more effective requirements on distributors to communicate with consumers before a planned outage and require distributors to gather and provide important information wherever in discussion with a consumer as a result.

RECOMMENDATION 4. Requirements should be in place for distributors to inform consumers of the reason for the outage and for consumers to be able to request reasonable compensation or timing changes where a planned outage is for private and non-essential work for another consumer.

Should we impose a new obligation to notify customers of a cancelled or rescheduled planned outage?

Yes, distributors should be required to notify customers in such scenarios. Customers should also be informed of the reason for cancellation or rescheduling. Transparency like this is respectful of the inconvenience caused to consumers and is likely to build trust. This proposed obligation should also cover scenarios like when planned disruptions are for shorter periods of time than initially notified.

RECOMMENDATION 5. Require distributors to notify customers if a planned outage is rescheduled or cancelled and to provide a reason to consumers as to why this is the case.

Other communications with consumers

Although not addressed in this Electricity Distribution Code Review Issues Paper, the ESC should explore whether requirements around communications with consumers connecting distributed energy resources to the grid are fit for purpose or need updating. Our *Sunny Side Up* report³ identified that consumers are experiencing systemic

² Ibid, p.23-26.

³ Consumer Action, 2019. *Sunny Side Up: Strengthening the Consumer Protection Regime for Solar Panels in Victoria*, available at: <https://consumeraction.org.au/20190404-sunny-side-up-report/>

issues with the connection of solar PV systems to the energy grid. While this somewhat complex process should be the responsibility of the retailer of new energy technology products, networks may provide barriers to consumers understanding where a problem has occurred with this process.

It is also likely that constraints in the network may mean that consumers are increasingly excluded from exporting electricity through the network and that consumers are not aware of this issue before factoring remuneration from the Feed in Tariff into their decision to invest in new energy technology. The ESC should consider these issues and whether the code needs to place specific obligations on network businesses to require timely notification of these constraints and ensure fair outcomes for consumers.

RECOMMENDATION 6. Consider if code requirements around distributors communicating with consumers about connecting distributed energy resources should be updated.

Guaranteed Service Levels (GSLs)

Consumer Action considers that, in principle, the Guaranteed Service Level scheme should be designed to incentivise businesses to provide the most consistent service possible for consumers while minimising costs to all consumers and providing fair compensation to those who are impacted by inconsistent service.

The ESC should consider whether there is a way to better incentivise networks to provide more consistent service for all customers without a direct pass through of GSL payment costs that are made to all consumers in a distribution zone. GSL payments being met by shareholders of the businesses may mean that efficient provision of universally consistent supply is incentivised. For example, where less GSLs are paid, this will bring financial rewards to the business and benefits to consumers.

Should we impose timeframes for guaranteed service level scheme payments?

Whatever the structure of the GSL scheme, where payments are due, they should also be timely. As discussed in our *Heat or Eat* report, going without electricity can impose additional costs on households such as alternative arrangements for sourcing food or spoiled food as a result of going without necessary refrigeration. GSL payments can rectify the costs that arise from such issues.

Where timing thresholds are reached under a GSL scheme, consumers should receive the payment within a short period (say, a week or a fortnight). For example, the customer should receive payment of \$120 within a week of when they have been without electricity for 20 hours in a year due to unplanned sustained interruptions and then an additional \$60 if this reaches 30 hours. This will better counter potential payment difficulty that can arise or be compounded by additional costs in a period without essential services supply.

RECOMMENDATION 7. Reduce delays to consumers receiving some GSL payments after outages occur.

Are there any outage scenarios we should include or exclude from the guaranteed service level scheme?

Clause 6.3.3(a) of the current Electricity Distribution Code states that a GSL is not to be paid where a planned interruption occurs with prior agreement of the customer. While this may be reasonable in many circumstances, consideration should be given as to what information evidences agreement from the customer and whether excessive planned interruptions occur, especially where these are not specifically of benefit to the customer. The exclusion should not apply where the customer is simply notified of an interruption. Mere notification should not be assumed to be agreement; nor should the exemption apply where an excessive amount of planned outages occur over a period of time.

RECOMMENDATION 8. Consider removing exclusions from eligibility for GSLs where consumers face excessive amounts of planned outages or where they have not clearly agreed to planned outages.

Embedded network GSLs

Consumers in Embedded Networks should also be able to expect GSLs equivalent to their peers with mainstream supply arrangements. Most consumers in these situations generally have little choice as to whether they can leave the network due to practicality or cost. They should not have lesser consumer protections as a result.

There are two parties who may be responsible for interruption on the supply of essential electricity services to consumers within an embedded network. The first would be an outage associated with the distribution network that supplies up to the 'parent' meter and the second would be an outage within the embedded network beyond the 'parent' meter.

Where the first scenario occurs, the embedded network provider should not 'pocket' the GSL payment but instead evenly distribute and 'top up' additional payments to GSL equivalent levels to embedded network customers who are affected by supply not going to a parent meter. Consumers pay the embedded network business to consistently deliver their essential electricity services and should expect the same levels of service and compensation as those in traditional networks. It would be inappropriate for the consumers in embedded networks to take on more risk of costs caused by outages as opposed to the business responsible for providing their network services.

Similarly, in the second scenario it should be expected that embedded networks take on the responsibility to provide adequate service to their customers who need essential energy services. They should also provide GSL payments that respond to outages resulting from their actions or from failures within the embedded networks they operate.

RECOMMENDATION 9. Require that consumers in embedded networks have equivalent eligibility to consumers in mainstream arrangements.

Technical standards

Aligning to Australian Standards

In principle, Consumer Action supports suggestions to align standards prescribed in the code for voltage and harmonics with Australian Standards. We trust that these standards provide a clearly defined and universally accepted specification of what performance consumers should expect from businesses. We also welcome these clear definitions in contrast to 'best endeavours' approaches that are vague and potentially difficult for regulators to enforce.

RECOMMENDATION 10. Consider aligning with Australian Standards as opposed to 'best endeavours' approaches for technical standards.

Consumer Protections and Compensation

Our understanding is that, in practice, the *Electricity Industry Guideline 11 – Voltage variation compensation* does not result in undue onus being placed on consumers proving that property damage was caused by voltage variation up to a cap. It is also our understanding that the approach provided for by the guideline, which does not impose a requirement on the consumer to demonstrate causation between voltage variation and property damage, creates efficiencies for businesses who do not have to dedicate significant resources into investigating what are likely genuine claims.

The increasing amount of distributed energy resources within the energy system may result in more issues with voltage variation that need to be managed by distributors. The straightforward system for compensating consumers for voltage variation should continue and the costs should be covered in such a way that there is not a pass through of these costs to all customers but instead an incentive on businesses to minimise these issues occurring.

RECOMMENDATION 11. Ensure that consumers will not face significant costs in pursuing compensation for damage caused by voltage variation in distribution networks.



APPENDIX A - SUMMARY OF RECOMENDATIONS

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RECOMMENDATION 2. Update obligations on distributors to inform government departments of unplanned outages to better align with the consequences consumers may face.

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RECOMMENDATION 6. Consider if code requirements around distributors communicating with consumers about connecting distributed energy resources should be updated.

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Please contact Jake Lilley at **Consumer Action Law Centre** on 03 9670 5088 or at jake@consumeraction.org.au if you have any questions about this submission.

Yours Sincerely,

CONSUMER ACTION LAW CENTRE

A handwritten signature in black ink, reading "Gerard Brody". The signature is fluid and cursive, with the first name "Gerard" and last name "Brody" clearly distinguishable.

Gerard Brody | Chief Executive Officer

