



30 September 2009

By email: MCETMarketReform@ret.gov.au

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Dear Sir/Madam

Smart Meter Customer Protection and Safety Review - Draft Policy Paper One

We welcome the opportunity to comment on Smart Meter Customer Protection and Safety Review - Draft Policy Paper One (the **Draft Policy**), released by the Ministerial Council on Energy Standing Committee of Officials (**SCO**) on 19 August 2009.

In our response to the Draft Policy we have followed the arrangement of the paper and related *Draft policy positions*, commenting on the text, raising our concerns or offering our support as the case may be. In some instances we have suggested additional and alternative policy proposals (marked *Consumer policy position*) that are supported by the signatory consumer advocates (refer **Appendix B**); their purpose is to replace or be supplementary to those expressed as SCO recommendations. A full summary of these can be found in **Appendix A**.

Consumer advocates acknowledge the work currently in train through the National Smart Metering Program (**NSMP**) under guidance from the National Stakeholder Steering Committee (**NSSC**) to consider and resolve the detail of technological, regulatory and institutional arrangements for smart metering infrastructure and the involvement of a wide range of stakeholders in that work. We note that this work is

directed principally to market arrangements (and the National Electricity Law and Rules) rather than to matters affecting consumers through the National Energy Customer Framework including the Law, Rules and Regulations (**NECF**). We note also that this work is unlikely to be completed in time to inform the NECF. However, in our view the NECF should recognise in the Law and Rules, matters of interpretation and principle that can be established at this stage.

Consumer Protection - Policy Issues

When finalised, the NECF must be robust enough to meet its objectives regardless of the kind of meter installed at a consumer's premises. Therefore, wherever possible we support provisions that will provide consistent and effective consumer protections for both 'dumb' and smart meters. However, there are issues that arise specifically due to the installation of a smart meter, in the same way that some issues are specific to prepayment meters. These need to be addressed by provisions specific to smart meters, just as this has been recognised in relation to prepayment meters.

At this stage, the current drafting of the NECF fails to incorporate a definition of smart meters nor of relevant concepts such as direct load control, time of use pricing and dynamic peak pricing. Even if detail such as when certain functionalities may be used or limits on their use, is not included in the NECF package as initially legislated because further technical work is outstanding, the basic concepts are already real with various trials taking place and the rollout of smart meters to Victorian consumers having begun. The NECF must therefore account for these realities now. For example, it will not make sense to provide for appropriate bill content relating to different tariff segments unless the NECF has first provided definitions of smart meters and time of use pricing.

Consumer policy position A: SCO proposes that the NECF (the Law) be amended to include in Section 103 Interpretation, definitions of 'meter', 'smart meter', 'smart metering infrastructure' and 'smart metering services'.

1. Distributional impacts of time-related pricing

Draft policy position 1: SCO does not propose any smart meter-related changes to the draft NECF hardship provisions at this stage.

We have considerable concerns about the distributional impacts of time related pricing and the way in which they have been addressed in the Draft Policy.

The distributional impacts that result from the rollout of smart meters will be more significant than the Draft Policy has forecast. Specifically, the available demand response of consumers, particularly a consumer's responsiveness to price and genuine ability to curtail or shift load need to be considered. These factors are informed by variables such as household characteristics, appliance mix, availability of alternative energy sources, tariff structure and prices / price rises, income and ability to modify consumption patterns.

Critically, demand response also depends on whether there are occupants at home during the day. Many consumers who are at home during the day are unable to shift or reduce consumption. These consumers include, for example; pensioners, stay at home parents, shift-workers, part-time workers or the unemployed, and consumers with special health or other needs. These consumers, quite rightly, need to operate basic appliances such as washing machines and heating due to the nature of their circumstance. This constitutes a large segment of financially vulnerable consumers who will be significantly disadvantaged following the rollout of smart meters and the introduction of time-related pricing.

Further, to justify the cost and the rollout of smart meters, a distribution business's network tariff will necessarily be reassigned to time of use tariff. Subsequently it is likely that at least some retailers will also offer time of use tariffs. To fail to account for this is to ignore commercial reality. Where retailers do move to time of use tariffs the effect will be a significant number of consumers to taking up a time of use tariff, by way of necessity rather than by choice. A significant proportion of consumers will also face unavoidable increases in the cost of their electricity – a consequence that may create or worsen a hardship situation.

The rollout of smart meters must therefore be matched with appropriate payment management provisions and hardship provisions (and concession arrangements). We agree that smart meter households do not need different payment and hardship provisions to the general provisions to manage this. We do highlight however, that the general contract provisions as outlined in the current drafting of the NECF are not adequate and will not provide the necessary protections to prevent consumers from falling into hardship.

Consumer submissions to the first draft of the NECF highlighted the necessity for robust and effective hardship policies and programmes. Our expectation is that the NECF will adopt the recommendations that consumer representatives have made.

Appropriate consumer protection and hardship policies and programs are crucial as energy bills will increase significantly just to cover the cost of a smart meter rollout. After this initial increase for meter charges, many consumers will also experience further increases as a result of time of use tariffs. Many consumers already struggle with energy affordability relative to their incomes. Combined with a range of other cost drivers in energy markets and with the Carbon Pollution Reduction Scheme (CPRS), consumers are to face significant bill increases.

As recognised in the Draft Policy, increased bill volatility will also pose problems for consumers, even apart from any price rises more generally. While monthly billing may help address this issue, we do not know what billing frequencies will occur in practice in the absence of any prescribed standards, and the Draft Policy does not recognise that no minimum frequency of billing is required in relation to market retail contracts. A minimum billing frequency is a basic consumer protection to address the fact that consumers have less ability to manage bill volatility than energy businesses and to address the increased bill volatility that smart meters will bring. The NECF therefore needs to apply a three month minimum frequency of billing to market retail contracts.

On this basis, we emphasise the need for the Draft Policy to include recommendations for a robust NECF and best practice hardship provisions, including recommendations related to smart meters. As an example, these should include the following;

- a right to payment plans for all customers;
- minimum bill frequency (3 months); and
- an expansion of the definition of 'life support' to those with 'special needs' to provide a wider range of consumers with extra protection.

Consumer policy position B: SCO recognises that the general consumer protection and hardship provisions proposed in the first exposure draft of the NECF are inadequate and proposes that the provisions be amended in line with submissions to deliver robust consumer protections.

Consumer policy position C: SCO proposes that the NECF (the Law) be amended to include definitions of 'time-related pricing' and/or 'time-of-use pricing', 'dynamic-' and or critical- peak pricing',

Consumer policy position D: SCO will monitor and report the effects of time related pricing on consumers with regard to distributional impacts, cross subsidies and effects on competition.

3. Customer billing

Draft policy position 2: SCO proposes that all customers with smart meters should be able to check that their meter is working correctly, and reconcile their bills against their meter with a reasonable degree of certainty.

Consumers must be able to reconcile their bills against their meter "with a reasonable degree of certainty". Consumers must also be confident that the usage aligns with the charges. These outcomes could be achieved by addressing what information will be made available to consumers on the meter itself (such as aggregate consumption) and on consumer bills.

Consumers paying for smart meter infrastructure, including meters, should also have an absolute right to expect that the infrastructure is working correctly, reliably and consistently. To complement this right, all customers with smart meters should be able to check that their meter is working correctly without incurring further costs. In our view, any costs associated with checking meter reliability should be the responsibility of provider and not the consumer. Consumers should also have access to cost and time effective mechanisms to facilitate ease of enquiry and correction, where necessary,.

We understand that these basic issues coincide with the work of the NSSC on the establishment of processes around accumulation totals, and the following Draft policy position 3, in which we ask that the SCO to refer the process of determining bill content to the Australian Energy Regulator (the **AER**). Nonetheless, a clear policy position must be established at the outset around these basic principles to deliver the intended benefits for consumers. We would also question the need for these issues to be

resolved in the process for providing recommendations to the NECF. Our understanding is that the NSSC has been tasked with this issue. We would appreciate some clarification of how these two processes are intended to come together in producing a practical and relevant outcome for consumers.

Consumer policy position E: SCO proposes that the AER develop and enforce guidelines for the mandatory content of energy bills to ensure the provision of consistent and comparable consumption data.

Draft policy position 3: SCO proposes that retailers provide customers on time related tariffs with consumption data for each tariff segment (e.g. peak, off-peak, shoulder) on their bill to enable them to reconcile their bill charges.

We support Draft policy position 3 in terms of retailers providing detail on consumer bills such as consumption data for each tariff segment.

We understand that SCO has set in train a 'bill benchmarking project' that may inform decisions about retailer responsibilities to communicate appropriately with consumers. We anticipate that the work of this project will inform development of the NECF in a timely manner.

We strongly recommend that the SCO assigns the AER responsibility for developing guidelines on bill content. Importantly, these guidelines should be developed in consultation with relevant stakeholders. We recognise that the Victorian Essential Services Commission has commenced a similar process and that there should be progress towards appropriate outcomes for consumers as a result. We see merit in having the two processes align, particularly when the AER assumes its responsibilities for retail regulation. Consumer consultation is integral to this process as we work to ensure that no customer is disadvantaged by changes to billing procedures.

On the issue of bills being provided via the internet, it should be appreciated that while penetration of the internet into households across Australia is certainly increasing, there continues to be a significant proportion of households without access to, or capacity to pay for, the internet and who would therefore be unable to access their bills. Alternative mechanisms should be made available to avoid any potential disadvantage to consumers who do not have the benefit of internet access.

Consumer policy position F: SCO proposes that in order to appropriately satisfy the principles of and provisions for [explicit] informed consent in the NECF, retailers provide customers with appropriate historical time-related consumption data as a precursor to offering time-related tariff products.

Consumer policy position G: SCO proposes that, given the considerable expense imposed on consumers by a rollout of smart metering infrastructure and the assumption that the value of benefits will exceed the value of costs, it should be assumed that meters and related systems are always fully functional and that any costs arising from meter and/or system failures will be borne by the meter provider.

Draft policy position 4: SCO proposes in situations where meter data is permanently lost in a DPP event that substitutions not be based on historical data. SCO proposes that customers should be charged for estimated electricity consumed at a non-DPP price.

While we recognise the intent of this Draft policy position, we strongly oppose consumers having to pay for any consumption charged on the basis of substituted data, in any scenario where data is lost permanently. Specifically, periods in which data is substituted should be at no charge to the customer.

The regularity with which data is measured (half hourly intervals) and the daily collection of this by distribution businesses and delivery to retailers should result in minimal lost data and will result in even less financial risk to retailers. There are ample opportunities for metering infrastructure and data providers to identify instances of data loss, to investigate and rectify faults immediately.

On this basis and the basis that consumers will be paying an average of \$80 per year for ten years for the smart meter installation, consumers have a right to expect that the communications infrastructure and B2B and metrology processes will not fail, and more importantly, that they should not be unfairly penalised if they do.

Consumer policy position H: SCO proposes that in any situation where meter data is permanently lost customers should not be charged for consumption. Substituted data is prohibited and an assumption should be drawn that no consumption data equals no consumption.

Draft policy position 5: SCO does not propose any smart meter related changes to overcharging or undercharging provisions in the NECF.

We are seriously concerned that the Draft policy position is based on the first draft of the NECF, which consumer groups consider to be significantly deficient. Consumer groups, in their response to the NECF highlighted significant changes to promote best practice consumer protection and this included changes to the overcharging and undercharging provisions. We refer SCO to consumer group responses to the NECF as a starting point.

In the context of the smart meter rollout, the time allowed for retailer recovery for undercharged amounts should be limited to three months. One of the major benefits of the rollout of smart meters is meant to be the elimination of the need for estimated billing, and this is also one of the benefits that can most easily be passed through to end users. Allowing 12 months to recover undercharged amounts is excessive and unfair in the smart meter context, denying consumers benefits for which they are paying.

We reiterate, the regularity with which data is measured (half hourly intervals) and the daily collection of this by distribution businesses and delivery to retailers should result

in minimal lost data and will result in even less financial risk to retailers. There are ample opportunities for metering infrastructure and data providers to identify instances of data loss, to investigate and rectify faults immediately.

Consumer policy position I: SCO proposes that provisions are made in the NECF to limit the period for retailers to collect undercharged amounts to three months if the customer has a smart meter.

Draft policy position 6: SCO proposes that retailers be required to inform customers with smart meters of the scope of any estimation on their bill.

We disagree with this Draft policy position. The circumstances in which estimates may be necessary is not clear. Data will be measured at half hourly intervals. The daily collection of this by distribution business and delivery to retailers should remove any need for estimations. The consequence is that any data loss should thus be minimal.

As outlined in our response to Draft policy position 4, consumers should have the right to expect that the end-to-end smart metering infrastructure that they are paying for, and the related B2B and metrology processes associated with smart metering following the extensive work of the NSSC, will not fail, and more importantly, that they should not be unfairly penalised if they do. As such, there is no longer any excuse for data estimation and it should be prohibited.

Consumer policy position J: SCO proposes that applying estimated data to a customer's bill is prohibited.

Draft policy position 7: As proposed in draft policy position 3, SCO proposes that retailers provide customers on a time-related tariff with consumption data for each segment rate (e.g. peak, off-peak, shoulder) on their bill.

We support Draft policy position 7 in terms of retailers providing detail on consumer bills such as consumption data for each tariff segment. However, our response to Draft policy position 3 above is relevant in terms of how the content should be determined.

We have significant concerns about the assumption drawn by the Draft policy that information on bills will encourage retail competition by enabling customers to compare their time-related tariff offer with that of another retailer. Unfortunately, unless the Draft Policy also prescribes the shape of a retailer's time of use tariff and transparency between the application of distribution and retail tariffs, there will be no opportunity for comparison by consumers. Retailers, in competitive markets, can and will develop a range of tariff offers. These differences will create significant barriers and information inequities between consumers and retailers, making it difficult for consumers to understand any distinction between tariff offers and easily compare what is being offered.

Consumer experience within the telephone/internet and banking sectors has already demonstrated the practical dilution, diminishment and even deliberate 'confusopoly' that arises in relation to consumer information in a competitive market. Evidence has shown that consumer detriment is experienced as consumers struggle to understand the complex nature of rate setting in these industries and the lack of transparent and meaningful information.¹ We also draw SCO's attention to the Commonwealth Treasury's Financial Services Working Group which is aiming to simplify financial services disclosure, including the mandating of certain content. We find it surprising that while one part of the government is fully engaged in these issues another part of the government continues to ignore the potential impacts of these issues on consumers.

Consumer policy position K: SCO proposes that in order to inform consumers and their decisions, the NECF (the Rules) be amended and that the AER develop and enforce guidelines on the mandatory content of energy bills to ensure consumers are provided with consistent and comparable consumption data.

Draft policy position 8: SCO proposes that the draft NECF define 'historical billing data' so that it is clear that retailers must be able to provide:

- the full set of metering data on which the bill was based; and
- a summary of the meter data on which the bill was based.

SCO proposes that it be at the customer's discretion as to which of these levels of detail they require.

Consumer groups support this policy position, noting that the first draft of the NECF requires additional significant improvements to ensure it reaches best practice consumer protection.

Specifically, historical billing information must be provided within 10 business days of the request being made and consumers should not be charged for requesting billing information more than once in any 12 month period. Further, consumers should have the right to dispute more than one bill in that period, particularly as billing problems can often be systemic and recurring.

Further the format and media of the historical billing data should be as agreed with the customer and the basis of how this should be determined should be addressed in the development of AER guidelines.

4. Direct load control (DLC)

Draft policy position 9: SCO does not propose any changes to the draft NECF at this stage to regulate direct load control.

Consumer advocates are supportive of direct load control when used as a tool to better coordinate the supply of and demand for electricity in the interests of consumers.

¹ NCC & Better Regulation Executive Interim Report July 2007.

However, with regard to future arrangements and ‘products’ we are concerned that significant technological, regulatory and institutional issues have not yet been adequately considered, let alone resolved. At this stage we are of the view that the NECF **should** be amended to define direct load control, regulate current forms of direct load control, and circumscribe ‘new’ forms of direct load control, including timing and, frequency.

The Draft Policy acknowledges that the draft NECF does not specifically refer to direct load control. We would add that the draft NECF is entirely silent on the matter of direct load control, includes no definition of ‘direct load control’ and nothing to indicate that the NECF contemplates direct load control. On the other hand, the Draft Policy does not acknowledge that direct load control ‘programs’ are currently in widespread use for small customers, notably through services for off-peak hot water.

The section on NECF contracting provisions is either irrelevant or incomplete. The Draft Policy suggests that “the draft NECF also allows for negotiation of non-standard services between customers, retailers and distributors with appropriate regulatory oversight”. However, the Draft Policy recommends (at Draft policy position 9) that the NECF **not** be changed to regulate direct load control. It is unclear to us what SCO considers might constitute appropriate regulatory oversight with regard to direct load control, nor how that oversight might be effected.

The Draft Policy sets out a definition of direct load control as follows: “*DLC is the process where a distributor or retailer control [sic] specific household appliances and reduces the electricity consumption of the appliance for a specified time, with the consumers consent, in return for a financial incentive (e.g. direct payment or tariff reduction)*”.

Analysis of ‘potential customer protection issues’ in the Draft Policy is scant. The notion that “customers will not be made fully aware of the conditions of a direct load control program prior to signing up” goes to two critical issues: the design of any such program and need for explicit informed consent of the consumer. These must be included in the next draft of the NECF and must be reflected, at minimum, as parameters for use of direct load control, contract provisions and as above, explicit informed consent.

Consumer policy position L: SCO proposes that the NECF be amended to include definitions of ‘direct load control’, ‘appliance’ and ‘home area network’. SCO proposes that the NECF include principles and model contract terms governing direct load control products.

5. Supply Capacity Control

Draft policy position 10: SCO does not propose any changes to the draft NECF related to interruption of supply at this stage to regulate involuntary use of supply capacity control to manage emergency situations.

Consumer advocates regard as appropriate the use of ‘involuntary’ supply capacity control by distribution businesses in the ordinary course of their business for the

purposes of network maintenance or in case of emergency. However, supply capacity control must be prohibited for use by retailers. Retailers have no role in system management and there are other more effective measures to assist consumers experiencing hardship than punitively restricting access to an essential service.

Our strong view is that supply capacity control through smart meters should be limited to providing a distribution business with a system management function that allows them to manage consumption in emergency situations, thereby avoiding black outs. In these situations, we support the involuntary application of supply capacity control.

We therefore give in principle support for Draft policy position 10 in relation to not proposing any changes to the draft NECF on interruption of supply to regulate involuntary use of supply capacity control to manage emergency situations. Further, as currently drafted, it appears that emergency situations might be covered by the section on unplanned interruptions in the NECF.² However, we strongly urge that the Draft policy should propose changes to the NECF and/or the National Electricity Law and/or Rules, as the case may be, to explicitly stipulate how the supply capacity control functionality can be used by distribution businesses.

We note that the Draft Policy envisages the possibility of distribution businesses using supply capacity control in voluntary situations. That is, customers could agree to limit supply at a time of network constraint for a financial incentive or supply capacity control might be used in areas of the network with limited capacity to service a group of customers. We note, however, that SCO has not taken a policy position on this matter as they are waiting for advice on access arrangements, service levels and service standards. We are of the view that voluntary supply control must be subject to a strong customer protection framework including the requirement for explicit informed consent. This is discussed further under the section on Draft policy position 11 below.

Consumer groups strongly disagree with the suggestion in the Draft policy that supply capacity control could be used "as part of a payment plan or as an alternative to disconnection where a customer is experiencing payment difficulties"³ through setting a capacity limit on a customer's access to energy. We are particularly concerned that the Draft Policy, while recognising that consumer groups have previously raised concerns about retailers using supply capacity control as a punitive measure for non-payment, does not address this issue. On this basis, we strongly oppose the Draft policy and the decision not to propose any changes to the draft NECF in relation to the use of supply capacity control by retail businesses.

The NSMP is considering technological and regulatory issues that arise from supply capacity control functionality, however it is initiated. Regardless of the outcome of that work, consumer advocates maintain that retailers should be prohibited from using supply capacity control .

² Rule 411, National Energy Retail Rules (first exposure draft); clause 9.1, schedule 2, model terms and conditions for deemed standard distribution contracts (first exposure draft).

³ Smart Meter Customer Protection and Safety Review - Draft Policy Paper One, Ministerial Council on Energy Standing Committee of Officials, August 2009 pg 23.

Supply capacity control must not be used as a tool for debt or credit management or as a punitive measure. To allow retailers access to supply capacity control enables them to restrict a household's electricity supply. This sets a "dangerous precedent and undermine[s] the principle of universal access to essential services."⁴ We believe that no consumer should be disconnected or have supply restricted solely because they are unable to afford to pay for electricity. Consumer advocates take the view that supply capacity control is included in considerations of 'disconnection'. Specifically, the intent and effect of supply capacity control is disconnection: when supply capacity is exceeded the consumer is disconnected from supply. The NECF should be developed to sufficiently assist consumers experiencing payment difficulties without the need for their supply to be limited.

Consumer groups do not believe it is possible to realistically "identify the minimum kilowatt (kW) level required to run basic household appliances within the home."⁵ Each household's usage varies based upon a number of factors, such as: the number of occupants, the housing stock, location, season, type and energy efficiency level of appliances and medical equipment on premises. We note that the Draft policy has acknowledged that minimum terms and conditions for supply capacity control "would not prevent customers from running basic appliance such as fridges, freezers, heaters, cooking appliances and lights".⁶ We agree these are properly excluded, as, these are precisely the range of appliances consumers need in order to maintain a basic and decent standard of life. However, we question how it will be possible to isolate these appliances in practice and therefore the efficacy of the proposal.

As with any restriction policies, it is difficult to establish a level of supply that is adequate to sustain individual household's circumstances. It is an extreme form of intervention and could lead to adverse health and social impacts.

Consumer policy position M: SCO proposes that the NECF (the Law):

(a) explicitly prohibit retailers from using supply capacity control ;

(b) clearly define parameters for distribution businesses to use:

- **'involuntary supply capacity control' for network maintenance and emergency situations ; and**
- **'voluntary supply capacity control' subject to the explicit informed consent of the customer to the contract .**

Draft policy position 11: SCO proposes that the National Energy Marketing Rules be extended to include distributors or third parties acting on behalf of distributors.

⁴ May Mauseth Johnston, St Vincent de Paul Society, Customer protections and SMIMISMs background Paper (August 2009), pg 28.

⁵ Ministerial Council of Energy Standing Committee of Officials, Smart meter customer protection and safety review – Draft policy paper one (August 2009), pg 25.

⁶ Ministerial Council of Energy Standing Committee of Officials, Smart meter customer protection and safety review – Draft policy paper one (August 2009), pg 25.

On the basis that the voluntary application of supply capacity control is delivered solely through distribution businesses, with customers agreeing to limit supply at times of network constraint in return for a financial incentive, we support the use of supply capacity control. As mentioned, this function however, can only be applied with the consumers 'explicit informed consent'. There are also other consumer protection issues highlighted below which have to be addressed.

As such, we believe that, of course, all marketing obligations under the National Energy Marketing Rules should be extended and strengthened to include distribution businesses or third parties acting on behalf of distribution businesses, and that they should be accountable to any requirements of other legislation.

Consumer submissions to the first exposure draft of the NECF pointed out the inadequacies of the marketing provisions in the National Energy Marketing Rules and recommended strengthening the proposed provisions. Our expectation is that the second exposure draft will adopt consumer views and that the Final Policy paper (on Smart Meter Customer Protection and Safety) is appropriately aligned with the NECF.

Specifically, there are consumer protection issues which need to be covered before voluntary supply capacity control functions are extended to distribution businesses. This includes:

- Appropriate notification requirements;
- Explicit informed consent of consumers;
- Defined minimum threshold requirements (including timing, frequency etc)
- Exclusion of consumers on life support and consumers dependent on other types of medical equipment;
- Extension of marketing rules to distribution businesses.

6. Remote disconnection

Draft policy position 12: SCO proposes that the draft NECF be amended to include de-energisation notification requirements to require retailers to inform customers with smart meters that de-energisation of their electricity supply may occur remotely rather than manually.

We support the Draft policy position obliging retailers to use notifications to inform customers with smart meters that they may be disconnected from their electricity supply remotely rather than manually (ie on-site, at the consumer's premises).

Please note, in our submission we have replaced the term 'de-energisation' with 'disconnection'. We reject the use of the term 'de-energisation'. The term disconnection is currently employed in energy laws, regulations, policies, contracts and bills to describe the withdrawal of energy due to non-payment or breach of contract terms and is commonly understood and accepted by customers across all jurisdictions. There is no such widespread familiarity with and comprehension of the term de-energisation. We submit that confusion about this term will undermine the intent of using the term de-energisation and recommend that de-energisation be replaced with disconnection

throughout the NECF. Consumer groups have discussed this in detail in our responses to the draft NECF.

Consumer groups are also concerned that use of the remote disconnection function will remove an important final safety net available to customers faced with disconnection. Manual/on-site disconnection provides an opportunity for distribution businesses (acting on instruction of retailers) to identify errors or health or safety concerns prior to disconnection. Without this safeguard, we recommend that the NECF be amended so that retailers are also obliged to make at least two notification attempts, using two different processes, including out-of-hours contact where necessary, before disconnection is due to transpire. We further submit that this contact be made by telephone or in person because notification by mail, facsimile or e-mail does not provide an opportunity to ensure the consumer has received and understood previous notifications, nor for the initiator of contact to recognise and respond to payment difficulties experienced by the consumer. In addition, all contact needs to be made with the relevant consumer in the 24 hour period leading up to the disconnection.

Remote disconnection permits disconnection of customers more easily and more cheaply than manual/on-site disconnection. Acknowledging that the NECF will specify the grounds for and requirements prior to disconnection, we posit that the removal of this physical and financial disincentive makes disconnection more likely. To protect consumers from this eventuality, we advocate the inclusion of an incentive for retailers to comply with the regulated disconnection procedures. Specifically, we recommend that the NECF be strengthened through the inclusion of a wrongful disconnection regime and a wrongful disconnection payment.

In addition to remote disconnection, we note that smart meters enable remote reconnection. As remote reconnection can be effected more quickly than manual reconnection, smart meters have the capacity to minimise the impacts of disconnection. We recommend that the NECF be amended so that, where the reason for disconnection has been removed, households with smart meters be reconnected, immediately, subject to satisfaction of safety considerations. We further highlight the safety risks associated with remote reconnection in instances where households may have, for example, left a tea towel on an electric stovetop, or an iron on. We do not believe these risks have adequately been explored.

The draft NECF makes reference to charges for reconnection. As remote disconnection and reconnection removes the cost of these practices we submit that the NECF be amended so that these charges do not apply to customers with smart meters. This would also help to ensure the pass through of this benefit of smart meters to consumers, who are paying for the meters.

We also take this opportunity to express support for the inclusion of a protected period when customers with smart meters cannot be disconnected. This is essential because many customers will require access to financial services not open on weekends and public holidays to arrange payment of their energy bill and subsequent reconnection.

Finally, we strongly urge the Draft Policy recommendation to include reviews of the B2B processes between retailers and distribution businesses to ensure that the mass

disconnections can not occur, due to the ease at which remote disconnection can be carried out.

Consumer policy position N: SCO proposes that the NECF (the Rules) include a requirement for retailers and distribution businesses to make arrangements for [remote] reconnection of premises within 2 hours of a request for reconnection (following rectification of the matter that led to the disconnection). No charges to consumers with smart meters should apply for any reconnection or disconnection services.

7. Retailer marketing through in-home displays (IHDs)

Draft policy response 13: As proposed in draft policy response 11 SCO proposes that the National Energy Marketing Rules be extended to include distributors or third parties acting on behalf of distributors.

Consumer advocates wish to highlight our understanding that this issue is not confined to retailers, to 'marketing' or to in-home displays. These notions ignore the potential of the technology. The NECF should look to principles regarding all communications effected through smart metering infrastructure.

The *technology*, ie the smart metering infrastructure, will allow for parties other than retailers, distribution business and their agents to communicate all kinds of material with customers, directly through the meter - through the Home Area Network (the **HAN**) - and to all kinds of devices besides in-home displays, including as proposed currently, with personal computers.

As such, while we support extending the National Energy Marketing Rules to distributors and third parties acting on behalf of distributors, we do not believe that this is a sufficient policy response to the issue posed through the introduction of marketing inside people's home and support SCO seeking advice from the Australian Communications and Media Authority on issues such as content regulation and from the Office of the Privacy Commissioner in relation to privacy issues.

Fundamentally, however, we oppose the proposal for advertising to be enabled through any HAN enabled service noting in particular that it should be possible for consumers to refuse *any* form or marketing or advertising material via, for example an IHD. A failure to allow such options could significantly undermine consumer engagement with the energy management opportunities provided by the meter. We would welcome further consultation on this issue once SCO has progressed this work.

8. Pre-payment metering

Draft policy position 14: SCO does not propose any changes to prepayment provisions in the draft NECF at this stage.

The NECF intends that all consumers with a prepayment meter are informed of essential information about their current consumption, the financial balance remaining on their meter/account and whether their meter system is operating in normal credit or emergency credit mode (draft rule 803)⁷. However, this obligation is drafted as applying to the *prepayment meter system*, not the meter itself. In the smart meter context this obligation could therefore be fulfilled if the essential information accessible using a HAN and/or IHD, even if it was not displayed on the meter screen.

However, IHDs are not a minimum requirement for the smart meter rollout and many consumers will not have one or be able to afford to buy one, and internet access in the home is still far from universal as discussed earlier, particularly for lower income households or households in remote communities. These are also the households more likely to be on prepayment meter contracts (where allowed). The information critical to providing protection for vulnerable consumers on prepayment metering systems) must be available and accessible even without an IHD or internet access. Rule 803 of the NECF should be amended to clarify that a prepayment meter system must be able to display essential information without a need for any customer enhancements or additions to the system.

We emphasise that the smart meter should not be used as a prepayment meter simply because smart meter functionality allows it. It is imperative that, as outlined in the first exposure draft NECF, prepayment meters are only allowed in jurisdictions that have approved their use following full consultation with relevant stakeholders and that a prepayment meter arrangement is constituted through a separate prepayment meter contract that requires a consumer's explicit informed consent. Those jurisdictions that have explicitly banned the use of prepayment meters should continue to do so.

All other specifications must be as outlined in consumer groups' response to the first draft of the NECF.

Consumer policy position O: SCO proposes that the NECF be amended to clarify that a prepayment meter system must be able to display essential information without a need for any customer enhancements or additions to the system.

9. Embedded generation

Draft policy position 15: SCO does not propose any changes to the draft NECF in relation to de-energisation where an embedded generation system is in place.

The Draft Policy paper notes that “[w]here net metering is in place, disconnection of supply to the meter would also remove the ability of the PV system to feed back into the grid and earn the owner a return on their generation”. A moot technological point is

⁷ Rule 803, National Energy Retail Rules (first exposure draft).

whether or not disconnection of supply to the meter would also disconnect supply from the PV system to the premises and, if so, what consumer protection issues might then arise. In the terms of the NECF, is disconnection intended to include disconnection from consumer-generated supply?

The Draft Policy notes that SCO will further consider issues relating to embedded generation in Draft Policy Paper Two and that the second exposure draft of the NECF will address connection arrangements. Consumer advocates will further consider a view on the relationship between embedded generation, smart meters and the NECF when all of the information is available. In the meantime we suggest that it would be prudent for SCO to delay settling a policy position until it is able to consider appropriately informed stakeholder views.

For any questions in relation to this submission please contact the relevant organisational representatives from the signatory list attached in **Appendix B**.

Appendix A – Summary of draft, revised and proposed policy positions

Consumer policy position A: SCO proposes that the NECF (the Law) be amended to include in Section 103 Interpretation, definitions of ‘meter’, ‘smart meter’, ‘smart metering infrastructure’ and ‘smart metering services’.

~~**Draft policy position 1:** SCO does not propose any smart meter-related changes to the draft NECF hardship provisions at this stage.~~

Consumer policy position B: SCO recognises that the general consumer protection and hardship provisions proposed in the first exposure draft of the NECF are inadequate and proposes that the provisions be amended in line with submissions to deliver robust consumer protections.

Consumer policy position C: SCO proposes that the NECF (the Law) be amended to include definitions of ‘time-related pricing’ and/or ‘time-of-use pricing’, ‘dynamic-’ and or critical- peak pricing’,

Consumer policy position D: SCO will monitor and report the effects of time related pricing on consumers with regard to distributional impacts, cross subsidies and effects on competition.

Draft policy position 2: SCO proposes that all customers with smart meters should be able to check that their meter is working correctly, and reconcile their bills against their meter with a reasonable degree of certainty.

Consumer policy position E: SCO proposes that the AER develop and enforce guidelines for the mandatory content of energy bills to ensure the provision of consistent and comparable consumption data.

Draft policy position 3: SCO proposes that retailers provide customers on time related tariffs with consumption data for each tariff segment (e.g. peak, off-peak, shoulder) on their bill to enable them to reconcile their bill charges.

Consumer policy position F: SCO proposes that in order to appropriately satisfy the principles of and provisions for [explicit] informed consent in the NECF, retailers provide customers with appropriate historical time-related consumption data as a precursor to offering time-related tariff products.

Consumer policy position G: SCO proposes that, given the considerable expense imposed on consumers by a rollout of smart metering infrastructure and the assumption that the value of benefits will exceed the value of costs, it should be assumed that meters and related systems are always fully functional and that any costs arising from meter and/or system failures will be borne by the meter provider.

~~**Draft policy position 4:** SCO proposes in situations where meter data is permanently lost in a DPP event that substitutions not be based on historical data. SCO proposes that customers should be charged for estimated electricity consumed at a non-DPP price.~~

Consumer policy position H: SCO proposes that in any situation where meter data is permanently lost customers should not be charged for consumption. Substituted data is prohibited and an assumption should be drawn that no consumption data equals no consumption.

~~**Draft policy position 5:** SCO does not propose any smart meter related changes to overcharging or undercharging provisions in the NECF.~~

Consumer policy position I: SCO proposes that provisions are made in the NECF to limit the period for retailers to collect undercharged amounts to three months if the customer has a smart meter.

~~**Draft policy position 6:** SCO proposes that retailers be required to inform customers with smart meters of the scope of any estimation on their bill.~~

Consumer policy position J: SCO proposes that applying estimated data to a customer's bill is prohibited.

Draft policy position 7: As proposed in draft policy position 3, SCO proposes that retailers provide customers on a time-related tariff with consumption data for each segment rate (e.g. peak, off-peak, shoulder) on their bill.

Consumer policy position K: SCO proposes that in order to inform consumers and their decisions, the NECF (the Rules) be amended and that the AER develop and enforce guidelines on the mandatory content of energy bills to ensure consumers are provided with consistent and comparable consumption data.

Draft policy position 8: SCO proposes that the draft NECF define 'historical billing data' so that it is clear that retailers must be able to provide:

- the full set of metering data on which the bill was based; and
- a summary of the meter data on which the bill was based.

SCO proposes that it be at the customer's discretion as to which of these levels of detail they require.

~~**Draft policy position 9:** SCO does not propose any changes to the draft NECF at this stage to regulate direct load control.~~

Consumer policy position L: SCO proposes that the NECF be amended to include definitions of 'direct load control', 'appliance' and 'home area network'.

SCO proposes that the NECF include principles and model contract terms governing direct load control products.

~~**Draft policy position 10:** SCO does not propose any changes to the draft NECF related to interruption of supply at this stage to regulate involuntary use of supply capacity control to manage emergency situations.~~

Consumer policy position M: SCO proposes that the NECF (the Law):

- (a) explicitly prohibit retailers from using supply capacity control ;**
- (b) clearly define parameters for distribution businesses to use:**
 - **'involuntary supply capacity control' for network maintenance and emergency situations ; and**
 - **'voluntary supply capacity control' subject to the explicit informed consent of the customer to the contract .**

~~**Draft policy position 11:** SCO proposes that the National Energy Marketing Rules be extended to include distributors or third parties acting on behalf of distributors.~~

~~**Draft policy position 12:** SCO proposes that the draft NECF be amended to include de-energisation notification requirements to require retailers to inform customers with smart meters that de-energisation of their electricity supply may occur remotely rather than manually.~~

Consumer policy position N: SCO proposes that the NECF (the Rules) include a requirement for retailers and distribution businesses to make arrangements for [remote] reconnection of premises within 2 hours of a request for reconnection (following rectification of the matter that led to the disconnection). No charges to consumers with smart meters should apply for any reconnection or disconnection services.

~~**Draft policy response 13:** As proposed in draft policy response 11 SCO proposes that the National Energy Marketing Rules be extended to include distributors or third parties acting on behalf of distributors.~~

~~**Draft policy position 14:** SCO does not propose any changes to prepayment provisions in the draft NECF at this stage.~~

Consumer policy position O: SCO proposes that the NECF be amended to clarify that a prepayment meter system must be able to display essential information without a need for any customer enhancements or additions to the system.

~~**Draft policy position 15:** SCO does not propose any changes to the draft NECF in relation to de-energisation where an embedded generation system is in place.~~

Appendix B – List of Signatory Organisations

Australian Council of Social Service, Tony Westmore email; tony@acoss.org.au

Consumer Action Law Centre, Janine Rayner, email: janine@consumeraction.org.au

Consumer Utilities Advocacy Centre, Jo Benvenuti email:

<mailto:jo.benvenuti@cuac.org.au>

Public Interest Advocacy Centre, Joel Pringle, email: jpringle@piac.asn.au

Queensland Council of Social Service, Linda Parmenter email: linda@qcross.org.au

Queensland University of Technology CCCL, Kathryn Mellick email:

kathryn.mellick@qut.edu.au

South Australian Council of Social Service, Tom Stead email: tom@sacoss.org.au

Tasmanian Council of Social Service, Miranda Kellett email: miranda@tascoss.org.au

Uniting Care Wesley Adelaide, Mark Henley, email:

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Western Australia Council of Social Service, Linda Goncalves, email:

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