



Consultation Paper: Off-grid energy consumer protection framework review

The purpose of this paper is to seek feedback on the effectiveness of the current off-grid energy consumer protection framework and consult on some proposed changes. We want to hear from off-grid consumers about their experiences with their energy providers. Current protections are summarised in our [factsheets](#).

What is working well? What could be improved?

You can let us know your thoughts and experiences by:

- ▶ emailing us or registering your interest in consultation opportunities at escosa@escosa.sa.gov.au
- ▶ calling our office on **1800 633 592**.

You can also provide a written submission to escosa@escosa.sa.gov.au by 25 March 2022.

Purpose of this review

The Commission's primary objective under the *Essential Services Commission Act 2002* (**ESC Act**) is to protect the long-term interests of South Australian consumers with respect to the price, quality and reliability of essential services.

There are around 11,000 customers across South Australia who do not have a choice of providers for their electricity and gas services. We refer to these arrangements as 'off-grid', as they are not part of the national energy market. We set some conditions around how these services are provided so that customers have some basic rights. We call these conditions a 'consumer protection framework'.

This review will assess the existing off-grid energy consumer protection framework and make changes if needed. Off-grid energy service provider performance data has not highlighted any major problems with the current consumer protection framework. However, we are seeking feedback on some proposed changes to enhance the clarity and consistency of obligations between the off-grid gas and electricity markets.

What does this review cover?

The Commission has looked at three areas of the off-grid consumer protection framework for possible reform:

1. **A comparison of consumer protections across off-grid gas and electricity.** There are currently some differences between the protections offered to off-grid gas consumers and off-grid electricity consumers. Where practical, changes are proposed so that consumers have a more consistent set of core protections across the two fuel types. This will result in some additional protections being introduced for off-grid gas consumers and some additional protections for off-grid electricity consumers. We invite feedback on these proposals.
2. **A comparison of off-grid hardship consumer protections and the National Energy Customer Framework.** There are a range of protections for off-grid customers experiencing hardship, with some differences to those offered under the National Energy Customer Framework (**NECF**) for on-grid customers. We welcome feedback on any consumer impacts of these differences for off-grid consumers.
3. **Further consultation on changes to the Prepayment Meter System Code.** Responses to an earlier [Issues Paper](#) on this code highlighted some areas for possible change, which are set out below. We are seeking further feedback before any changes are made. See the [PMSC review update paper](#) for more details.

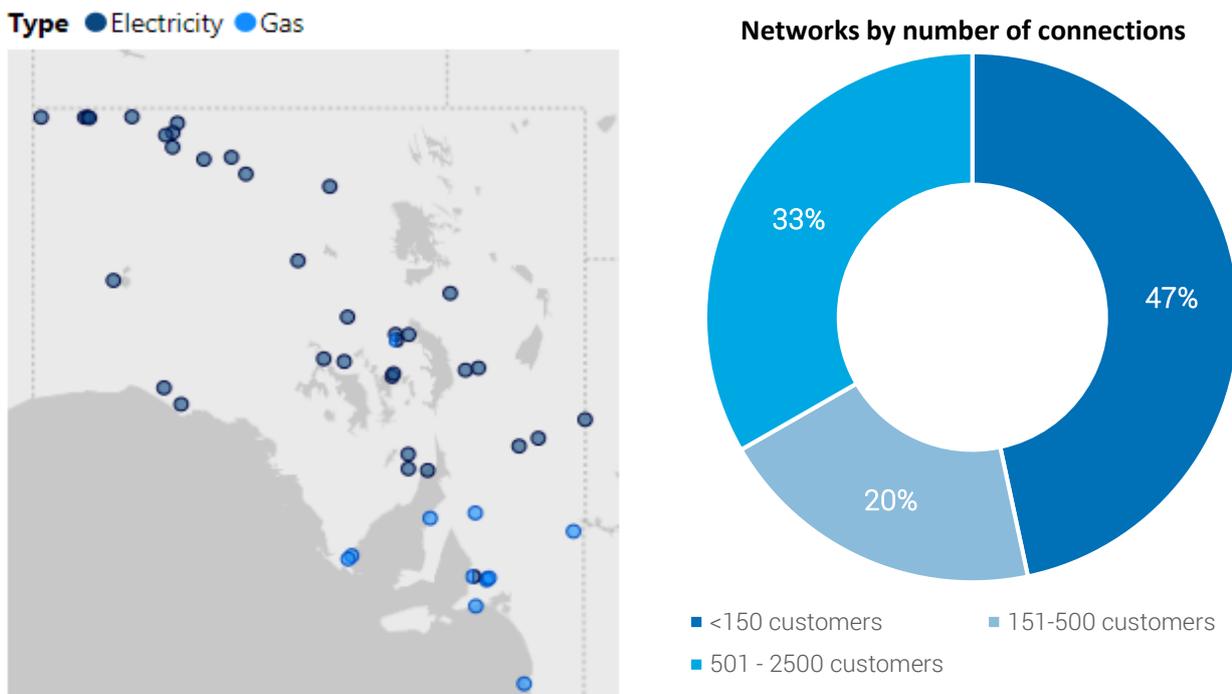
Who is directly impacted by this review?

The Commission licenses nine off-grid electricity distributors, four of which are also licensed to retail electricity, five gas distributors (four LPG and one natural gas) and two gas retailers (both LPG). These off-grid suppliers include councils and private operators.

Their networks are mostly located in regional and remote areas across the State, serving small communities, with 67 per cent serving fewer than 500 customers.

In total, the networks provide services to around 11,000 customers.

Figure 1: Off-grid energy network locations by energy type and percentage of networks by number of connections



Each year the Commission publishes a [report](#) outlining the performance of these off-grid energy networks. The data does not suggest there are any major problems with the current framework.

1. A comparison of consumer protections across off-grid gas and electricity

The Commission's consumer protections for off-grid energy consumers include:

- ▶ minimum contractual terms and conditions
- ▶ dispute resolution obligations
- ▶ supply obligations, and
- ▶ billing and payment requirements.

These current key protections are summarised in two [factsheets](#).

There are currently differences between the protections offered to off-grid gas consumers under the Reticulated LPG Code and those offered to off-grid electricity consumers under the Commission's licensing conditions. Some of these differences are explained by the different operating requirements for off-grid gas and electricity. **Where there is no clear reason for a difference, we propose to set a standard requirement for both electricity and gas, based on the strongest current requirement.** These changes are shown in the table below, which sets out the proposed standard for consumer protection in the first column, and shows whether this standard is a current requirement for off-grid electricity and gas in the second and third columns.

We invite feedback on these proposed protections, including on any further improvements.

Proposed consumer protection	Current requirement: electricity	Current requirement: gas
<p>Contractual information disclosure – licensees must, as soon as practicable following the commencement of a contract for the sale and supply of energy to a small customer (and in any event no more than 10 business days after that date), provide the small customer with a written notice including key information, such as:</p> <ul style="list-style-type: none"> - contract commencement date - the prices, charges, tariffs and service levels that will be applicable in respect of the contract (and the manner in which any changes will be effected) - the costs to the small customer associated with entering the contract - type and frequency of bills, payment methods and options, and dispute resolution options. 	<p>⊗ Not required.</p>	<p>✔ Required.</p>
<p>Price disclosures – licensees must publish on their website a list of all prices charged by the licensee for the sale and supply of energy; and a list of all fees and charges by the licensee associated with the sale and supply of energy. Any variation of prices must be reflected in published price lists within five days.</p>	<p>⊗ Not required.</p>	<p>✔ Required.</p>
<p>Billing – licensees must use best endeavours to issue bills at least quarterly. A range of minimum information must be provided on a customer’s bill:</p> <ul style="list-style-type: none"> - the customer’s name, account number and supply address - all charges for energy sold by the licensee to the customer - any additional charges (e.g. special meter readings, account fees) - the meter readings, metering data or estimate for the bill - consumption, or estimated consumption (in kWh or MJ) - pay-by-date (at least 12 business days after the bill is sent) - a reference to the availability of concessions, if any - the amount of any government concessions or rebates applicable to the small customer separately itemised - the amount of any security deposit provided by the customer - number for billing and payment enquiries - 24 hour contact number for faults and emergencies - amount of arrears or credit - available payment methods. <p>If a customer has not paid a bill by the due date, the licensee may send to that customer a reminder notice that its bill is past due, giving the customer a further due date that is no less than five business days after the notice is issued.</p>	<p>⊗ No requirement for payment methods to be included on their customer bills.</p> <p>⊗ No requirement to provide ‘the amount of any government concessions or rebates applicable to the small customer separately itemised.’</p>	<p>⊗ No requirement that a reminder notice provide no less than five business days after the notice is issued for payment.</p>

Proposed consumer protection	Current requirement: electricity	Current requirement: gas
<p>Billing reviews and dispute resolution – licensees must review a customer’s bill when asked by that customer and must inform the customer of the outcome of that review as soon as reasonably possible, but in any event, within a regulated timeframe. Where a licensee is, after conducting a review, satisfied that the bill is correct they must advise the small customer of the existence of their dispute resolution processes.</p> <p>The licensee must inform a customer about the outcome of a bill review within 20 business days.</p> <p>if a customer advises the retailer that they are not satisfied with the outcomes of the review, the licensee must inform the small customer that they may lodge a dispute with:</p> <ul style="list-style-type: none"> - the licensee’s external dispute resolution body; or - the Ombudsman Scheme (where the licensee is required to participate in that scheme by the Commission), and advise the small customer of the process for lodging such a dispute. <p>❖ <i>Please note that all off-grid energy retailers are already required to become members of the Energy and Water Ombudsman SA scheme by July 2022.</i></p>	<ul style="list-style-type: none"> ⊗ The regulated timeframe to inform a customer about the outcome of a bill review is 30 business days. ⊗ Off-grid electricity retailers are not required to inform a small customer that they may lodge a dispute with: <ul style="list-style-type: none"> - the licensee’s external dispute resolution body; or - the Ombudsman, and advise the small customer of the process for lodging such a dispute. 	<p>✔ Required.</p>
<p>Payment methods – licensees must offer at least the following payment methods to its small customers:</p> <ul style="list-style-type: none"> - In person - by mail, and - direct debit 	<p>⊗ Off-grid electricity licensees are not required to offer direct debit.</p>	<p>✔ Required.</p>

At present, there are different approaches to how the consumer protection framework is implemented across off-grid electricity and gas services:

- ▶ **off-grid electricity services:** there are no retail codes, all requirements, including consumer protection and reporting information requirements, are set out in individual licences
- ▶ **reticulated LPG services:** there is an industry retail code, which contains the industry consumer protection and reporting information requirements.

The inclusion of consumer protection obligations in each electricity licence (rather than in a centralised, consistent instrument, such as a retail code) has raised stakeholder concerns about the consistency of obligations across licensees.

We propose to develop and enforce an off-grid electricity retail code for all off-grid electricity licensees. This will improve consistency and clarity of consumer protection obligations in the off-grid electricity sector, and ensure that any changes to these obligations are implemented quickly and efficiently for all licensees.

Proposal for consultation– Establishing an Off-grid Electricity Retail Code

Currently, the Commission’s consumer protections for off-grid electricity consumers are contained in individual licences for each service provider. We propose to develop an Off-grid Electricity Retail Code to bring all relevant consumer protections into a central location to improve clarity and consistency for retailers and consumers.

2. A comparison of off-grid hardship consumer protections and the National Energy Customer Framework

Since the Commission introduced the current consumer protection framework for off-grid electricity in 2008, and off-grid gas in 2014, the NECF, which covers on-grid consumers, has evolved considerably. We have looked at the extent, and relevance, of any differences in hardship and disconnection protections offered under the two regimes.

Hardship and disconnection protections for consumers are the focus of this comparison.

In summary, the Commission's consumer protection framework provides comparable protections to consumers experiencing hardship and payment difficulties to those offered under the NECF. However, there are some differences between the frameworks, which are set out in the table below.

We welcome feedback on any consumer impacts of these differences. These will be considered before any changes are made.

Consultation topics – Hardship protections

- ▶ **Hardship Policy:** Although many of the protections are the same, the Commission's consumer protection framework does not require off-grid energy retailers to develop and maintain a Hardship Policy that consolidates all the rights and obligations for consumers in one place.
- ▶ **Hardship programs and processes:** The Commission does not explicitly require licensees to have programs and processes in place, but, rather, requires them to meet minimum consumer protection requirements.
- ▶ **Identifying hardship:** The NECF requires retailers to be more proactive in identifying consumers who may be experiencing hardship. The Commission's consumer protection framework relies more heavily on self-identification by consumers and identification prior to disconnection by retailers.
- ▶ **Payment options:** The NECF requires retailers to offer Centrepay as a payment option. The Commission's consumer protections provide for various payment options (for instance, licensees are required to offer payment in advance, an interest free and fee free instalment plan, and the right to have a bill redirected) but do not include the requirement to offer Centrepay.
- ▶ **Payment plans:** There are similar obligations around providing payment plans, including the need to take a customers' capacity to pay into account. However, off-grid retailers are not explicitly required to provide information to customers on the number and frequency of instalments, and the basis on which any instalments are calculated.
- ▶ **Late payment fees:** Unlike the NECF, the Commission's consumer protection framework does not require retailers to waive late payment fees for customers on instalment plans, or who have elected to make payments using a flexible payment approach.

Consultation topics – Disconnection protections

Prevention of disconnection: Protections from disconnection are similar between the Commission's consumer protection framework and the NECF. However, there are four key differences:

Where a customer has applied for assistance: NERL retailers are prevented from disconnecting a customer's energy supply where the customer has formally applied for a rebate, concession or relief available under any government funded scheme and a decision on the application has not been made.

Protected period: Under the NECF, NERL retailers cannot disconnect a customer before 8am on a business day and on the days between 20 December and 31 December (both inclusive). The Commission prohibits disconnection on a Friday, after 3pm on a business day, the day before a public holiday, on weekends and on public holidays.

Where a complaint is unresolved: NERL retailers are prevented from disconnecting a customer where a complaint has been made in relation to the proposed reason for disconnection *to the retailer* or the ombudsman and the complaint remains unresolved. The Commission's requirements only prevent disconnection only where a complaint has been made to an external dispute resolution body and remains unresolved.

Life support equipment: The definition of life support equipment differs between the NECF and the Commission's framework in relation to the specified equipment and the manner in which equipment can be recognised as 'life support equipment'.

3. Further consultation on changes to the Prepayment Meter System Code

In general, South Australian energy customers pay for their electricity or gas after they have consumed it and on receipt of a bill from their energy provider. This is referred to as a 'post-payment' arrangement. A prepayment arrangement requires energy customers to pay for their energy use before it is supplied.

The Commission regulates prepayment meter systems for off-grid energy retail operations in South Australia through the Prepayment Metering System Code (PMSC). The PMSC applies as a condition of every off-grid energy retail licence granted by the Commission, and provides minimum consumer protections. An off-grid energy retailer can only introduce prepayment systems with the written approval of the Commission.

The Commission has received applications from three off-grid electricity retailers to introduce prepayment meter systems. The applications identified some potential issues with the PMSC that required further consideration. To address these, a review of the PMSC commenced with the publication of an [Issues Paper](#) in March 2021. Four [submissions](#) were received from stakeholders. The table below sets out the Commission's initial response to these submissions, as well as proposals and topics for further consultation. Further information is available in the [PMSC review update paper](#).

Proposals and topics for consultation – Prepayment Metering System Code

Emergency credit facilities

PROPOSAL: We propose to keep the existing emergency credit requirements, taking into consideration that these amounts must be paid back upon account top-up.

FEEDBACK is invited on introducing a requirement for energy retailers to offer customers discretionary loans.

Support for customers experiencing payment difficulties

PROPOSAL: We propose to accept the Department of Energy and Mining's (DEM) suggestion to remove from the PMSC the trial period and the retailer's subsequent right to charge exit fees and reversion costs. Removing the trial period enables a customer in a prepayment arrangement to go back to a post-payment arrangement at any time and at no cost to them.

PROPOSAL: DEM's submission identified that the PMSC technically requires a new contract each time a customer moves from post-payment to pre-payment or vice versa. We propose to develop a new standard contract that covers both pre-paid and post-paid arrangements. This will be simpler for both the customer and the retailer.

Retailer public reporting requirements

PROPOSAL: Retailers are not currently required to report on any prepayment metrics. We propose to include a requirement for energy retailers to report on the following metrics, quarterly and in aggregate:

Number of times emergency credit was accessed. This data will support analysis of the relationship between emergency credit access and disconnections. Emergency credit access may be an early indicator of hardship.

Number and duration of self-disconnections. This is a key indicator of customers experiencing hardship and will provide valuable insight into customer behaviour and the effectiveness of consumer protections.

Number of times the minimum requirements for retailer follow up with customers following disconnection were met, and the reasons for any disconnection. This requires retailers to make immediate arrangements to offer: reversion to post-payment at no cost, information about and referral to State Government assistance programs, and information on independent financial counselling services. This data will support better understanding of the reasons for self-disconnection, and provide data on the number of times the payment difficulty threshold is reached.

Prepayment System Customer Consultation Groups

PROPOSAL: Currently, the PMSC requires all retailers approved to offer prepayment arrangements to establish a customer consultation group. We propose to allow certain retailers who offer prepayment arrangements to specific categories of customers (for instance, retailers operating within the Remote Area Energy Supply scheme) to establish an umbrella consultation group.

► Information provision: information provided prior to gaining explicit informed consent

PROPOSAL: We propose the development of a standard explicit informed consent document, as suggested by DEM. The document will include information on the self-disconnection risks associated with prepayment metering.

Additional issues raised by stakeholders: Limitation on the recovery of debt

FEEDBACK is invited on DEM's proposal to introduce a prepayment splitting process where part of the prepaid funds can be used to repay existing customer debt. This requires explicit informed consent by the customer. We are seeking feedback on this proposal, including how proposed limits on the amount to be allocated to existing debts could be set.

Additional issues raised by stakeholders: Life support system definition

FEEDBACK is invited from stakeholders on an informal submission from the South Australian Council of Social Service that the definition of life support equipment in the PMSC be updated to reflect the definition contained in the National Energy Retail Rules.

Next steps

We welcome feedback on the issues raised in this Consultation Paper by Friday, 25 March 2022. All feedback provided by stakeholders will be considered, and additional consultation may take place, depending on the issues raised.

Any changes to draft licences and industry codes will be released for further public feedback before they are finalised.

If you do not wish to make a submission, but would like to be updated on progress with this review, please subscribe for updates at the Off-grid consumer protection framework review [project page](#).