

# POST-NECF REVIEW OF REGULATORY INSTRUMENTS

*Draft Decision*

May 2013



## REQUEST FOR SUBMISSIONS

The Essential Services Commission of SA (**the Commission**) invites written submissions from interested parties in relation to the conclusions raised in this Draft Report. Written comments should be provided by **Friday, 21 June 2013**. It is highly desirable for an electronic copy of the submission to accompany any written submission.

It is Commission's policy to make all submissions publicly available via its website ([www.escosa.sa.gov.au](http://www.escosa.sa.gov.au)), except where a submission either wholly or partly contains confidential or commercially sensitive information provided on a confidential basis and appropriate prior notice has been given.

The Commission may also exercise its discretion not to exhibit any submission based on their length or content (for example containing material that is defamatory, offensive or in breach of any law).

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The Essential Services Commission of South Australia is the independent economic regulator of the electricity, gas, ports, rail and water industries in South Australia. The Commission's primary objective is the *protection of the long-term interests of South Australian consumers with respect to the price, quality and reliability of essential services*. For more information, please visit [www.escosa.sa.gov.au](http://www.escosa.sa.gov.au).

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# 1. BACKGROUND

On 1 February 2013, primary responsibility for the regulation of South Australia's retail energy market transferred to the Australian Energy Regulator (**AER**) under the provisions of the National Energy Customer Framework (**NECF**). Following the commencement of the NECF, while it still performs the full suite of regulatory functions for “off-grid” electricity and gas operations, the Commission’s energy-related regulatory roles for “on-grid” operations are now limited. Those limited functions include matters such as setting network service standards, administering the residential energy efficiency scheme and administering specified NECF-transaction obligations.

Having regard to the legislative and regulatory changes that impact on the Commission’s roles and functions as a result of the introduction of NECF, on 1 February 2013 the Commission conducted a limited review of several energy industry codes in January 2013 (pursuant to Part 4 of the Essential Services Commission Act 2002 (**ESC Act**)), which resulted in amendments to those codes which took effect on and from 7 February 2013.

The Commission has retained responsibility for a number of functions that are not regulated by the AER under the National Energy Rules. The Commission is conducting a further review of the following regulatory instruments made by the Commission that continue to apply following the transition to the NECF:

- ▲ Licences - SA Power Networks Electricity Distribution Licence; Envestra Ltd Gas Distribution Licence;
- ▲ Codes - Electricity Distribution Code; Gas Distribution Code; Energy Prepayment Meter System Code;
- ▲ Guidelines - Electricity Industry Guideline No 1 - Transmission and System Control; Electricity Guideline No 12 - Demand Management for Electricity Distribution Networks; Gas Guideline No 1 - Regulatory Information Requirements Distribution System; Energy Guideline 4 Compliance Systems and Reporting; and
- ▲ Enforcement Policy.

The focus of the review is to ensure obligations remain appropriate and to confirm consistency across documents.

The Commission commenced public consultation on this review on 12 March 2013, with submissions due 5 April 2013. Submissions were received from AGL Energy, Envestra; and SA Power Networks.<sup>1</sup> The matters raised in the submissions were minor, with the primary focus was on identifying and removing (where appropriate) obligations otherwise dealt with through the NECF.

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<sup>1</sup> Refer <http://www.escosa.sa.gov.au/projects/192/post-necf-review-of-regulatory-instruments.aspx>.

## 2. LICENCES

### 2.1 SA Power Networks Electricity Distribution Licence

SA Power Networks' on-grid electricity distribution licence is being reviewed to determine whether any clauses can be deleted on the grounds that they are now contained within the NECF regulatory framework. It is anticipated that the review will only result in minor changes to the obligations that SA Power Networks will need to comply with overall.

SA Power Networks has provided a submission which recommends deletion of a number of clauses due to these now being covered by national regulation.

At the same time, the SA Power Networks remote areas electricity distribution licence is being reviewed to ensure it remains appropriate for off-grid customers and is consistent across Commission documents.

#### 2.1.1 SA Power Networks submission

SA Power Networks' submission recommended that a number of clauses could be removed from its distribution licence due to either the implementation of national regimes or the commencement of the NECF.<sup>2</sup> Several administrative changes were also identified.

The clauses suggested for change cover the standard connection and supply contract, disconnection, ombudsman and disputes, demand management, retailer of last resort, co-ordination agreement and business to business (B2B) information exchange.

#### 2.1.2 Commission comment

The Commission agrees with all but one of the suggestions from SA Power Networks as the obligations concerned are now covered by the national regulatory framework. Adoption of the suggestions will only result in minor changes to existing obligations.

SA Power Networks suggested that clause 11 (Ombudsman and disputes) of the distribution licence be deleted because it is covered by the terms of the NECF. The Commission supports this proposal in part.

The Commission supports the view that duplication of regulatory obligations should be minimised where possible. The Commission notes that this position is also mandated by section 24B of the *Electricity Act 1996* (**Electricity Act**) which specifies that 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 the national regulatory framework.

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<sup>2</sup> SA Power Networks' submission can be found at <http://www.escosa.sa.gov.au/projects/192/post-necf-review-of-regulatory-instruments.aspx>

With respect to clause 11, the Commission notes that section 23(1)(k) of the Electricity Act requires the Commission to make the distribution licence subject to “*requiring the electricity entity to participate in an ombudsman scheme*” and “*the terms and conditions of which are approved by the Commission*”.

The Commission acknowledges that the NERL places an obligation on distributors to “*be a member of, or subject to, an energy ombudsman scheme for each jurisdiction where it has small customers connected to its distribution system,*” and thus supports SA Power Networks’ proposal in this respect. The requirement for the terms and conditions to be approved by the Commission is not covered by the NERL and therefore needs to be further considered by the Commission.

The Commission has determined that it will undertake further discussion with SA Power Networks and the Energy and Water Industry Ombudsman in respect of this matter.

### 2.1.3 Commission’s decision

The Commission will remove the clauses suggested by SA Power Networks other than clause 11, in respect of which the Commission will undertake further discussions with SA Power Networks and the Energy and Water Industry Ombudsman.

## 2.2 Envestra Ltd Gas Distribution Licence

Envestra’s gas distribution licence is being reviewed to determine whether any clauses can be deleted on the grounds that they are now contained within the NECF regulatory framework. It is anticipated that the review will only result in minor changes to the obligations that Envestra will need to comply with overall.

Envestra has provided a submission which recommended deletion of a number of clauses due to these now being covered by national regulation.

### 2.2.1 Envestra’s submission

Envestra’s submission recommends that a number of clauses be amended or removed from their distribution licence due to either the implementation of national regimes or the commencement of the NECF.<sup>3</sup> Administrative changes were also identified.

The clauses suggested for change relate to compliance with applicable regulatory instruments, compliance with good gas industry practice, disconnection, ombudsman and disputes, accounts and separate business, information to the Commission, Safety, Reliability, Maintenance and Technical Management Plan, customer concessions, B2B information

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<sup>3</sup> Envestra’s submission can be found at <http://www.escosa.sa.gov.au/projects/192/post-necf-review-of-regulatory-instruments.aspx>

exchange, agreement with retailers, precondition to connection, reconnection after disconnection and definitions.

### 2.2.2 Commission comment

The Commission agrees with a number of suggestions from Envestra, as the obligations are now covered by the national regulatory framework. Adoption of Envestra's suggestions will result in minor changes to existing obligations.

The Commission supports the view that duplication of regulatory obligations should be minimised where possible. This is also mandated in section 26B of the *Gas Act 1997 (Gas Act)*, which specifies that 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 the national regulatory framework.

Envestra has suggested the removal of certain clauses which are discussed below. The Commission does not support these as they are subject to statutory provisions of the Gas Act, not duplicated in the national framework and therefore must be retained under the Gas Act.

- i. Envestra submitted that clause 5.1(a), 5.1(b) and 5.1(c) (Compliance with good gas industry practice) should be deleted, as these sub-paragraphs are covered by other legislation, Guidelines and Codes hence failure to comply with this would be a failure to comply with clause 4.1 of the licence. The Commission notes that these sub-paragraphs are required under the mandatory licence clause provisions of the *Gas Act, 1997 (Gas Act)* and therefore must be contained within the licence.
- ii. Envestra submitted that clause 10.2 (Information to the Commission) should be deleted, as this requirement is isolated to SA. The Commission notes that there is no reference to this requirement in the NERL; however, a statutory requirement exists for this to be a condition of a licence pursuant to the Gas Act and must therefore remain a condition of the licence. In any event, as the Commission retains responsibility for setting service standards and may require from Envestra information as to the operations of those standards from time to time, it is appropriate to retain this clause.
- iii. Envestra submitted that clause 11 (Safety, Reliability, maintenance and technical management plan) should be deleted, as it is covered by regulation 49 of the Gas Regulations. The Commission notes that a statutory requirement exists for this to be a condition of a licence pursuant to the Gas Act and must therefore remain a condition of the licence.
- iv. Envestra submitted that clause 12 (Customer concession and community service obligations) should be deleted as considered not to be relevant to gas distribution. The Commission notes that a statutory requirement exists for this to be a condition of a licence pursuant to the Gas Act and must therefore remain a condition of the licence. The Commission notes, in that regard, that the Minister may choose to implement concession or community service obligations in the future.

Envestra has proposed several other amendments and/or deletions to other clauses of the licence. The Commission supports these proposals in part and has determined to further discuss these with Envestra as discussed below.

- i. Envestra has suggested that clause 4.2(a) and 4.2(b) (Compliance with applicable regulatory instruments) be amended to reflect that monitoring and reporting of compliance to the Commission excludes the monitoring and reporting of compliance to the AER. The Commission has determined that it will undertake further discussion with Envestra in accordance with section 27(2) of the Gas Act regarding clause 4.2(a) and 4.2(b), with a view to modifying the clauses to reflect Envestra's intention.
- ii. Envestra further proposed that clause 8.1 and 8.2 (Ombudsman and disputes) of the distribution licence be deleted because it is covered by national rule requirements. The Commission resolves to have further discussions with Envestra and the Energy and Water Industry Ombudsman on this matter.
- iii. Finally, Envestra proposed that clause 9 (Accounts and separate business) be deleted as there is a duplicate obligation under national requirements. The Commission is cognisant of the removal of the Commission's role in Pricing Principals and has, similar to the above, resolved to have further discussions with Envestra regarding the variation of clause 9.

### *2.2.3 Commission's decision*

The Commission will remove or amend the clauses suggested by Envestra with the exception of the following due to the Commission comments as detailed above:

- i. clause 5.1(a), 5.1(b) and 5.1(c)
- ii. clause 10.2
- iii. clause 11
- iv. clause 12

The Commission has further resolved to undertake further discussions with Envestra (and, as appropriate, the Energy and Water Industry Ombudsman) on the variations of its licence pursuant to section 27 of the Electricity Act with respect to the following:

- i. clause 4.2(a) and 4.2(b)
- ii. clause 8.1 and 8.2
- iii. clause 9

## 3. CODES

### 3.1 *Electricity Distribution Code*

The Electricity Distribution Code (EDC) has been reviewed for minor amendments that may have reciprocal provisions in the NECF. There do not appear to be any significant matters; however SA Power Networks, being the primary stakeholder, reviewed the EDC to clarify its position on relevant EDC provisions.

#### 3.1.1 *SA Power Networks submission*

SA Power Networks noted that the reference to “Metrology” in part D of the Preliminary Section of the code could be removed from “National Metrology Procedures” as there a number of other procedures that require compliance and the term “National Procedures” would encompass all.

SA Power Networks suggested the re-inclusion of the service standards for “Reconnection after Disconnection” (previously EDC 1.10) for re-energisation of a customer’s premises that has been de-energised at a retailer’s request or where distributor has de-energised the customer’s premises otherwise than at the request of the retailer. This is based on the premise that NERR Rule 122 refers to a distributor reconnecting a customer’s premises in accordance with the distributor (jurisdictional) service standards.

It was also suggested that clauses and references to small embedded generators should be removed from Chapter 2 of the EDC as this class of generator is now covered by the Chapter 5A of the National Electricity Rules (NER).

SA Power Networks’ was the only stakeholder that forwarded a submission on the EDC.

#### 3.1.2 *Commission comment*

The EDC has been re-formatted in the latest corporate style of Commission documents.

The Commission agrees with the first two suggestions submitted by SA Power Networks. The reinstatement of the “Reconnection after Disconnection” is the only major change to the EDC. It fulfils the requirements of the national retail rules which recognise jurisdictional service standards. Although a sizable inclusion, this does not represent a policy shift and ensures the maintenance of current practices within the code pre-February 2013.

The matter of removing the references to small embedded generators (SEG) in Chapter 2 of the code requires deeper consideration.

It is clear that Chapter 5A of the NER covers comprehensively, the connection requirements and obligations for distributors and for embedded generators that are both micro (small) embedded generators and non-registered embedded generators operating in and connected to the NEM. The provisions of Chapter 2 of the EDC are no longer applicable to SEGs captured by the National Electricity Rules.

Clause 2.1 of the EDC states that Chapter 2 regulates an embedded generator's access to a distribution network in South Australia where the National Electricity Rules *do not* apply in respect of the embedded generator and applies to distributors and embedded generators as set out in clause 2.1(b).

### 3.1.3 Commission's decision

The Commission agrees with SA Power Networks' position regarding "Reconnection after Disconnection" and accordingly, will reinstate this clause into the EDC in accordance with NERR Rule 122 requirements for the distributor (jurisdictional) service standards to be met.

The Commission will retain the references to small embedded generators in Chapter 2 of the EDC. Chapter 2 regulates an embedded generator's access to a distribution network in South Australia where the National Electricity Rules do not apply in respect of the embedded generator.

## 3.2 Gas Distribution Code

### 3.2.1 Envestra submission

The Commission has reviewed the Gas Distribution Code (GDC). Envestra has submitted a comprehensive list of provisions in the GDC that it considers should be amended. Envestra submitted that it has undertaken a further review of clauses 2.1 and 2.2, which the Commission proposed to retain.

Envestra suggested the deletion of clause 2.1.1(a), which requires the distributor to establish and document operational and system security standards for its distribution system and for all connections and proposed connection in its safety, reliability, maintenance and technical management plan: Envestra noted that there appears to be a duplicate obligation in Regulation 49 of the Gas Regulations 2012. Clause 49(2)(a) requires amongst other things, the safe design, installation, commissioning, operation, maintenance and decommissioning of gas infrastructure owned or operated by the person.

Envestra suggested the deletion of clause 2.1.1(b), on the basis that it duplicates the obligation set out in Regulation 38(1)(c) of the Gas Regulations 2012. Regulation 38(1)(c) specifies the parameters for the delivery pressure at the outlet of the meter which measures gas supplied to the customer.

Envestra suggested the deletion of clause 2.1.1(c) because Envestra believes that this obligation is covered by the terms and conditions of its Access Arrangement for the South Australian Network. Clause 2.1.1(c) specifies that the delivery of gas at the delivery point must be delivered in accordance with the Access Arrangement i.e. the vehicle which sets out the terms and conditions, or otherwise, on a fair and reasonable basis.

Envestra suggested the deletion of clause 2.1.1 (d), on the basis that it duplicates the obligation in Regulation 38 of the Gas Regulations 2012. Regulation 38(1)(a) sets out the requirements for gas quality and odourisation and supersedes the code requirement.

Envestra suggested the deletion of clause 2.1.1(e), on the basis that it believes the obligation to provide the retailer with certain requirements of the distributor is now covered by the Deemed Standard Connection Contract in Schedule 2 of the National Energy Retail Rules. However, there appears to be no clause in the deemed contract that has the same contextual requirement.

Envestra believes that clause 2.2.1, which deals with maintaining the capability and condition of the distribution system, should be deleted on the basis that there is a duplicate obligation in Regulation 38 of the Gas Regulations 2012, given that the maintenance of capability is about maintaining the pressure in the distribution system to supply customers. Clause 2.2.1 deals in a general perspective, with maintaining an overall network condition and capability i.e. fit-for-purpose, as distinct from being able to provide gas at the appropriate pressure.

Envestra believes that clause 2.2.2, which protects customers when the cost of maintaining a connection may exceed the return on the asset, is no longer relevant, noting that this regulation commenced in the late 1990s due to a concern that, with the advent of the (then) Third Party Access Code, Envestra might disconnect domestic consumers where they were deemed non-profitable. Envestra believes the concern was unfounded and has never disconnected a customer on that basis and has stated that it would not be economical or in Envestra's interest to do so. Nonetheless, clause 2.2.2 is there to protect consumers and to ensure the same level of service regardless of consumption and cost of maintaining a gas supply.

### *3.2.2 Commission comment*

The Commission is of the view that duplication of regulatory requirements should be minimised. Further consideration has been given to Envestra's proposals in regard to clauses 2.1 and 2.2.

Considering each in turn, the Commission notes the following;

**Clause 2.1.1(a)** - Regulation 49(2)(a) of the Gas Regulations requires amongst other things, a plan to deal with the safe design, installation, commissioning, operation, maintenance and decommissioning of gas infrastructure owned or operated by the person. Although it may appear that there are duplicate provisions in the GDC, the code requires that standards are established and documented as a distinct component in dealing with the creation of the required plan. A minor amendment to clause 2.1.1(a) is proposed so as to place an obligation on the distributor to establish and document the plan in accordance with the regulations.

**Clause 2.1.1(b)** - Regulation 38(1)(c) of the Gas Regulations 2012 specifies the parameters for the delivery pressure at the outlet of the meter which measures gas supplied to the customer. The previous (1997) version of the Regulations also prescribed the delivery pressure, which is unchanged in the 2012 version. The reason such a code requirement was incorporated was that it provided limits for elevated pressure services which are becoming more popular. However concerns have been raised by the OTR as to the correctness of the

current wording of code provision for elevated services. This should be corrected and be retained in the code.

**Clause 2.1.1(c)** - Envestra suggests the deletion of clause 2.1.1(c) because Envestra believes that this obligation is covered by the terms and conditions of its Access Arrangement for the South Australian Network. Clause 2.1.1(c) specifies that the delivery of gas at the delivery point must be delivered in accordance with that Access Arrangement i.e. as the vehicle which sets out the terms and conditions, or otherwise, on a fair and reasonable basis. Clause 2.1.1(c) ensures the integrity of the process which is undertaken in an open and transparent manner and that there is no deviation from the access arrangement.

**Clause 2.1.1(d)** - Envestra suggests the deletion of clause 2.1.1(d) as it duplicates the obligation in Regulation 38 of the Gas Regulations 2012. Regulation 38(1)(a) sets out the requirements for gas quality and odourisation. This appears to be a duplicate code provision and it is proposed that it be removed.

**Clause 2.1.1(e)** - Envestra suggests the deletion of clause 2.1.1(e) as it believes the obligation to provide the retailer with certain requirements of the distributor is now covered by the Deemed Standard Connection Contract in Schedule 2 of the National Energy Retail Rules. There appears to be no clause in the deemed contract that has the same contextual requirement. However, clause 2.3.1(f) "Preconditions to Connection" appears to cover this aspect more broadly and would negate the need for retailer involvement. The customer would investigate the requirements directly with the distributor

**Clause 2.2.1** - Envestra believes that clause 2.2.1 should be deleted. However, clause 2.2.1 deals in a general manner with maintaining an overall network condition and capability, i.e., fit-for-purpose, as distinct from the clause being limited to being able to provide gas at the appropriate pressure. This code requirement should remain as it is a fundamental requirement of the distributor to provide a sound and capable distribution network.

**Clause 2.2.2** - Envestra believes that clause 2.2.2 is no longer relevant. However, clause 2.2.2 is a consumer protection instrument which ensures that a connection to the network that may not be cost effective is maintained i.e. that connection point should receive the same level of service regardless of consumption and cost to maintain a gas supply.

### **3.2.3 Commission's decision**

The Commission will update 2.1.1(a) so as to place a definitive obligation on the distributor to establish and document the plan in accordance with the regulations.

Clause 2.1.1(b) will be amended in consultation with the OTR to clarify the pressure requirements for elevated pressure services.

Clause 2.1.1(c) will be retained to ensure the integrity of the connection process and to ensure that there is no deviation from the provisions of the access arrangement.

Clause 2.1.1(d) will be deleted as it duplicates the requirements of the gas regulations.

Clause 2.1.1(e) will be deleted. Although there appears to be no clause in the deemed contract that has the same contextual requirement, clause 2.3.1(f) “Preconditions to Connection” appears to cover this aspect more broadly and would negate the need for retailer involvement.

Clauses 2.2.1 and 2.2.2 will be retained and remain unchanged.

### 3.3 Energy Prepayment Meter System Code

The Energy Prepayment Meter System Code (**EPMSC**) is being reviewed to ensure obligations remain appropriate for off-grid suppliers and to confirm consistency across Commission documents. The intent of the EPMSC remains unchanged.

The amendments to the EPMSC include removing references to obsolete industry codes, removing information relating to the pre-NECF regulatory framework as well as updating terminology and definitions as required.

Previously the EPMSC referred to market contracts, standing contracts and default contracts. These types of contracts do not apply to off-grid suppliers and as such reference to these contracts have been removed from the EPMSC.

An off-grid supplier is required to sell under ‘standard terms and conditions’ as a requirement of its licence. These standard terms and conditions are approved by the Commission in accordance with the Electricity Act 1996 or Gas Act 1997. The EPMSC has been amended to refer to standard terms and conditions in this context.

Furthermore, where the EPMSC referred to definitions contained in other industry codes, these definitions have been incorporated directly into the EPMSC.

The Commission received one submission regarding the EPMSC from SA Power Networks as follows:

*Currently, this code is enacted on retailers through their ESCOSA issued retailer licenses which no longer exist. It is assumed that this document will need to be modified to be the “local instrument” referred to in NERL Part 2 Division 10.*

The Commission notes SA Power Networks comments and clarifies that the EPMSC only applies to off-grid retailers, who continue to be licenced by the Commission.

## 4. GUIDELINES

### 4.1 *Electricity Industry Guideline No.1 – Operational Performance Reporting*

Electricity Industry Guideline No 1 has been reviewed to reflect the shift of reporting certain aspects of performance from the Commission to the AER in accordance with the NECF requirements. This included removal of references to connection contracts under Part B of the EDC and removal of reporting proformas OP1.3 “time to provide written responses” and OP1.4 “planned interruptions”. The Guideline has been reformatted in the Commission’s corporate style. Some proformas have also been reformatted however there is no change to the content of the reporting requirements.

#### 4.1.1 *SA Power Networks submission*

SA Power Networks submitted that references to the *connection and supply contracts* should be removed from the Guideline. The reporting of performance against GSL payments should refer to the new section of the EDC section 1.1.4.

SA Power Networks also suggested that all references to “*ETSA Utilities*” should be removed and replaced with “*Distributor*” on the basis that the Definitions section has a definition of *Distributor* as SA Power Networks.

SA Power Networks suggested the removal of OP 1.3 and OP 1.4 as the obligations pertaining to these reporting proformas have been removed from the EDC.

#### 4.1.2 *Commission comment*

The Commission’s review of Electricity Guideline 1 concurred with SA Power Networks’ suggested deletions. It is agreed that the removal of “*ETSA Utilities*” from the body of the Guideline is a sensible proposal. All of the amendments proposed by SA Power Networks will be adopted.

#### 4.1.3 *Commission’s decision*

The Guideline will be amended to remove references to the *connection and supply contracts* and code references will be updated. Proformas OP 1.3 and OP 1.4 will be deleted from the Guideline and “*ETSA Utilities*” will be replaced by “*Distributor*” in the body of the document.

## 4.2 Electricity Guideline No 12 - Demand Management for Electricity Distribution Networks

Electricity Guideline No 12 will be reviewed at a later date. Its relevance will be assessed (once the 2005-2010 EDPD DM funding is expended) and it may possibly be repealed.

## 4.3 Gas Guideline No 1 - Regulatory Information Requirements Distribution System

Gas Guideline No 1 has reviewed in the same manner as Electricity Guideline No 1. Any aspects of the guideline that are now contained in the NECF have been deleted. Requirements of the Technical Regulator have been reviewed to ensure consistency between both agencies.

### 4.3.1 Envestra submission

Envestra noted that following the consultation process of the AER's *Performance Reporting Procedures and Guidelines* (June 2012), there were no AER-imposed reporting requirements because existing jurisdictional performance reporting will continue in its place. In relation to proposed changes to the Gas Guideline, Envestra therefore assumed that the reporting obligations will remain, albeit with changes that are necessary to align with the legislative changes.

In its original and subsequent submissions, Envestra provided a list of proposed amendments to Gas Guideline No. 1 as tabled below in a condensed form. Commission comment (bold) is incorporated in the table.

Reference	Action
Clause 1.2.4 - Code and licence obligations	No longer relevant. Clause 3.6 has been deleted from the <i>Gas Distribution Code</i> . <b>Obligation contained in new clause 1.7.</b>
Clause 3. Index of Proformas – Recurring Information Requirements	Pending amendment of the proformas, amend the index accordingly. <b>Index of proformas to be updated as required.</b>
Proforma OP 1. Promptness of Connection	Delete report. Clauses 3.1 and 3.2 have been deleted from the <i>Gas Distribution Code</i> . <b>Agreed deletion.</b>
Proforma OP 2. Network Extension and Expansion Charges	Delete report. Clause 3.5 has been deleted from the <i>Gas Distribution Code</i> . <b>Agreed deletion.</b>
Proforma OP 3. Interruptions	Delete report. Clause 6 has been deleted from the <i>Gas Distribution Code</i> . <b>Agreed deletion – covered by NECF.</b>
Proforma OP 4. Major Interruptions	Delete report. Monthly and immediate reports are submitted to the OTR in accordance with Regulation 50 of the <i>Gas Regulations 2012</i> . <b>This reporting requirement should be retained for ESCOSA and OTR purposes - agreed position with the OTR.</b>
Proformas OP 5 and OP 6 (Legislative references)	Amend to reflect changes in legislation. <i>Gas Regulations 1997</i> has been revoked and replaced with <i>Gas Regulations 2012</i> . Clause references to be updated to align with latest regulations. <b>Agreed amendment.</b>

Reference	Action
Proforma OP 8. Complaints	Amend table. Clauses 3.1.1, 3.2.1, 6.2.1, 6.4.1 and 8 have been deleted from the <i>Gas Distribution Code</i> . Furthermore small customer complaints and disputes are now regulated under Part 4 of the <i>National Energy Retail Law</i> . Additionally, “reconnecting new tenants” and “disconnections in error” are now regulated by Part 6 of the <i>National Energy Retail Rules</i> . <b><i>This element requires further consultation with OTR,</i></b>
Appendix Glossary	Pending amendment of the guidelines, amend the definitions accordingly. <b><i>Agreed amendment.</i></b>

#### 4.3.2 Commission decision

Gas Guideline No.1 will be amended as noted in the above table.

### 4.4 Energy Guideline 4 - Compliance Systems and Reporting

Energy Guideline 4 Compliance Systems and Reporting is being reviewed to ensure that the obligations listed remain appropriate and to confirm consistency across Commission documents.

The majority of the guideline will remain unchanged. Sections that previously applied to NERL retailers will be removed. The obligations applicable to transmission and distribution licences will be updated in accordance with the amendments made to the respective licences and industry codes (refer above).

This is an opportunity to improve the efficiency of regulatory compliance reporting for those who continue to be licensed by the Commission.

Currently, distribution and transmission licences require quarterly reporting for a limited number of obligations (quarterly reporting is not required for retail or generation licences): referred to as “type 2” obligations. It is proposed that these “type 2” obligations, which are limited in number, be re-assessed and either promoted to “type 1” (immediate) reporting obligations or demoted to “type 3” (annual) reporting obligations. Removing “type 2” reporting obligations will improve efficiency for both regulated businesses and the Commission.

Energy Guideline 4 Compliance Systems and Reporting will be further amended to reflect the revised terms of other regulatory instruments described above as necessary.

## 5. ENFORCEMENT POLICY

The Enforcement Policy is being reviewed to ensure that its content is current and to confirm consistency across Commission documents.

Only minor amendments have been made to the Enforcement Policy to reflect the Commission's increased functions under the Water Industry Act 2012.

One submission was received in regard to the Enforcement Policy from Envestra. Envestra has no specific comments on this policy other than to propose that the Commission's approach to compliance and enforcement as set out in this policy should be aligned with the approaches, objectives and expectations set out in the current reporting guidelines.

## 6. NEXT STEPS

The Commission seeks comments on the matters raised in this Draft Decision, and any other related matter considered relevant by stakeholders, by **Friday, 21 June 2013**.

Following receipt of submissions, the Commission's final decision and regulatory documents will be released, to take effect mid July 2013.



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