

WATER RETAIL CODE – MAJOR RETAILERS

WRC/01

Explanatory Memorandum

November 2012



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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.

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GLOSSARY OF TERMS

Act	<i>Water Industry Act 2012</i>
Commission	Essential Services Commission of South Australia
Customer	a person who owns land in relation to which a retail service is provided and includes: <ul style="list-style-type: none"> • where the context requires, a person seeking the provision of a retail service; and • in prescribed circumstances—a person supplied with retail services as a consumer or user of those services (without limiting the application of this definition to owners of land); and • a person of a class declared by the regulations to be customers.
CWMS	Community Wastewater Management System
DCSI	Department for Communities and Social Inclusion
ESC Act	<i>Essential Services Commission Act 2002</i>
Government	Government of South Australia
LGA	Local Government Association
Major Retailer	means a retailer which provides retail services to more than 50,000 connections
Non-residential Customer	a customer other than a residential customer
Residential Customer	a customer who acquires a retail service primarily for domestic use.
Retailer	a water industry entity licensed in accordance with Part 4 of the Act.
Retail Service	has the same meaning as given to the term in the Act and covers a water retail service and/or a sewerage retail service supplied through a reticulated system, including: <ul style="list-style-type: none"> • drinking water retail services; • non-drinking water retail services; and • sewerage retail services.
Sewerage Service	has the same meaning as given to the term in the Act
Water Retail Code – Major Retailers	An industry Code made by the Commission, in accordance with Part 4 of the ESC Act
Water Service	has the same meaning as given to the term in the Act

INTRODUCTION

The *Water Industry Act 2012* (**the Act**) requires that the Commission establish a consumer protection framework through the use of industry codes made under Part 4 of the *Essential Services Commission Act 2002* (**ESC Act**). Industry codes prescribe detailed rules of conduct and procedure that must be followed by industry participants. The use of industry codes, made in accordance with the requirements of the ESC Act, allows for a higher degree of regulatory flexibility, while maintaining appropriate scrutiny, accountability and transparency of process in their development. Industry codes can cover any number of areas within a regulated industry, from consumer protection to technical matters.

The Commission has developed a water industry code—the *Water Retail Code – Major Retailers*—to apply to major retailers (i.e. those licensees with greater than 50,000 connections) from 1 January 2013.

While SA Water Corporation (**SA Water**) is currently the only major retailer operating in South Australia, the *Water Retail Code – Major Retailers* may also apply to future retailers that enter the market to compete for mass market customers.

The *Water Retail Code – Major Retailers* is the principal consumer protection document setting out the behavioural standards and minimum requirements to be complied with by major retailers when dealing with their customers. It also details retailers' requirements in respect of consumers of retail services in tenancy arrangements that do not have a direct contractual relationship with a major retailer who are, nevertheless, granted limited consumer protections.

This Explanatory Memorandum provides a plain English description of the provisions of the *Water Retail Code – Major Retailers*.

1. PRELIMINARIES

This Part of the Code sets out preliminary matters.

1.1.1 Title, authority and commencement

Reflects the Commission's legal authority to make and amend the Code under the Water Industry Act 2012 and the Essential Services Commission Act 2002 and sets the commencement date for the Code at 1 January 2013.

1.1.2 Scope

Establishes that the Code applies to the provision of retail services as defined under the Water Industry Act 2012. The Code indicates where individual provisions have different application between water services and sewerage services.

1.1.3 Application

Establishes that the Code applies to:

- ▲ SA Water Corporation and other licensees considered to be major retailers as notified by the Commission in writing; and
- ▲ all residential customers, unless a documented non-standard agreement is entered into with the residential customer for the provision of retail services after the commencement of the Code, which includes recognition that the Code will not apply in respect of that agreement (to the extent the Code is not intended to apply); and
- ▲ all non-residential customers, unless:
 - a documented non-standard agreement is entered into with a non-residential customer for the provision of retail services after the commencement of the Code, which includes recognition that the Code will not apply in respect of that agreement;
 - a documented agreement was in place for the provision of retail services prior to the commencement of the Code and the non-residential customer consents to the continuation of that arrangement, which includes recognition that the Code will not apply in respect of that agreement.

1.1.4 Parts

Sets out that the Code is divided into 5 Parts:

- ▲ Part A – Customer Information Obligations;
- ▲ Part B – Pre-Contractual Obligations;
- ▲ Part C – Retailer Supply Obligations;
- ▲ Part D – Customer Service Obligations; and
- ▲ Part E – Miscellaneous Provisions.

1.1.5 Obtaining a copy of this industry code or the standard contract

Establishes the requirement for retailers to provide a copy of the Code and/or the customer sale contract free of charge within a reasonable time. Allows retailers to charge a reasonable fee for subsequent requests for documentation.

1.1.6 Other Acts, industry codes and guidelines

Acknowledges that the Code does not contain all obligations applying to retailers.

1.1.7 Interpretation

Explains how the Code is to be read and what certain expressions mean.

1.1.8 Definitions

Contains defined terms used in the Code. Key definitions include the establishment of:

- ▲ major retailers as a class of retailers consistent with the licence fee categories set by the Treasurer;
- ▲ residential and non-residential as classes of customers; and
- ▲ tenants as a class of customers of retail services who are not directly responsible for charges and do not need to be a direct customer of a retailer to obtain certain information from a retailer or to complain about certain aspects of the provision of retail services to a retailer or, if the issue cannot be satisfactorily resolved, the industry ombudsman scheme.

2. PART A – CUSTOMER INFORMATION OBLIGATIONS

This Part of the Code sets out the minimum requirements for the provision of information by retailers to customers and complainants. Obligations applicable to tenants brought within the definition of customer through the regulations under the Water Industry Act 2012 are identified for each clause, as required.

2.1 *Customer Charters*

This clause establishes the requirement for retailers to develop and provide Customer Charters that communicate key rights and obligations of each the retailer, the customer and a complainant in plain English to redress the imbalance of knowledge between a customer and/or complainant and a retailer.

2.1.1 *Obligation to prepare customer charter*

Establishes the requirement for retailers to prepare their initial Customer Charter within 3 months of being granted a licence, to allow retailers time to develop their Customer Charter in consultation with their customers.

2.1.2 *Minimum requirements for contents of a Customer Charter*

Establishes the minimum information requirements for Customer Charters to include a summary of the respective rights and obligations under various legislative and regulatory instruments, including the requirement to inform customers about connections and terminations; applicable service standards; fees and charges; government concessions, grants and rebates; customer hardship policies; the registration of life support equipment; the process for making a complaint (including the matters that tenants are able to have investigated) and the existence and operation of the industry ombudsman scheme.

2.1.3 *Review of a Customer Charter*

Foreshadows that the Commission may direct a retailer to review and amend its Customer Charter.

2.1.4 *Obligation to provide customer charter*

Establishes the requirement for retailers to:

- ▲ ensure that the Customer Charter is readily accessible on its website; and
- ▲ provide a free copy of the Customer Charter to a customer or a complainant as soon as practicable upon request.

2.1.5 *Charging for customer charters*

Establishes the right for retailers to charge a customer or a tenant a reasonable fee for providing subsequent copies of the Customer Charter if a copy of the current Customer Charter has previously been provided to the customer or tenant within a 12-month period.

2.2 *Enquiries, complaints and dispute resolution*

This clause establishes the requirement for retailers to develop Enquiries, Complaints and Dispute Resolution procedures that clearly set out how customers and tenants can make an enquiry or complaint about the water and sewerage retail services they receive. Includes the requirement for the procedures to provide customers and tenants with the ability to have their enquiry or complaint escalated first within the retailer and then subsequently to an external independent party for resolution, in the event that the complaint remains unresolved.

2.2.1 *Customer enquiry procedures*

Establishes the requirement for retailers to prepare Customer and tenant Enquiry Procedures in line with minimum information requirements within 3 months of being granted a licence. The initial procedures must be approved by the Commission and can be reviewed by the Commission from time to time.

2.2.2 *Customer complaint and dispute resolution*

Establishes the requirement for retailers to prepare Complaint and Dispute Resolution Procedures in line with minimum information requirements within 3 months of being granted a licence. The procedures must include referral to an independent dispute resolution body and outline the matters that tenants are able to have considered by retailers. The initial procedures must be approved by the Commission and can be reviewed by the Commission from time to time.

2.2.3 *Customer Communications*

Establishes the right for retailers to issue documents/information to customers by electronic mail where a customer has given consent for this to occur. Requires retailers to revert to alternative means of communication where electronic mail fails.

2.2.4 *Language and large print needs*

Establishes the requirement for retailers to provide residential customers with access to multi-lingual services and large print versions of the Code and its Customer Charter, free of charge, upon request.

2.3 *Price disclosure*

This clause establishes the requirement for retailers to publicly disclose any prices, fees and charges applicable to the provision of a retail service.

2.3.1 *Schedule of prices, fees and charges*

Establishes the requirement for retailers to publish a schedule of prices, fees and charges on their websites and provide that information to customers and tenants upon request.

2.3.2 *Rating on abuttal*

Explicitly requires retailers to include details of any fees or charges that the retailer will charge a customer irrespective of the consumption of a retail service at the customer's supply address, as allowed under the Water Industry Act 2012.

2.4 Water efficiency advice

This clause establishes the requirement for retailers to provide water efficiency advice to customers. Establishes the requirement for retailers to provide residential customers with free advice on water conservation measures and water audits available to the customer, including referral to any government sources of advice.

2.5 Leak monitoring and notification

This clause establishes the requirement for retailers to monitor spikes in water consumption that may indicate customers have concealed leaks. Establishes the requirement for retailers to ensure their systems and processes can identify customers with abnormal changes in water consumption that is likely to indicate an issue with a concealed leak at the customer's supply address.

The requirement on retailers is to inform customers of such issues as soon as possible so that the customer is aware of the abnormally high water use and repairs or other remedial action can be undertaken. It does not extend to a requirement for a retailer to pay for such repairs if the leak is on the customer's side of the connection point.

2.6 Concessions, rebates or grants

This clause establishes the requirement for retailers to provide residential customers with information on government concessions, rebates or grants and to refer the customer to the relevant government agency responsible for administration of such grants, upon request by the customer.

2.7 Life Support equipment

This clause establishes information provision requirements for retailers in relation to supply addresses where a person requiring approved life support equipment resides.

2.7.1 Registration of life support equipment

Establishes the requirement for retailers to maintain a register of supply addresses at which life support equipment is located. Requires retailers to rely on the advice of a medical practitioner or hospital that a customer is eligible for registration as a life support equipment customer.

Prohibits retailers from arranging for the restriction or disconnection of a customer's water services if the customer's supply address is a registered life support equipment address.

Requires retailers to provide registered life support equipment customers with advanced written notice of any planned interruptions, advice there is likely to be an unplanned interruption and an emergency telephone contact number.

2.7.2 Cessation of requirement for life support equipment

Limits the obligation on retailers to ensure the currency of the life support equipment register by allowing retailers to:

- ▲ place a positive obligation on registered life support equipment customers to inform the retailer if their eligibility to be registered as a life support equipment customer changes; or
- ▲ rely on the advice of a medical practitioner or hospital that a customer is no longer eligible for registration as a life support equipment customer.

2.7.3 Definition of life support equipment

Limits the definition of life support equipment to dialysis machines, until such time as the Commission notifies the retailer of other approved life support equipment.

2.8 Customer Hardship Policies

This clause reflects the requirement under the Water Industry Act 2012 for retailers to have an approved residential customer Hardship Policy in place.

2.8.1 Obligation to have an approved hardship policy

Establishes the requirement for retailers to prepare and submit for approval a Hardship Policy within 3 months of being granted a licence.

2.8.2 Approval of variation to hardship policy

Establishes the requirement for a retailer to submit its Hardship Policy to the Commission for approval, where the retailer proposes to implement a Hardship Policy in a modified form to the Minister's Hardship Policy. The obligation applies to both the initial Hardship Policy and subsequent amendments to the Hardship Policy proposed by the retailer.

2.8.3 Obligation to publish approved hardship policy

Establishes the requirement for retailers to:

- ▲ ensure that its Hardship Policy is readily accessible on its website; and
- ▲ provide a free copy of its Hardship Policy to a residential customer as soon as practicable upon request.

2.8.4 Review of a hardship policy

Foreshadows that the Commission may direct a retailer to review and amend its Hardship Policy.

3. PART B - PRE-CONTRACTUAL OBLIGATIONS

This Part of the Code sets out the respective rights and obligations of customers and retailers in establishing an agreement for the provision of retail services under a standard customer sale contract. Also provides for the termination of a standard customer sale contract by a customer.

3.1 *Provision of retail services*

This clause sets out retailers' obligations in supplying retail services to customers.

3.1.1 *Obligation to supply a retail service*

Establishes the requirement for retailers to supply a retail service on its standard terms and condition to a customer where the customer's supply address is connected or can be connected in accordance with the retailer's connection policy to a network where the retailer has the right to deliver retail services.

3.1.2 *Obligation to offer to supply a retail service*

Establishes the requirement for retailers to make an offer to supply a retail service on its standard terms and conditions to a customer where that customer's supply address can be connected through a network augmentation or expansion, to a network where the retailer has the right to deliver retail services. The retailer must make the offer within 20 business days of receiving an application from a customer.

Any fees or charges payable by the customer for the preparation of an offer to connect must not exceed any amount approved by the Commission from time to time and the amounts quoted for the works must remain valid for at least 60 business days.

Requires retailers to undertake any network augmentation or expansion required to connect the customer to the network on fair and reasonable terms and within a reasonable time frame.

3.1.3 *Rural and remote services*

Establishes the requirement for a retailer to obtain the Commission's approval before discontinuing or ceasing operations in remote or rural areas.

3.1.4 *Asset register*

Establishes the requirement for retailer to:

- ▲ keep a sufficiently detailed register of all assets forming part of its network; and/or
- ▲ have in place legally binding arrangements with the owner or operator of the network where the licensee does not own or operate the network; and
- ▲ provide details from this asset register to the Commission, upon request.

3.2 Application for provision of retail services

This clause limits the requirements retailers can place on customers seeking the provision of a retail service.

3.2.1 Form of applications for provision of a retail service

Establishes the requirement for retailers to accept applications from customers for the provision of retail services in a variety of forms.

3.2.2 Pre-contractual duty of customers

Establishes the right for retailers to require customers to satisfy reasonable preconditions before agreeing to sell and supply retail services to that customer.

Reflects that the customer of the retail services is the party nominated by the property owner at this point. Allows the customer to nominate a party other than the customer for the bills to be issued to, however acknowledges that the property owner remains legally responsible for payment of bills.

3.2.3 Pre-contractual duty of retailers

Prohibits the retailer from requiring the customer to meet any additional preconditions or requiring the customer to provide a security deposit or refundable advance.

3.2.4 Timeframes for commencement of retail service provision

Establishes timing requirements for retailers to commence the provision of retail services to customers once the relevant preconditions have been satisfied by the customer.

3.3 Classification of customers

This clause establishes the requirement for initial classification of customers and the process for reclassification of customers once a standard customer sale contract has been entered into between a customer and a retailer.

3.3.1 Classification

Provides for two classes of customers:

- ▲ residential customers where the customer intends to acquire retail services primarily for domestic purposes; or
- ▲ non-residential where the customer intends to acquire retail services primarily for commercial or industrial purposes.

Classes of customers are not established based on water consumption thresholds with the only distinction between customer classes based on property type/use.

3.3.2 Retailer initial classification of customers

Requires customers to provide retailers with sufficient information to allow for classification of that customer as residential or non-residential.

3.3.3 Retailer reclassification of customers

Allows a retailer to reclassify customers of its own initiative or on application by a customer.

3.4 Customer sale contracts

This clause establishes the requirement for retailers to use standard form contracts for the provision of retail services to customers and the process for obtaining approval to provide customers with retail services under modified terms and conditions.

3.4.1 Approval of terms and conditions for standard retail contracts

Establishes the requirement for retailers to obtain the Commission's approval of a standard contract for the sale and supply of retail services to customers, prior to publication of that standard contract in accordance with section 36 of the Water Industry Act 2012.

3.4.2 Terms and conditions for non-standard retail contracts

Provides for retailers to seek the Commission's approval to sell and supply retail services to customers on "non-standard" terms and conditions. Establishes information provision requirements for customers with approved "non-standard" terms and conditions.

3.5 Connections

This clause sets out the requirements on retailers where a new connection point is required prior to the provision of retail services to a customer.

3.5.1 Customer connection policy

Establishes the requirement for retailers to have and publish a customer connection policy on their website and provide a copy of that policy to a customer, upon request.

3.5.2 Requirements where a connection is needed

Establishes the right for retailers to require customers to enter into an agreement for the funding, in whole or in part, of the network augmentation or extension works that are required prior to a retail service being sold and supplied to that customer.

Requires retailers to charge for network augmentation or extension works in accordance with any applicable Price Determination made by the Commission.

Establishes the requirement for retailers to forward the customer's connection application to the owner or operator of the network where the retailer has the right to sell and supply retail services to a customer but does not own or operate that network.

3.5.3 Timeframe for provision of a connection

Establishes default connection timeframes for retailers to meet, in the absence of an agreement with a customer, where network augmentation or extension works are required prior to a retail service being sold and supplied to a customer.

3.5.4 Network capacity restrictions

Establishes the right for retailers to enter into agreements with customers to provide a restricted retail service, subject to terms and conditions agreed with the customer, which must be approved in writing by the Commission.

3.6 Termination of retail services

This clause sets out the requirements on retailers where retail services provided to a customer's supply address are terminated by either the retailer or the customer.

3.6.1 Customers' right to terminate

Establishes the requirement for retailers to provide customer with the right to terminate the retail services provided to a customer's supply address in their standard contract. Limits the fees that a retailer can reasonably charge a customer for the termination of services, but acknowledges that a retailer may still require that customer to pay amounts permitted under the Water Industry Act 2012, even where a customer has requested a termination.

3.6.2 Retailers' right to terminate

Limits retailers' ability to terminate a standard contract with a customer to circumstances where a customer has been disconnected and no longer has the right to be reconnected; the customer and the retailer enter into a new standard contract; or circumstances beyond the retailers' reasonable control mean that water is no longer available to be provided to that supply address.

3.6.3 Recovery of unpaid amounts and fees and charges on termination

Limits retailers' ability to recover any unpaid amounts for retail services and any fees and charges associated with the lawful recovery of unpaid amounts for consumption of retail services until the date of the termination.

3.6.4 Final meter readings and bills

Establishes the requirement for retailers to use their best endeavours to ensure a customer's meter is read on the date the customer has notified the retailer it intends to vacate the property and that a final account is prepared and sent to the address provided by the customer within a reasonable time.

3.6.5 Failure to provide notice or access

Establishes the right for retailers to continue to charge a customer for retail services until the customer's meter can be read, where the customer has failed to provide the retailer with the necessary notification.

4. PART C – RETAILER SUPPLY OBLIGATIONS

This Part of the Code sets out the quality and reliability standards to be met by retailers providing retail services under a standard contract.

4.1 *Retailer supply obligations*

This clause sets out retailers' requirements around the quality, safety and reliability of the supply of retail services. It includes the requirement for retailers to minimise supply interruptions and provide information to customers on interruptions and develop and administer a compensation scheme for loss or damage suffered by customers.

4.1.1 *Quality of supply*

Establishes the requirement for retailers to provide retail services in line with health, environmental or other legally required standards and to provide customers with an explanation of any deviations in these standards within a reasonable timeframe, upon request.

Limits retailers' requirements where deviations in quality are as a result of the customer's actions or equipment.

4.1.2 *Safety of supply*

Establishes the requirement for retailers to ensure that their actions do not interfere with the safe operation of the network and to provide advice to customers on the appropriate use of retail services.

4.1.3 *Reliability of supply*

Establishes the requirement for retailers to use their best endeavours to provide a reliable supply of retail services to customers, in line with any applicable service standards.

4.1.4 *Retailers' right to interrupt supply*

Establishes the right for retailers to interrupt retail services in certain circumstances.

4.1.5 *Obligation to minimise interruptions*

Establishes the requirement for retailers to minimise the interruptions to retail services resulting from its maintenance, repair, connection, extension and augmentation activities and to restore supply as soon as practicable following such works.

4.1.6 *Unplanned interruptions*

Establishes the requirement for retailers to manage and minimise the impact of unplanned interruptions and to inform customer about such interruptions, including the requirement to provide a 24-hour emergency telephone service.

4.1.7 Planned interruptions

Establishes the requirement for retailers to provide customers with advanced notification of planned interruptions to retail services to carry out maintenance, repair, connection, extension and augmentation activities. Allows retailers to inform customers by radio or newspaper where it is not practicable to send a notice in writing to individual customers.

4.1.8 Health and safety

Places a limitation on retailers seeking to disconnect or restrict a customer's retail services on the basis of health or safety concerns until the retailer has provided the customer with written notice of the reason for concern and allowed the customer a reasonable opportunity to remove the cause of the issue prior to the retailer taking action.

4.1.9 Information to be provided to customers

Requires retailers to provide customers with at least 24-hours notice prior to entering the customer's property to disconnect, restrict, inspect, repair or test the customer's water or sewerage installation, unless otherwise provided for under the Water Industry Act 2012.

Also requires retailers to provide customers with an explanation for any unplanned maintenance or interruption to supply, including the requirement to provide such advice in writing where such a request is made.

4.1.10 Bursts, leaks, blockages and spills

Establishes the requirement for retailers to manage and minimise the impact of bursts, leaks, blockages and spills.

Includes the requirement for retailers to develop and administer a compensation scheme for loss or damage suffered by customers as a result of a burst, leak, blockage or spill.

4.1.11 Powers under other Acts

Acknowledges that retailers' powers or obligations to restrict or interrupt supply under other relevant legislation are not limited by the requirements of the Code.

4.2 Service Standards

This clause requires retailers to meet, monitor and report on applicable service standards, as developed through consultation between the retailer and the Commission, from time to time. The applicable service standards for each retailer will be published on the Commission's website.

4.2.1 Obligation to meet service standards

Establishes the requirement for retailers to use their best endeavours to meet applicable service standards developed by the Commission from time to time, and keep records that allow monitoring, verification and assessment of performance against those standards.

4.2.2 *Service standards reporting*

Establishes the requirement for retailers to report on performance against applicable service standards, reasons for non-compliance and details on how performance will be improved (where necessary) to meet applicable service standards, on an annual basis.

Establishes the requirement for retailers to comply with various Guidelines issued by the Commission from time to time (e.g. *Water Industry Guideline No. 1 – Compliance Systems and Reporting* and *Water Industry Guideline No. 2 – Operational Performance Reporting*). Further operational detail is provided in such Guidelines.

5. PART D - CUSTOMER SERVICE OBLIGATIONS

This Part of the Code sets out the minimum requirements to be fulfilled by retailers in respect of billing for and payment of retail services by customers, including the requirement to offer flexible payment terms to customers experiencing financial difficulties.

The billing and payment framework is developed on the underlying principle that customers should only have their supply of retail services restricted or disconnected as a last resort. It establishes certain prohibitions and pre-conditions to be satisfied by retailers prior to commencing debt recovery action, restriction or disconnection of a customer's retail services where a customer has failed to pay a bill or bills for those services.

Distinction is made between residential and non-residential customers. Residential customers are afforded greater protections and provided with multiple opportunities to establish flexible payment arrangements to ensure that residential customers do not have their retail services restricted or disconnected due to an inability to pay alone.

5.1 *Billing*

This clause sets out the requirements on retailers to ensure that customers receive accurate and timely billing information that allows customers to verify that their bills have been correctly calculated and to monitor and manage their consumption. Processes for review and adjustment of bills are established to ensure that customers that have not been billed correctly can receive timely and accurate rectification of bills.

5.1.1 *Frequency of bills*

Establishes the minimum requirement for retailers to bill customers for retail services at least quarterly. Expressly allows for retailers to bill customers on a more frequent basis, where agreed in writing with the customer.

5.1.2 *Failure to issue a bill*

Establishes a limitation on the amount that a retailer can recover from a customer where it has failed to issue a bill to a customer in line with the minimum billing frequency requirements to 12-months from the date it advises the customer (in writing) of the amount undercharged.

Requires retailers to offer the customer the ability to pay the undercharged amount through a flexible payment plan, which must be no less than the period during which the undercharging occurred (i.e. the customer is allowed one month to pay for every month that the customer was undercharged).

5.1.3 *Billing address*

Establishes the requirement for bills to be issued to the billing address identified by the customer in the application for retail services, unless the customer subsequently nominates another billing address.

5.1.4 *Basis for bills*

Establishes the requirement for retailers to issue bills based on:

- ▲ for metered water services: an actual meter read; metering data; an approved estimation system (including the requirement to ensure an actual meter reading is performed at least once every 12 months);
- ▲ for metered water services where customers share a single meter: an approved apportionment system and provision of separate bills to each customer, upon request;
- ▲ for unmetered water services: an approved estimation system; and
- ▲ for sewerage services: in accordance with the terms of any Price Determination by the Commission.

5.1.5 Estimation as basis for bills

Establishes the requirement for retailers to ensure that bills based on an estimation of consumption of water services are calculated in accordance with a methodology approved by the Commission.

Requires retailers to inform customers in a prominent place on the bill that the bill is based on an estimate of usage rather than an actual meter read.

5.1.6 Adjustments to bills subsequent to an estimated bill

Establishes the requirement for retailers to ensure that where a bill was previously based on an estimate of consumption and an actual reading of the meter is subsequently undertaken, the new bill is adjusted to reflect the actual meter read.

Where a customer has been issued with an estimated bill because the customer denied access to the meter that prevented an actual meter reading to occur, the retail must allow the customer to arrange for an actual meter reading to occur and reissue the bill based on the actual reading. However, this clause allows retailers to charge the customer for the costs incurred in issuing the new bill.

5.1.7 Contents of bills

Establishes the ability for retailers to issue a customer with a single bill for both water services and sewerage services.

Establishes the minimum information to be included on a bill issued by a retailer for retail services. Establishes additional minimum requirements for bills issued for metered services and to residential customers.

Allows retailers to issue bills in a different form, where approved by the Commission in writing.

5.1.8 Average daily usage

Establishes/reflects the requirement for retailers to include average daily usage and benchmarking data on residential customer's bills for water services.

Allows retailers to issue bills in a different form, where approved by the Commission in writing.

5.1.9 Pay-by date

Establishes a minimum payment period of 12 business days after the retailer has sent the bill to a customer. The 12 business days are not counted from the date the bill is generated (or issued), but from the day the bill is sent to the customer.

Establishes the right for retailers to charge interest on late payment of a bill by a non-residential customer at the rate and terms and conditions approved by the Commission from time to time.

5.1.10 Reminder notices

Establishes the minimum information to be included in a reminder notice, including a requirement to include contact details for the retailer's internal dispute resolution process and the ability for the customer to access independent dispute resolution, if required.

5.1.11 Historical billing data

Establishes the requirement for retailers to keep customer's billing data for a minimum of 4 years. Establishes the requirement for retailers to provide a customer with their billing data for the previous 2 years free of charge, but allows licensees to charge a reasonable fee for requests for data that is more than 2 years old.

Establishes the requirement for retailers to provide tenants with access to historical billing data for the period the tenant has occupied the supply address. This obligation does not extend to the requirement for a retailer to collect data on whether or not the current occupant is a tenant; rather just requires that the retailer provide the tenant with relevant data upon request, subject to basic verification of the tenancy arrangement at the time of the request.

5.2 Changes in tariff types or rates

This clause establishes the requirements on retailers where the tariff type (e.g. residential to non-residential) or tariff rates applying to a customer change within a billing cycle.

5.2.1 Change in use

Allows retailers to transfer customers between tariffs where there is a change in use at the customer's supply address to which a different tariff type or rate applies.

5.2.2 Effective date of transfer between tariff types

Establishes the date on which transfer between tariff type takes effect.

5.2.3 Change of tariff type within a billing cycle

Establishes the requirement for retailers to obtain a meter reading prior to changing the tariff type that applies to a customer and apportion the charges due and payable within a billing period between the new and old tariff types based on the number of days the customer consumed retail services for each tariff type.

5.2.4 Change of tariff rate within a billing cycle

Establishes the requirement for retailers to apportion the charges due and payable within a billing period between the new and old tariff rates based on the number of days the customer consumed retail services before and after the change in the charges for retail services. Allows retailers to assume that a customer's consumption is equal for each day of the billing period rather than requiring the retailer to obtain an actual meter read prior to apportioning consumption.

5.2.5 Alternative tariffs or tariff options

Establishes the requirement for retailers to ensure internal transfers between different tariff rates occur within 10 business days.

5.3 Billing disputes

This clause establishes the requirements on retailers in reviewing a customer bill that is in dispute. It is important to have a clear process to be followed where a bill is in dispute, including timelines to ensure resolution can be achieved in a timely manner. However, it is reasonable to require customers to pay any amount that is not in dispute while the bill is being reviewed.

5.3.1 Obligation to review a bill on request

Establishes the requirement for retailers to review a customer's bill, upon request, within 20 business days. Allows retailers to require customers to pay the greater of the portion of the bill not in dispute or an amount equal to the customer's average bills over the previous 12 months (where the bill in dispute is excluded from the calculation of the average bill).

5.3.2 Customer requests for testing of meters or metering data

Establishes the requirement for retailers to arrange for the meter reading or metering data to be checked or the meter tested for accuracy, upon request by the customer, within a reasonable time. Allows retailers to require customers to pay for such checking in advance.

5.3.3 Procedures following a review of a bill

Confirms retailers' right to require the customer to pay the disputed amount where the review confirms the bill was correct. Establishes the requirement for retailers to correct a customer's bill and refund any amounts due to the customer where the review finds that the disputed bill was incorrect.

Requires retailers to advise customers that they can lodge a complaint with the industry ombudsman if they are unhappy with the results of the retailer's review.

5.4 Undercharging

This clause establishes the requirements on retailers in seeking to recover amounts due and payable for retail services that have been under recovered.

5.4.1 Recovery from customers

Establishes the right for retailers to recover amounts due and payable for retail services that have been under recovered as a result of an act or omission of the retailer.

5.4.2 Limitations on recovery where due to retailer error

Establishes a limitation on the amount that a retailer can recover from a customer as a result of a retailer's error:

- ▲ for metered water services: to the 12-months prior to the meter reading date on the bill last issued to the customer; and
- ▲ for unmetered services: to the 12-months prior to the date it advises the customer (in writing) of the amount undercharged.

Requires retailers to:

- ▲ separately identify the amount to be recovered as a separate item in a special bill or in the next scheduled bill;
- ▲ not charge interest on that amount; and
- ▲ offer the customer the ability to pay the undercharged amount through a flexible payment plan, which must be no less than the period during which the undercharging occurred (i.e. the customer is allowed one month to pay for every month that the customer was undercharged).

5.5 Overcharging

This clause requires retailers to refund amounts that customers have been overcharged for retail services.

5.5.1 Notice and payment to customers

Establishes the requirement for retailers to inform customers of any amounts overcharged for retail services within 2 weeks of becoming aware of the issue.

5.5.2 Payment where no instruction given

Establishes the default requirements for repaying customers for any amounts overcharged based on an overcharge threshold amount.

5.5.3 Payment of interest

Clarifies that retailers are not required to pay a customer interest on any amount overcharged for retail services.

5.5.4 Customer requests

Establishes the requirement for retailers to agree to a customer request for repayment of amounts overcharged where the amount is below the overcharge threshold amount, upon request.

5.6 Payments

This clause establishes the minimum requirements for payment terms, payment methods and the requirements for managing temporary payment difficulties experienced by customers.

5.6.1 *Payment methods*

Establishes the minimum payment method requirements for retailers to allow customers to pay bills through a variety of methods. Mandated minimum payment options ensure that all customers have a range of accessible payment options and are able to pay accounts through a range of no cost or low cost methods, irrespective of their location.

5.6.2 *Payment by Centrepay*

Requires retailers to allow residential customers to make payments through Centrepay, upon request by the customer.

5.6.3 *Direct debit*

Sets out the requirements on retailers when entering into a direct debit arrangement with a customer, including the requirement to agree the terms of the direct debit arrangement in writing and to terminate the arrangement upon request by the customer.

5.6.4 *Payments in Advance*

Requires retailers to allow customers to make payments in advance, but does not require the retailer to pay the customer interest on any amounts paid in advance.

5.6.5 *Long absence or illness*

Establishes the requirement for retailers to allow residential customers experiencing illness or other long absence to make payments in advance or have their bills redirected to another address or person free of charge.

5.6.6 *Shortened collection period*

Establishes the right for retailers to place customers on a billing period shorter than the default arrangements where that customer exhibits poor payment behaviour over a period of time, as evidenced by the issuing of multiple reminder notices or restriction warning notices.

Requires retailers to provide information to customers on the effect of the shortened billing period prior to placing a customer on a shortened billing period. For residential customers, retailers must also offer a flexible payment plan and assess the customer's eligibility for participation in its Hardship Program prior to placing that customer on a shortened collection period.

Allows retailers to require customer's to pay 3 consecutive bills by the pay-by date before being returned to the default billing period arrangements.

5.6.7 Charge for dishonoured payments

Allows retailers to recover any fee it incurs as a result of a dishonoured or reversed payment by a customer.

5.6.8 Debt recovery

Limits the ability for retailers to commence debt recovery proceedings against residential customers where the residential customer continues to make payments in accordance with any flexible payment plans or where the retailer has not appropriately assessed the residential customer's eligibility for payment assistance or participation in its Hardship Program.

Expressly prohibits the commencement of additional debt recovery action where the retailer has fitted a water flow restriction device at the customer's supply address as the means of encouraging the customer to pay any outstanding amounts.

5.6.9 No limitation on payment options

Expressly acknowledges that retailers are able to enter into other flexible payment arrangements with either residential or non-residential customers beyond the minimum requirements set out in the Code.

5.7 Payment difficulties and flexible payment plans

This clause requires retailers to enter into flexible payment plans/arrangements with residential customers, upon request and have systems and processes in place to monitor and provide assistance to customers that may be experiencing payment difficulties.

5.7.1 Flexible payment plans

Establishes the requirement for retailers to offer residential customers flexible payment plans or arrangements upon request by the customer or to offer a customer a flexible payment plan or arrangements where the retailer reasonably believes that the residential customer may require payment assistance, including the ability for residential customers to make payments in advance and enter into an interest and fee free arrangement to pay arrears.

Allows retailers to refuse a flexible payment plan or arrangements only where the residential customer has had 2 such plans or arrangements cancelled for non-payment/non-adherence within a 12 month period.

5.7.2 Notice to residential customers experiencing payment difficulty

Establishes the requirement for retailers to provide residential customers identified as experiencing financial difficulties with information on its Customer Hardship Program and other various forms of financial and government assistance available.

Requires retailers to redirect a customer's bills to a relevant third party free of charge, upon request by the customer.

5.8 *Restriction of water supply*

This clause sets out the requirements on retailers in relation to restriction of a customer's water services for non-payment of a bill or bills. A retailer's ability to restrict a customer's retail services differs between residential customer and non-residential customers.

5.8.1 *Restriction warning notices*

Requires retailers to issue both residential and non-residential customers with a restriction warning notice prior to commencing restriction action. Establishes the minimum information to be included in a restriction warning notice.

5.8.2 *Prohibitions on water service flow restriction*

Establishes general prohibitions on the restriction of both residential customers and non-residential customers water services based on the principle that retailers should only be able to restrict water services in very limited circumstances.

Establishes additional prohibitions on the restriction of residential customers' water services where that customer is participating in the retailer's Hardship Program, awaiting a decision on an application for government assistance or the residential customer's supply address is a registered life support equipment address.

Recognising that restriction of a water service is simply another means of seeking to recover debt, retailers are expressly prohibited from restricting a customer's water services if the retailer is pursuing other debt collection activity.

5.8.3 *Ability to restrict water services*

Establishes the limited grounds on which retailers are able to restrict a customer's water services.

5.8.4 *Preconditions to restricting water services*

Establishes requirements to be satisfied by a retailer before a residential customer or a non-residential customer can have their water supply restricted as a result of non-payment of a bill or bills. Establishes additional requirements to be satisfied in respect of residential customers.

5.8.5 *Immediate restrictions by retailers*

Establishes the ability for retailers to arrange for the immediate restriction of a residential or non-residential customer's water services in certain prescribed circumstances.

5.8.6 *Minimum restricted water flow rate*

Establishes the requirement for retailers to ensure a restricted water service delivers water at the minimum flow rate determined by the Commission from time to time.

5.9 *Disconnections*

This clause establishes a general prohibition on retailers disconnecting customers' water services and sewerage services. Disconnections of customer's sewerage services are only permitted where the customer has used those retail services illegally.

5.9.1 Prohibition on disconnection of sewerage services

Establishes a general prohibition on retailers disconnecting customers' sewerage services for non-payment of a bill or bills.

5.9.2 Prohibition on disconnection of water services

Establishes a general prohibition on retailers disconnecting customers' water services for non-payment of a bill or bills.

5.9.3 Permitted disconnections

Allows retailers to disconnect a customer's water services and sewerage services only where the customer has requested that disconnection, or used those services illegally.

5.9.4 Customer request for final account or disconnection

Establishes the requirement for retailers to use their best endeavours to prepare a final bill/arrange for the disconnection of a customer's supply address upon request by the customer.

Requires retailers to inform customers where they will be required to pay for retail services, where permitted under the Water Industry Act 2012, even where a disconnection or final account for retail services is requested by the customer.

5.10 Restoration of supply

This clause establishes the requirement for retailer to restore retail services to customers within a reasonable time after the customer has paid any reasonable reconnection or restoration fees.

5.10.1 Retailer and customer obligations

Establishes the requirement for retailer to restore retail services to customers within a reasonable time after the customer has paid any reasonable reconnection or restoration fees.

5.10.2 Waiver of reconnection fee for Hardship Customers

Expressly prohibits a retailer from charging a residential customer a reconnection fee where that customer is experiencing financial hardship and should have been assessed as eligible for the retailer's Hardship Program, so long as the residential customer agrees to participate in the retailer's Hardship Program upon reconnection.

5.10.3 Customer request by 12 pm

Requires retailers to reconnect a customer's supply on the same day (in metropolitan areas) and use their best endeavours to reconnect a customer's supply by the next business day (in non-metropolitan areas), where the customer has satisfied the requirement for reconnection by 12pm.

5.10.4 Customer request after 12 pm

Requires retailers to use their best endeavours reconnect a customer's supply on the same day (in metropolitan areas) and ensure the customer is reconnected by the end of the next business day (in non-metropolitan areas), where the customer has satisfied the requirement for reconnection after 12pm.

6. PART D – MISCELLANEOUS PROVISIONS

This Part of the Code sets out miscellaneous provisions to be satisfied by retailers.

6.1 *Force majeure*

This clause sets out the requirements on retailers when they declare a force majeure event has occurred. A “force majeure” event is where a retailer cannot meet an obligation as a direct result of an event outside of the retailers’ control.

6.1.1 *Effect of force majeure event*

Acknowledges that, with the exception of the obligation to make payments, the obligations of a retailer and/or customer will be suspended for the duration of the force majeure event.

Requires the use of best endeavours to inform parties/customers affected by the force majeure event of the nature, impact and likely duration of that event.

6.1.2 *Deemed prompt notice*

Due to the immediacy of the nature of most force majeure events, allows retailers to provide information to customers affected by a force majeure event through the use of a 24 hour telephone service as soon as practicable, rather than requiring a retailer to contact each customer individually affected.

6.1.3 *Situations where clause “force majeure” does not apply*

Allows for a retailer and a customer to agree that the retailer will not enjoy the benefit of suspending its obligations during a force majeure event.

6.1.4 *Obligation to overcome or minimise effects of force majeure event*

Establishes the requirement for the use of best endeavours to remove, overcome or minimise the effects of a force majeure event as soon as practicable.

6.1.5 *Settlement of industrial disputes*

Acknowledges that the requirement to use best endeavours to remove, overcome or minimise the effects of a force majeure event as soon as practicable in the case of settlement of industrial disputes.

6.2 *Appointment of operator*

This clause outlines the requirements for the appointment of another party to fulfil the obligations of a retailer in certain circumstances.

6.2.1 *Continuity of Retail Services*

Establishes the requirement for customers to continue to be supplied with retail services on the same basis (as set out in the standard contract or non-standard contract) as provided by its retailer prior to the appointment of a new operator.

6.2.2 Operator of Last Resort Guidelines

Establishes the requirement for a retailer appointed to undertake the operations of another retailer to comply with the requirements of any applicable regulatory instruments developed by the Commission from time to time.

6.2.3 Obligation to provide customer information to appointed operator

Establishes the requirement for each customer sale contract to expressly require a retailer to pass on relevant customer information to the operator appointed.

6.3 Illegal use

This clause recognises the right for retailers to recover amounts owed as a result of a customer's illegal use of retail services, but requires the retailer to use an estimation method approved by the Commission to calculate the amount to be recovered from a customer.



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