VARIATION TO THE ELECTRICITY DISTRIBUTION CODE 2006

FINAL DECISION

December 2006

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GLOSSARY OF TERMS

COMMISSION	The Essential Services Commission of SA
EDPD	Electricity Distribution Price Determination
ESC ACT	Essential Services Commission Act 2002
GSL	Guaranteed Service Level
HIR	Heatwave Inquiry Report
HV	High Voltage
IVR	Interactive Voice Response
KPI	Key Performance Indicator
SI SCHEME	Service Incentive Scheme

1 INTRODUCTION

The purpose of this Final Decision is to describe certain variations made to the Electricity Distribution Code and provide the Essential Services Commission of SA's (the Commission) reasons for making those variations.

The proposals for the variations, and the reasoning behind the proposals, were set out in the Commission's Draft Decision of October 2006. In that Draft Decision, the Commission noted that the proposals, and hence the resultant variations, arose from a number of sources; principally the findings of the Commission's Inquiry into the January 2006 heatwave.[1]

Most significantly, in that Inquiry the Commission noted its intention to consult on variations to the Electricity Distribution Code aimed at providing greater regulatory incentives for ETSA Utilities to deliver better customer service; particularly in relation to network outages and network performance during extreme weather events. The specific recommendations of the Commission in that regard are set out at section 11.6 of the Heatwave Inquiry Report (HIR):

> *Consideration will be given (through a consultative process under the Essential Services Commission Act 2002) to amending the Electricity Distribution Code to include:*
>
> - *an additional threshold for outage duration Guaranteed Service Level payments, such that a payment of $320 will be made to any customer affected by an outage of greater than 24 hours duration (the current maximum is $160 for an outage of more than 18 hours' duration);*
> - *additional telephone responsiveness standards, such as an additional annual standard relating to the average wait time for callers wishing to talk to an operator;*
> - *minimum levels of service to be met by ETSA Utilities for the call centre Interactive Voice Recognition system, to be applied during extreme weather events;*
> - *a requirement to report on the number of overload calls (that is, customer calls not able to get through to the call centre), commencing no later than the September 2006 regulatory reporting quarter.*[2]

Those recommendations, as well as certain other proposals related to the practical operation of the Electricity Distribution Code, are the subjects of this Final Decision. The Commission's deliberations in reaching its Final Decision have been aided by submissions received from ETSA Utilities, the Energy Industry Ombudsman of South Australia and the Minister for Energy.[3]

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1 For further detail on that Inquiry, see the Commission's website at http://www.escosa.sa.gov.au/site/page.cfm?u=27&c=1624.

2 The last of these recommendations did not require any variations to the EDC and, therefore, has not been considered further in this process.

3 Submissions received in response to the Draft Decision are available from the Commission's website.

A revised version of the Electricity Distribution Code (version EDC/06), containing the varied clauses of that code, has been released at the same time as this Final Decision.[4]

1.1 Background on the Electricity Distribution Code

In order to provide context to the variations, it is useful to consider the regulatory regime applying to ETSA Utilities and the role of the Electricity Distribution Code within that regime.

The Electricity Distribution Code is a primary element in the economic regulatory regime applying to ETSA Utilities. As a monopoly service provider, ETSA Utilities is subject to a price control regime for distribution network charges. The price control regime currently in place was established by the Commission through the Electricity Distribution Price Determination (EDPD) in 2005.[5] Through the EDPD, the Commission established a new regulatory bargain for the period 2005 to 2010 between electricity consumers and ETSA Utilities, under which ETSA Utilities is permitted to earn a reasonable return on its investment in electricity distribution assets in South Australia in return for the provision of sustainable services at an agreed standard as specified in the Electricity Distribution Code.[6]

In accordance with the provisions of a derogation to the National Electricity Rules,[7] the Electricity Distribution Code deals with four major areas:

- the terms on which ETSA Utilities may connect customers to its network and supply electricity to customers, including a service standard framework that applies to ETSA Utilities in operating the electricity distribution network (Part A, Chapter 1);
- the connection of embedded generating units to the electricity distribution network (Part A, Chapter 2);
- matters pertaining to network connections requiring extension and/or augmentation to the electricity distribution network (Part A, Chapter 3); and
- the specification of terms and conditions which ETSA Utilities must use as its standard connection and supply contract (Part B).

While each of these areas is important, it is the first and the fourth which are most relevant to the matters raised in this Final Decision. Specifically, this Final Decision deals largely with provisions of the service standards framework. It is therefore appropriate to review the operation of that framework briefly by way of introduction.

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4 Refer the Commission's website at http://www.escosa.sa.gov.au/site/page.cfm?u=54.

5 See the Electricity Distribution Price Determination website page on the Commission's website at www.escosa.sa.gov.au/site/page.cfm?u=163.

6 Other forms of service standards are contained in the Electricity Metering Code and Energy Customer Transfer and Consent Code as established by the Commission, and in the Electricity Act and Regulations. Codes made by the Commission that apply to electricity entities are available from http://www.escosa.sa.gov.au/site/page.cfm?u=54#e71.

7 See the National Electricity Rules, clause 9.28.2(a)(i).

1.1.1 Service Standards Framework

There are three distinct elements to the service standard framework: the specification of average service standards to be met by ETSA Utilities; a Service Incentive scheme under which ETSA Utilities is rewarded or penalised in terms of its revenue allowance based on whether it meets specified standards; and a Guaranteed Service Level (GSL) payment scheme, under which customers are entitled to payments (not compensation) where, individually, they are not provided with service of a standard specified by the Commission.

Average Service Standards

The average service standards are comprised of three separate standards:

- ETSA Utilities must use its best endeavors to meet the specified annual customer service targets relating to telephone and written enquiry responsiveness (clause 1.2.2);
- ETSA Utilities must use its best endeavors to meet the specified annual reliability targets, being frequency of interruptions, duration of interruptions and time to restore supply (clause 1.2.3); and
- ETSA Utilities must design, install, operate and maintain its distribution network such that specified quality of supply standards are met (clause 1.2.4).

The first two of these standards are of a best endeavours nature, with that term defined to mean "*to act in good faith and use all reasonable efforts, skill and resources*". Being "average" standards, they are expressed in terms of the average performance provided to customers in a particular region of the ETSA Utilities network over a 12-month period. The final standard is mandatory and is expressed with reference to applicable Australian Standards and other objectively verifiable measures.

Service Incentive Scheme

The Service Incentive Scheme (SI Scheme) has been included within the Electricity Distribution Code as it forms an integral part of the regulatory bargain. Following extensive research leading up to the making of the EDPD,[8] the Commission determined it appropriate to provide a regulatory incentive for ETSA Utilities to improve service to the worst served consumers, comprising approximately 15% of the customer base.

This incentive is embodied in the SI Scheme, which imposes penalties and rewards in the price setting formula based on reliability performance and

8 See KPMG, March 2003, *Consumer Preferences for Electricity Service Standards* (refer www.escosa.sa.gov.au/resources/documents/030409-R-Final_CSReport.pdf).

telephone responsiveness. If ETSA Utilities outperforms the standards in the SI scheme, then it is rewarded by being able to recover increased revenue from its customers. Conversely, if it does not meet those standards, then the amount of revenue which ETSA Utilities is permitted to recover from customers reduces.

Schedule 2 of Part A of the Electricity Distribution Code specifies the manner in which ETSA Utilities will calculate its entitlement to incentive points under the SI scheme for each of the calendar years 2005–2009. This entitlement is then incorporated into the annual revenue adjustment for ETSA Utilities that occurs in accordance with the EDPD on 1 July each year, commencing from 1 July 2006. The total financial incentive for the SI scheme has been capped at ±$37.5 million, which represents about ±1.6% of ETSA Utilities' prescribed distribution revenue over a five-year period.[9]

Guaranteed Service Levels

The third major component of the service standard framework for ETSA Utilities, the GSL scheme, involves service provided by ETSA Utilities to individual customers.

As it relates to individual customer obligations, the GSL scheme is established within Part B of the Electricity Distribution Code (the standard connection and supply contract between ETSA Utilities and its customers) and ETSA Utilities is contractually obliged to meet the relevant obligations relating to the GSL scheme for each customer connected to the distribution network.

Clause 5.3 of Part B of the Electricity Distribution Code establishes GSLs relating to:

- timeliness of an appointment with a customer (clause 5.3(a));
- timeliness of connection of a new supply address (clause 5.3(b));
- timeliness of repairing street lights that have gone out and for which ETSA Utilities is responsible (clause 5.3(c)); and
- minimising the frequency and duration of supply interruptions (clause 5.3(d)).

If the specified GSLs are not met, then ETSA Utilities is contractually obliged to make payments to customers. It is important to appreciate that these payments are not compensatory in nature, in the sense that they are not intended in any way to provide recompense to a customer for any particular loss they may have suffered as a result of the frequency of interruptions experienced during a year or duration of any single interruption. Rather, they reflect amounts that ETSA

9 See Essential Services Commission of SA, April 2005, *2005-2010 Electricity Distribution Price Determination, Part B*, Schedule 3, clause 3.1(k) (refer https://www.escosa.sa.gov.au/webdata/resources/files/050609-D-EDPDPartB-PriceDetermination.pdf).

Utilities must pay in recognition of the fact that the supply did not meet the contractually specified standards.[10]

Based on data provided by ETSA Utilities, the EDPD assumed that the total amount of payments that ETSA Utilities was expected to make each year for these two reliability-based GSLs, on current customer numbers, was approximately $1.2m (around 0.2% of annual distribution revenue). This amount is incorporated into ETSA Utilities' regulated revenue base for prescribed services.

If ETSA Utilities is able to improve service to the worst served customers and keep GSL payments below this amount, then it will be able to retain the benefit of avoided payments. On the other hand, it will be penalised by having to make more than expected GSL payments if reliability performance is below that forecast.

ETSA Utilities is required to make frequency of interruptions GSL payments to the affected customers in the quarter following the completion of the regulatory year (ending 30 June). Duration of interruptions GSL payments are required to be made within 3 months of the event occurring.

1.1.2 ETSA Utilities' submissions on the regulatory bargain

ETSA Utilities made submissions to the Commission in relation to the nature of the regulatory bargain (discussed at section 1.1 above). ETSA Utilities expressed concerns that the Commission proposed alterations to the service standards framework so soon into the five-year regulatory period in response to a single event: the January heatwave. ETSA Utilities argued that such behavior would set a "*dangerous precedent*".[11]

As this submission was made by ETSA Utilities as an overriding comment to its entire submission, it is appropriate for the Commission to deal with it at the outset.

While the Commission agrees with ETSA Utilities that the service standard framework represents the cornerstone of the regulatory bargain established through the EDPD, it does not agree that the extent of the variations proposed are significant enough to support any suggestion to the effect that the fundamental basis of that regulatory bargain has been, or will be, interfered with through the variations proposed in the Draft Decision and confirmed (where relevant) in this Final Decision.

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10 Payments for compensation, in the sense of recompense for loss, are dealt with separately under clause 6 of the standard connection and supply contract. Care needs to be taken not to confuse the separate operation of these two clauses, as they have entirely different policy and legal bases.

11 ETSA Utilities, *Submission – Variation to Electricity Distribution Code, Draft Decision October 2006*, 24 November 2006 at section 1.2.

As the Commission understands ETSA Utilities' overriding concern, it centres on the introduction of a new payment band of outage duration GSL payments. For reasons set out in this Final Decision, the Commission has determined that the introduction of that new band is appropriate, as it will provide additional regulatory incentives to ETSA Utilities. However, that incentive is only an incremental incentive on the pre-existing regime, and operates in accordance with that regime. The new band does not change the operation of the scheme or the principles which underpin it.

The Commission therefore rejects ETSA Utilities' submission in relation to its "overriding comment" and considers that the relevant variation is neither a "dangerous precedent" nor an unwarranted response to the events of the January 2006 heatwave and storms of August 2005. That said, detailed consideration is given to ETSA Utilities' various other submissions relevant to the new outage duration GSL payment band in Chapter 2 of this Final Decision.

1.2 Power to vary

The original version of the Electricity Distribution Code was made by the Treasurer in October 1999, acting in the office of the Industry Regulator (as the Commission then was) for the electricity supply industry. Since that time it has been varied on five occasions by the Commission, pursuant to section 28(2) of the *Essential Services Commission Act 2002* (ESC Act).

Those variations were effected to deal with developments in the industry, such as the commencement of full retail contestability and the making of the EDPD (particularly to deal with the various elements of the service standards framework described above). Importantly, these tranches of variation were not made lightly by the Commission, as it places great value on the need for on-going regulatory certainty and stability. Similarly, the Commission is not proposing the current set of variations lightly. It considers that the measures set out in this Final Decision are of substance, necessary and appropriate to the effective operation of the regulatory regime.

1.3 Approach

As was the case in the Draft Decision, given the defined scope of the variations, the Commission has included specific amended clauses within this Final Decision. At the same time, however, an amended copy of the Electricity Distribution Code has been released (version EDC/06). The specific terms of each variation are marked with bold font in the relevant sections of the Final Decision for ease of comparison with the previous form of the Electricity Distribution Code (EDC/05).

2 VARIATIONS TO ELECTRICITY DISTRIBUTION CODE

This Chapter explains the Commission's Draft Decision, submissions received and each of the variations made to the Electricity Distribution Code.

2.1 Part B, clause 5.3(d) - GSL Payments

Clause 5.3(d), which was introduced by the Commission as a part of the service standard framework for ETSA Utilities, provides for payments to be made by ETSA Utilities to individual customers that experience reliability performance worse than pre-defined threshold levels (the "Guaranteed Service Levels", or "GSL").

In the Draft Decision, the Commission proposed that clause 5.3(d) be amended in the following terms (proposed amendments indicated in bold font).

(d) Minimise frequency and duration of supply interruptions

We will do our best to minimise the frequency and duration of supply interruptions to your supply address. We will make payments to you in accordance with the following tables if the frequency of interruptions or the duration of any single interruption exceeds the thresholds set out in the same tables,

Thresholds and payment amounts – frequency of interruptions

	Threshold 1	*Threshold 2*	*Threshold 3*
No. of interruptions in a regulatory year ending 30 June	*>9 and ≤12*	*>12 and ≤15*	*>15*
Payment	*$80*	*$120*	*$160*

Thresholds and payment amounts –duration

	Threshold 1	*Threshold 2*	*Threshold 3*	**Threshold 4**
Duration (hrs)	*>12 and ≤15*	*>15 and ≤18*	*>18* **and ≤24**	**>24**
Payment	*$80*	*$120*	*$160*	**$320**

Payments in relation to the frequency of interruptions will be made in the quarter directly following the regulatory year (ending 30 June). Payments in relation to the duration of interruptions will be made within 3 months of the event occurring. Payments will be made in respect of the supply address, not the customer.

The above scheme excludes:

- *interruptions caused by the following:*
  - *transmission and generation failures;*
  - *disconnection required in an emergency situation (eg. Bushfire);*
  - *single customer faults* **caused by that customer***; and*
- *interruptions of a duration less than* **1 minute***.*

The Commission's detailed reasoning for each of the variations marked in bold is set out in sections 2.1.1 to 2.1.4 of the Draft Decision. In summary, however, the reasons for the variations were as follows;

- **Heatwave finding – additional outage duration payment threshold**: One of the key findings of the Commission in its Inquiry into ETSA Utilities' performance during the heatwave of January 2006 related to the need to provide additional financial incentive for ETSA Utilities to ensure that the restoration times of the heatwave are not repeated; either in future extreme weather events or in general restoration practices.

  The Commission therefore considered it appropriate that a further band be added to the scheme, where an outage exceeds 24 hours, such that a payment of $320 will apply in those cases (i.e., an additional $160 above the currently applicable amount of $160).

  The Commission observed that as a result of significant efforts on the part of ETSA Utilities since the January 2006 heatwave, in combination with the additional regulatory incentive to be provided through the proposed amendment, it is reasonable to expect that the likely incidence of outages of greater than 24 hours to significantly decrease rather than to increase at all into the future. This should result in a reduced incidence of GSL outage duration payments by ETSA Utilities.

- **Notes Section**: For the avoidance of doubt, the Commission proposed to vary clause 5.3(d) of Part B of the Electricity Distribution Code to confirm that the current (version EDC/05) "Notes" section is substantive and operative by removing reference to the heading of "Notes".

- **Single customer faults:** The "Notes" section of clause 5.3(d) provides that the scheme excludes "single customer faults". This term is not defined in the Electricity Distribution Code and there is the potential for the exclusion to be misinterpreted by stakeholders to mean that all faults only affecting a single customer are excluded. This is not the intention of the Commission (nor of ETSA Utilities, as it has acknowledged).

  To avoid confusion in relation to this matter the Commission proposed to amend this exclusion to clarify that only single customer faults that are caused by that customer are excluded from the GSL scheme.

2.1.1 Submissions

The Energy Industry Ombudsman supported the Commission's proposed variations as set out in the Draft Decision.

ETSA Utilities provided detailed information in relation to the operation of its systems and processes, and described at length what it sees as the financial impacts of the proposed variation but, while it expressed "concern" over the Commission's proposed variation introducing a new $320 outage duration payment band, it appeared to support the proposal overall in the event that planned outages were to be removed from the scope of the scheme. In addition, the Commission notes that ETSA Utilities:

- supported the element of the variation which relates to interruptions being of a duration less than 1 minute, as opposed to the current 30 seconds;
- made no comment on the removal of reference to "Notes"; and
- made no comment on the clarification of the nature of "single customer faults".

2.1.2 Ability to comply with the three month payment requirement

Much of ETSA Utilities' commentary concerned its inability to comply with the three-month payment time within clause 5.3(d) and its submission addressed that matter on a number of separate, yet related, fronts. These are discussed in turn below. ETSA Utilities did not expressly support nor reject the proposed variation, subject to noting that if the variation is made then a separate proposal of the Draft Decision, that planned outages should be excluded from the scope of the outage duration GSL scheme, should be effected to "rebalance" the regulatory bargain.[12]

ETSA Utilities submitted that it is not presently able to make all of the required outage duration GSL payments within three months of the causal event occurring. ETSA Utilities acknowledged that some of the reasons for that inability are transitional and will be resolved by March 2007 with the full implementation of the Outage Management System. ETSA Utilities maintains, however, that there are three non-transitional reasons why it will never be in a position to meet the absolute requirements of clause 5.3(d).

First, ETSA Utilities is reliant upon retailers for the provision of accurate customer details, such as the customer's name, postal address and similar. If retailers do not provide accurate details, or fail to provide updated details as and when changes occur, then ETSA Utilities may be unable to make outage duration GSL payments to customers within the required timeframe. ETSA Utilities' argument is, ultimately, that this is a matter over which it has no control and hence its ability to comply with the mandatory requirements of clause 5.3(d) is also beyond its control in these circumstances.

Secondly, ETSA Utilities puts the view that the "asset to customer" link in the Outage Management System will never reach 100% accuracy (with a claimed accuracy of 95% or more) and hence ETSA Utilities will not ever be able to identify all customers who are eligible for an outage duration GSL payment.

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12 ETSA Utilities, *Submission – Variation to Electricity Distribution Code, Draft Decision October 2006*, 24 November 2006 at page 4, section 1.2

Thirdly, ETSA Utilities notes that in specific circumstances, related to multiple and concurrent interruptions on single HV feeders, the Outage Management System will only identify one outage rather than two outages (due to the concurrence of outages). ETSA Utilities asserts that in such cases ETSA Utilities may have difficulties in assessing customers' eligibility for GSL payments.

In relation to the first two of these matters, the Commission acknowledges that they may give rise to circumstances where an eligible customer does not receive the payment. This does not mean, however, that ETSA Utilities cannot make or attempt to make a payment to what it believes to be the relevant customer. The fact that a payment is not received by the customer, or by the right customer, is not fundamental to compliance with the obligation. The key element is that ETSA Utilities makes a payment based on its knowledge of its customer base.

In relation to the third matter, the Commission notes that, assuming the arguments put by ETSA Utilities in its submission accurately represent the operations of the Outage Management System, ETSA Utilities should be able to develop a means of determining entitlement.

ETSA Utilities proposes, in section 1.3.3 of its submission, modifications to the existing scheme such that clause 5.3(d) will only oblige it to make payment to customers where the customer is identified by ETSA Utilities' systems. In addition, ETSA Utilities suggests that a consequential variation should be made to the service standards prescribed at clause 1.2.2 of Part A of the Electricity Distribution Code. The effect of that variation would be to impose a new regulatory, but not contractual, obligation on ETSA Utilities to pay 85% of customers which its systems had not identified as eligible, but who were actually eligible, within 20 days of a customer registering for payment.

In relation to this matter, the Commission does not consider that such a variation is appropriate. First, the phrase "where identified by our systems" suggested by ETSA Utilities is too vague a test in these circumstances. Secondly, where a customer is not identified by ETSA Utilities' systems, the customer would have no contractual right to any payment. Thirdly, while the Commission acknowledges the internal KPI's now established by ETSA Utilities for payment of outage GSL payments, the proposed new general service standard of paying 85% of customers in these circumstances within 20 business days leaves it unclear what entitlement the remaining 15% of customers would have to payment in what timeframe.

Perhaps more relevantly, the Commission notes that the compliance regime which it administers under Energy Industry Guideline Number 4[13] anticipates and acknowledges that there will be occasions on which regulatory compliance is not attained. The Commission is interested not in punitive measures arising from non-

[13] For a copy of that guideline, refer to the Commission's website at http://www.escosa.sa.gov.au/webdata/resources/files/050629-M-EnergyGuidleine4Compliance.pdf.

compliance but rather in understanding and being assured that a licensee breaching an obligation is taking real and appropriate steps to meet the regulatory obligation. Where it is clear to the Commission that strenuous efforts have been applied and it is assured that the proportion of non-compliance (as compared with overall compliance) is non-material, then the Commission will, from a regulatory perspective, be satisfied that the breach which has occurred should not be the subject of further compliance action.

That principle applies equally to ETSA Utilities' attainment or otherwise of the three month payment period under clause 5.3(d). If ETSA Utilities does not make all relevant payments, from a regulatory perspective it is important that the Commission be advised that this has happened, the reasons for the non-compliance and the steps taken in relation to payments not made.

2.1.3 Exclusion of planned interruptions

A further matter raised in the Draft Decision (at section 2.5) was whether or not planned interruptions should be taken into account when determining a customer's eligibility for frequency of outage GSL payments.

For the purposes of clause 5.3(d) of the Part B standard connection and supply contract, all interruptions, both planned and unplanned, count towards the number of interruptions in a regulatory year. ETSA Utilities put a view to the Commission that planned interruptions (which generally relate to work on the network; for example, maintenance, upgrade work or new connections) should be excluded from this GSL obligation. ETSA Utilities' argument in support of this proposal is that it should not be penalized, in terms of frequency of outage GSL payments, for performing necessary works on its network.

Submissions

Both ETSA Utilities (which initially suggested the variation) and the Energy Industry Ombudsman supported this proposed variation.

The Energy Industry Ombudsman noted that his support was based on three grounds:

- the fact that clause 1.2.3.3 of Part A of the Electricity Distribution Code requires ETSA Utilities to give customers not less than four business days' notice of each planned outage;
- it is, in the Ombudsman's view, unreasonable to penalise ETSA Utilities for carrying out work to appropriately maintain and/or improve the electricity distribution system; and
- the fact that GSL payment schemes in other jurisdictions do not include planned outages.

The Commission notes that in addition to reinforcing its earlier arguments in favour of this proposal, ETSA Utilities expressed a view in its submission that planned outages should also be excluded from the operation of the SI scheme (refer section 1.1.1 above).

The Commission firmly rejects that proposal. While it does see the merits of excluding planned outages for the purposes of GSL payments, it is an entirely different matter to remove such outages from the annual performance targets under clause 1.2 of Part A of the Electricity Distribution Code, and hence from the calculation of the SI points under clause 3.1 of Schedule 2 of Part A. In addition, the Commission does not wish to discourage ETSA Utilities from using live-line techniques to minimize customer interruptions.

A change of that nature would, unlike the introduction of the new $320 outage duration GSL payment, be of such a magnitude as to disturb the foundations of the regulatory bargain. Furthermore, any such move would necessarily require detailed and serious consideration of the need for a negative pass-through under the EDPD, through which funds would be returned to customers by ETSA Utilities through a reduction of tariffs to reflect the reduced service standard.

2.1.4 Final Decision – clause 5.3(d) of Part B of the Electricity Distribution Code

For reasons set out above, the Commission confirms its Draft Decision to establish a new threshold payment amount for GSL payments associated with duration of supply interruptions.

In addition, having considered the various arguments put forward by ETSA Utilities, and the reasons put forward by the Energy Industry Ombudsman, the Commission has determined that it is appropriate to vary the Electricity Distribution Code to exclude planned outages from the calculation of frequency of interruption GSL payments. This is subject to the proviso that only those planned outages in respect of which ETSA Utilities has complied with the notice requirements of the Electricity Distribution Code will be excluded.

The Commission has, therefore, varied clause 5.3(d) of the Electricity Distribution Code in the following terms.

(d) Minimise frequency and duration of supply interruptions

We will do our best to minimise the frequency and duration of supply interruptions to your supply address. We will make payments to you in accordance with the following tables if the frequency of interruptions or the duration of any single interruption exceeds the thresholds set out in the same tables, *Thresholds and payment amounts – frequency of interruptions*

	Threshold 1	*Threshold 2*	*Threshold 3*
No. of interruptions in a regulatory year ending 30 June	*>9 and ≤12*	*>12 and ≤15*	*>15*
Payment	*$80*	*$120*	*$160*

Thresholds and payment amounts –duration

	Threshold 1	*Threshold 2*	*Threshold 3*	*Threshold 4*
Duration (hrs)	*>12 and ≤15*	*>15 and ≤18*	*>18 and ≤24*	*>24*
Payment	*$80*	*$120*	*$160*	*$320*

Payments in relation to the frequency of interruptions will be made in the quarter directly following the regulatory year (ending 30 June). Payments in relation to the duration of interruptions will be made within 3 months of the event occurring. Payments will be made in respect of the supply address, not the customer

The above scheme excludes:

- *interruptions caused by the following:*
  - *transmission and generation failures;*
  - *disconnection required in an emergency situation (eg. Bushfire);*
  - *single customer faults caused by that customer.*
- *interruptions of a duration less than 1 minute; and*
- *planned interruptions (but only where we have complied with the requirements set out in clauses 1.2.3.2 and 1.2.3.3 of the Distribution Code).*

2.2 Part A, clause 1.1.1(a)

When responding to the Commission's Draft HIR, ETSA Utilities advised that it had legal advice to the effect that it had not breached any regulatory obligations, only contractual obligations, as a result of its acknowledged failure to make the requisite outage duration GSL payments within the specified three-month timeframe as required by the Part B connection and supply contract. This position was based on a view that the only Electricity Distribution Code obligation and distribution licence obligation is to, in effect, publish the Part B contract and no further regulatory (as opposed to contractual) obligations exist in relation to Part B.

As identified in the Draft Decision, the Commission did not accept that position and, noting the legal opinion put forward by ETSA Utilities, the Commission considered it appropriate to put the issue beyond doubt so as to avoid any future debates over whether a failure to comply with the provisions of Part B can also attract regulatory consequences. It therefore proposed to vary clause 1.1.1(a) of Part A of the Electricity Distribution Code by inserting a new clause requiring the distributor to comply with the terms of the standard connection and supply contract.

2.2.1 Submissions

The Energy Industry Ombudsman supported the Commission's proposed variation for the reasons set out in the Draft Decision.

While ETSA Utilities did not expressly oppose this variation, it did express concern that the effect of the variation, in light of the Commission's position that the absolute nature of the clause 5.3(d) obligation to pay outage duration GSL payments within three months would not be relaxed, would be to impose an obligation with which ETSA Utilities could not comply.

The Commission notes that ETSA Utilities' submission is centred on one particular aspect of the Part B – clause 5.3(d) – whereas the proposed variation is of much broader ambit than that, encompassing the entire Part B connection and supply contract. In any event, as the Commission has argued above, it does not accept the various arguments put by ETSA Utilities in relation to its inability to comply with clause 5.3(d) as being reasons for changing the current scheme.

2.2.2 Final Decision - Proposed variation to Part A, clause 1.1.1(a)

For reasons set out above, the Commission confirms its Draft Decision and has varied clause 1.1.1(a) of the Electricity Distribution Code by introducing a new clause 1.1.1(a)(iii) in the following terms.

1.1.1 Connection and supply contracts

(a) The document set out in Part B is the standard connection and supply contract for all customers. Subject to clause 1.1.1(b), each distributor:

(i) must publish the contract set out in Part B as its standard connection and supply contract for customers under section 36 of the Act; and

(ii) must not connect or supply a customer's supply address, other than on the terms set out in that connection and supply contract; and

(iii) must comply with the terms set out in that connection and supply contract.

2.3 Momentary Interruptions

An issue which was discussed at length in the Commission's Draft Decision was the definition of momentary interruptions and, specifically, whether that definition should refer to interruptions of less than 30 seconds (as currently is the case) or less than 60 seconds (as sought by ETSA Utilities).

Without wishing to repeat the detailed discussions set out in the Draft Decision, the following points are relevant to an understanding of the Commission's Final Decision on this issue.

- Short-duration, or momentary, interruptions may occur as a result of a transient fault on ETSA Utilities' network. Transient faults are typically caused by factors outside the control of ETSA Utilities, such as lightning, airborne debris, animals and bird contact. A momentary interruption is created when a protective device disconnects the faulted section of network temporarily to allow the fault to clear before subsequent reconnection.
- Within the Electricity Distribution Code there are two instances where the concept of interruptions of a duration of less than 30 seconds is utilised: the "Notes" section to the SAIDI[14] and SAIFI[15] Standards table in clause 1.2.3.1 of Part A; and the "Notes" section to the GSL payment scheme in clause 5.3(d) of Part B. In both cases the concept is used to exclude interruptions to supply of less than 30 seconds from the calculation of the relevant measure.
- While there is no specific definition of "momentary interruption" in the Electricity Distribution Code,[16] other than in the provisions of clause 1.2.3.1 of Part A and clause 5.3(d) of Part B, the definition of "interruption" does expressly provide that a planned or unplanned outage of less than 30 seconds is not an "interruption" for the purposes of the Electricity Distribution Code.[17]
- The exclusion of supply interruptions of less than 30 seconds duration for the purpose of assessing SAIDI and SAIFI performance has been reflected in the Electricity Distribution Code since its inception in October 1999.[18] From 1 July 2005, the exclusion of supply interruptions of less than 30 seconds has also applied in the assessment of GSL payments for frequency and duration of interruptions, as well as the assessment of ETSA Utilities' performance under the SI scheme.

The Commission's Draft Decision on this issue was to vary the provisions of the Electricity Distribution Code to reflect a change in definition of momentary interruption from 30 seconds to 1 minute. The relevant provisions being clause 1.2.3.1 of Part A, the definition of "interruption" in Schedule 1 of Part A and clause 5.3(d) of Part B.

2.3.1 Submissions

Both ETSA Utilities and the Energy Industry Ombudsman supported this proposed variation. In its submission ETSA Utilities noted that the variation would:

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14 SAIDI is calculated by dividing the sum of all customer interruption durations (other than momentary) by the total number of customers served

15 SAIFI is calculated by dividing the total number of sustained (ie, greater than momentary) interruptions per customer by the total number of customers served.

16 The term is defined, however, for the purposes of the Commission's *Electricity Industry Guideline Number 1*, which sets out the financial and non-financial reporting requirements of ETSA Utilities for the purposes of clause 15 of ETSA Utilities' electricity distribution licence. See, *Electricity Industry Guideline Number 1*, Part A.3 Glossary, page 20 (refer http://www.escosa.sa.gov.au/webdata/resources/files/060614-ElectricityGuideline1.pdf).

17 See, Electricity Distribution Code, Schedule 1.

18 The Electricity Distribution Code applicable prior to 1 July 2005 contained a different set of "average" reliability service standards from that contained in the current Code. However, these standards were still based on the premise that interruptions with duration of less than 30 seconds were excluded.

- Align the SA regulatory regime with interstate equivalents in this area;
- Permit meaningful benchmarking of reliability performance; and
- Remove what ETSA Utilities perceives as an impracticality in manually recording outage time to the nearest second.

2.3.2 Final Decision – Proposed amendments to the definition of "momentary interruption"

For reasons set out above, the Commission confirms its Draft Decision to vary the Electricity Distribution Code to reflect a definition of "momentary interruption" such that the duration of those interruptions is up to 1 minute (as compared with the current 30 seconds). The Commission notes that amendments to Electricity Industry Guideline Number 1: Electricity Regulatory Information Requirements – Distribution will be required as a consequence of these variations.[19]

The following clause variations have been effected.

Clause 1.2.3.1 of Part A

The former "Notes" clause has been replaced with the following:

> *These standards reflect planned and unplanned supply interruptions on the low voltage and high voltage distribution networks but exclude any supply interruptions of a duration of less than **1 minute**.*

Schedule 1 of Part A

The former definition of "interruption" has been replaced by the following new definition:

> *"interruptions" include a planned or unplanned outage of at least **1 minute** in duration, that is an interruption of, or restriction to, distribution services, other than due to an emergency and/or due to generation or transmission failure.*

Clause 5.3(d) of Part B

In the revised text under the table "Thresholds and payment amounts – duration" in clause 5.3(d) of Part B, the clause:

- *Interruptions of a duration less than 30 seconds.*

has been replaced by the following new clause:

- *Interruptions of a duration less than **1 minute**.*

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[19] A copy of Electricity Industry Guideline Number 1: Electricity Regulatory Information Requirements – Distribution may be accessed from the Commission's website at http://www.escosa.sa.gov.au/webdata/resources/files/060614-ElectricityGuideline1.pdf.

2.4 Customer Service Standards – Telephone Responsiveness

As identified in section 1, a number of proposed variations to the Electricity Distribution Code in relation to new customer service standards for telephone responsiveness were raised for consideration in the HIR. These were:

- additional telephone responsiveness standards, such as an additional annual standard relating to the average wait time for callers wishing to talk to an operator; and
- minimum levels of service to be met by ETSA Utilities for the call centre Interactive Voice Recognition system, to be applied during extreme weather events.

2.4.1 Background – customer service standards

Customer Service involves responsiveness by ETSA Utilities to telephone and written enquiries from customers, and the means by which disputes with customers are handled by ETSA Utilities. This is measured by such attributes as timeliness of responses to telephone and written enquiries, and timeliness in providing written explanations for interruptions to supply after customer requests.

Clause 1.2.2 of Part A of the Electricity Distribution Code specifies that ETSA Utilities must use its best endeavours to achieve the level of customer service during each year (ending 30 June) as specified in Table 2.1. Each of these standards involves performance averaged across all customers that have made the specified form of enquiry. Thus, for example, ETSA Utilities must employ best endeavours to ensure that at least 85% of all telephone calls are answered within 30 seconds.

Table 2.1: Customer Service Targets

DESCRIPTION OF MEASURE	TARGET
Time to respond to telephone calls	85% within 30 seconds (including calls after a major outage event)
Time to respond to written enquiries	95% within 5 business days
Time to provide written explanation for interruptions to supply	85% within 20 business days

These standards are average standards that apply for a given financial year and so ETSA Utilities is required to meet them over the course of a year, rather than necessarily for a shorter period, e.g. a single (extreme weather) event.

In relation to telephone responsiveness, all appropriate telephone numbers through which customers might make enquiries of ETSA Utilities are required to be included in the assessment of performance, including the Power Failures & Emergencies 24 hour line (13 13 66).

ETSA Utilities (as with all electricity distributors) operates an Interactive Voice Response (IVR) system that processes telephone enquiries by providing information (e.g. in relation to the status of restoration of supply following an interruption) or directing telephone enquiries to an operator.[20] When a caller selects an IVR option that involves speaking to an operator, the call is considered answered only when responded to by the operator.

The Electricity Distribution Code classifies a call as being answered within 30 seconds where the customer receives information from the IVR system within 30 seconds and does not elect to speak to an operator. This classification within the Electricity Distribution Code recognises that electricity distribution businesses can only respond efficiently to large volumes of telephone enquiries by use of an IVR.

There is no provision for exclusions due to a major outage event (e.g. associated with extreme weather conditions) in the measurement of telephone performance. Under such conditions, an electricity distributor's call centre may become overloaded as thousands of customers seek to report a supply interruption and/or ascertain how long their supply will be interrupted. This was a significant issue in terms of ETSA Utilities' performance during the heatwave in January 2006 and the storms in August 2005.

2.4.2 Heatwave Inquiry Report Proposals

These proposals all stemmed from the poor customer service response of ETSA Utilities during the heatwave, with identified deficiencies in telephone responsiveness processes leading to customer frustrations and, perhaps more importantly, poor information flows both into and out of ETSA Utilities' call centre.

Having given further consideration to these proposals, the Commission remains of the view that there is merit in pursuing each of them. It acknowledges, however, that there may be technical and operational matters associated with each, which require careful analysis prior to any specific variations to the Electricity Distribution Code being proposed. The danger in proposing a variation in the absence of such analysis is the potential for ill-targeted or unwieldy regulatory measures to be put into place.

In addition, as identified in the HIR, ETSA Utilities has identified and has implemented, or is in the process of implementing, a number of actions to improve its telephone responsiveness performance. These include:

- improvements to its IVR system to provide better information;
- adopting processes and procedures for handling LV outages, which will improve the restoration time advice it can provide to customers;

[20] The IVR is an automated system used to assist in answering telephone calls and providing information to customers.

- implementation of the OMS, which will be able to provide job completion status; and
- establishing a 50-seat overflow call centre at Keswick.[21]

These, and other, initiatives are appropriate and welcome and must be given the necessary time and opportunity to take effect. The Commission has therefore decided not to take specific regulatory action at this stage in relation to the HIR recommendations.

On a cautionary note, however, and having regard to the performance during the heatwave notwithstanding that ETSA Utilities had given assurances that telephone responsiveness issues had been addressed after the August 2005 storms, should there be further occurrences of poor performance the Commission will not hesitate to provide a regulatory response. This, in turn, suggests the need for work on implementation of the initiatives to proceed now.

2.4.3 "Responding to telephone calls"

While not being the subject of a specific recommendation in the HIR, a further issue in relation to ETSA Utilities' telephone responsiveness was identified in the Draft Decision. Clause 1.2.2 currently provides some regulatory guidance as to the quality of information which must be provided by ETSA Utilities in response to written enquires. The clause specifies that a response must either answer the enquiry or, alternatively, acknowledge its receipt and indicate the process and timetable to be followed in dealing with the enquiry.

The Commission put forward the view that it would be appropriate that similar guidance should be provided in relation to telephone calls, given the overwhelmingly greater number of such contacts with ETSA Utilities as compared with the number of written enquiries which it receives each year.

The Commission therefore proposed that clause 1.2.2 should be varied to require ETSA Utilities to use its best endeavours to ensure that, in its responses to telephone calls, all information provided is accurate and up-to-date.

2.4.4 Submissions

Both the Energy Industry Ombudsman and ETSA Utilities supported the proposed variation, with ETSA Utilities noting that it aims to provide the most accurate outage information to its customers, whether via the IVR or by operators.

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21 ETSA Utilities, March 2006, *Submission to ESCOSA' Issues Paper dated February 2006: "ETSA Utilities' Network Performance and Customer Service Response January 2006",* page 5.

2.4.5 Final Decision – customer service standards

For reasons outlined above, the Commission is not proposing to vary the customer service – telephone responsiveness standards of the Electricity Distribution Code as suggested in the HIR at this stage.

The Commission has, however, amended clause 1.2.2 of the Electricity Distribution Code in the following terms (as indicated in bold text).

1.2.2 Customer Service Measures

The distributor must use its best endeavours to achieve the following customer service standards during each year ending on 30 June.

CATEGORY	*CUSTOMER SERVICE MEASURE*	*STANDARD*
Customer service	*Time to respond to telephone calls*	*85% within 30 seconds*
	Time to respond to written enquiries	*95% within 5 business days*
	Time to provide written explanation for interruptions to supply	*85% within 20 business days*

The term "responding to telephone calls" includes:

- *answering a customer's telephone call in person; and*
- *answering a customer's telephone call by providing access to which is able to process calls by providing information or direct calls to a service officer,*

but does not include the answering of a call by being placed in an automated queue to wait for one of the options above.

When responding to telephone calls the distributor must at all times use its best endeavours to ensure that all information provided, including that which is provided by means of a computer/telephony based interactive service, is current and accurate.

A written enquiry is an enquiry by e-mail, fax or letter from a customer to a distributor, via nominated enquiry channels, requesting information from the distributor or making a complaint about an action of the distributor.

A response to such an enquiry includes direct or telephone contact or written response in which the distributor either answers the enquiry or acknowledges receipt of the enquiry and indicates the process and timetable to be followed in dealing with the enquiry.

3 NEXT STEPS

Pursuant to its powers under the *Essential Services Commission Act 2002*, the Commission has amended the Electricity Distribution Code on the terms set out in this Final Decision. Where consequential amendments are required to other regulatory instruments, such as guidelines, the Commission will give effect to such amendments as soon as possible.

The Commission will continue to keep the Electricity Distribution Code under constant review to ensure its relevance to the electricity supply industry in South Australia.