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24 September 2009

Thank you for the opportunity to comment on the *Smart Meter Review of Customer Protection and Safety – Draft Policy Paper One*.

The Energy & Water Ombudsman NSW (EWON) investigates and resolves complaints from customers of electricity and gas providers in NSW, and some water providers. Our aim is to provide fair, equitable and independent investigation and resolution of customer complaints. We work with all the key stakeholders – providers, community, government, regulators – to improve the standard of service delivery for the benefit of NSW consumers.

EWON welcomes the work being done by the MCE and its consultants to review the potential consumer impacts arising from the smart meter rollout. We note however that for several of the issues raised, SCO needs to await the completion of the work by the National Stakeholder Steering Committee (NSSC) on access arrangements, service levels and service standards.

For ease of reference, in our submission we have adopted the structure of the 15 Draft Policy Positions as in the *Draft Policy Paper*.

If you would like to discuss this matter further, please contact me or Prue McLennan, Investigations Policy Officer on 02 8218 5250.

Yours sincerely

A handwritten signature in black ink that reads 'Clare Petre'.

Clare Petre
Energy & Water Ombudsman NSW



Energy & Water
Ombudsman NSW

Response to Ministerial Council on Energy

Smart Meter Review of Customer Protection
and Safety – Draft Policy Paper One

Submitted by the

Energy & Water Ombudsman NSW

24 September 2009

Draft Policy Position 1:

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

EWON appreciates the benefits of time-related pricing in assisting to manage peak demand, if enough customers respond to the pricing signals and reduce their usage during the peak periods. Time-related pricing also offers benefits to those customers who are able to adapt their pattern of consumption to minimise their energy usage during the more expensive peak periods.

However we remain concerned that there are many customers who do not have the flexibility to respond to time-related tariffs. The elderly, families with young children, and people suffering chronic illness or disability, are generally unable to avoid being at home between the typical peak period from 2pm – 8pm. The higher tariff imposed during this time-band will only worsen any existing hardship situation. While the provisions in the draft NECF relating to Customer Hardship Policies, and the NSW Government’s concession framework, will go some way to assisting these customers, it still appears inequitable that those who are least able to avoid usage at the peak tariff are also the least able to afford it.

The Draft Paper anticipates more common use of monthly billing as a result of the remote reading capability of the smart meters. The First Exposure Draft of the NECF does not define a ‘billing cycle’ as being any specific length of time, which would suggest that customers on a standard retail contract could be exposed to monthly billing rather than the current standard quarterly billing.

While monthly billing would give more timely feedback on energy costs compared to the standard three-monthly billing cycle, it also raises two potential adverse consequences for customers experiencing financial difficulty.

1. Clause 10.4 of the *Model Terms and Conditions for Standard Retail Contracts* in the NECF refers to the possibility of a late payment fee if ‘you have not paid a bill by the due date’. With monthly billing, this could expose customers to the possibility of twelve late payment fees per year, compared with the present four.

EWON notes that Rule 303 in the draft NECF requires a retailer to waive late payment fees for hardship customers, however there are many customers who have difficulty in paying bills and incur late fees without necessarily meeting the definition of a ‘hardship customer’ in the NECF¹.

¹ **hardship customer** means a residential customer of a retailer who is identified as a customer experiencing financial payment difficulties due to hardship in accordance with the retailer’s customer hardship policy.

If the customer is on a market contract, there could be specific provisions they have agreed to relating to monthly billing and late payment fees. However for standard contracts, EWON recommends that the draft NECF should place a limit on the late payment fees that can be imposed in any one year.

2. Monthly billing incurs additional administrative costs for retailers, in printing and mailing invoices, handling payments, and dealing with bill-related enquiries via their call centres. In the telecommunications industry many companies have aimed to recoup these costs by charging a fee to those customers who receive their bills in paper format, rather than electronically. Fees can also be charged to customers who pay by any means other than direct debit. These fees can unfairly disadvantage those customers who do not have computer access at home, or for whom direct debit is inappropriate.

EWON is concerned about the potential exposure of customers on standard contracts to such fees as a result of monthly billing.

Draft Policy Position 2:

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

EWON's experience with customer complaints relating to the interval meters in NSW has indicated a high level of dissatisfaction with their inability to reconcile their bills against any read visible to them on their meter. This has led to distrust and lack of confidence in the accuracy of the meters, and an increase in complaints that may have been avoided if the customer could have conducted their own self-check against a visible meter reading.

At present, bills issued to customers in NSW with interval meters and on a 'time of use' tariff only provide the amount of energy used, split into the various time bands. There is no 'previous read' and 'current read' as there are on bills where there is an accumulation meter.

EWON understands that the rolling accumulated total is always visible on interval meters, but this is not currently provided to NSW customers on their bills. It would greatly assist customers, and boost confidence in the accuracy of these meters, if the inclusion of this figure was a specific requirement under the NECF.

Rule 214 in the draft NECF lists the particulars required to appear on a bill, and includes:

- (i) *the values of meter readings or metering data (or, if applicable, estimations) at the start and end of the billing period*

It is not at all clear if the term ‘*meter readings or metering data*’ includes this rolling accumulation total, and EWON strongly supports Rule 214 being amended to specifically include this.

Draft Policy Position 3:

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

EWON supports this policy position. Currently bills issued to customers in NSW with interval meters and on a ‘time of use’ tariff include a breakdown of their usage into the separate time bands of peak, shoulder and off-peak. This information is essential for customers to understand how their bills are calculated. The information also gives them the opportunity to adjust their pattern of consumption to avoid any unnecessary usage during the periods which attract the higher tariff.

The bill content requirements in Rule 214 in the draft NECF only refer to ‘details of consumption’ without any reference to whether time-related consumption data should also be provided. EWON strongly supports Rule 214 being amended to specifically include this.

Draft Policy Position 4:

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

EWON supports this policy position. While it is possible that customers may have specifically reduced their usage in response to a Demand Peak Pricing (DPP) signal, if the meter data is permanently lost, it appears fair and reasonable to base their estimated usage using existing metrology procedures but at a non-DPP price.

Our support of this position is on the understanding that any agreement by a customer to participate in a DPP program is voluntary, based on full disclosure, and there is adequate warning of any DPP event. It should also be easy to opt out if the customer’s circumstances change in a way that would make them unable to respond to a DPP signal.

EWON would support a requirement for specific informed consent to be obtained from customers before participation in any DPP program.

Draft Policy Position 5:

SCO does not propose any smart meter related changes to overcharging or undercharging provisions in the draft NECF.

EWON supports this policy position, as these provisions do not appear to be affected by whether there is an accumulation meter or a smart meter in place.

Draft Policy Position 6:

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

EWON supports this policy position, and appreciates the benefit to customers of the provision of this additional information.

Currently customers in NSW with interval meters who receive estimated bills are only advised that the bill was estimated. There is nothing to indicate whether the whole bill was estimated, or just one or two half-hourly readings in the three-month period. Where there are no access issues that would have prevented a normal reading, the complaints about estimated accounts that customers bring to EWON demonstrate distrust of both the meters and of the integrity of the retailer's billing system.

If customers were provided with additional information about the proportion of any bill that was estimated, they would be in a better position to assess whether the bill was a realistic reflection of their pattern of usage. EWON would support any of the three possible examples of how that could be shown on a bill, (as a percentage, in literal terms or in monetary terms), with a slight preference for showing it in monetary terms.

Draft Policy Position 7:

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

EWON supports this policy position, as for draft policy position 3. However EWON notes the reference to a possible inclusion on bills of an energy benchmark against a geographic comparator, and has concerns that such a benchmark could be potentially misleading.

EWON's experience of customers' billing complaints indicates a high variation between customers living in the same area, depending on:

- the number of people in each household
- how many of those people are at home during the day
- the number of appliances in the home
- the pattern of usage of those appliances
- whether there is also gas available at the property
- the type of hot water service.

The inclusion of a generic geographic benchmark could potentially give rise to an increase in high bill complaints due to unrealistic expectations raised as to what the bill should be. Any such benchmark would need to contain a large number of qualifications, which may be too cumbersome on a standard bill format.

Rather than try to include the information on the bill itself, it may be more useful for retailers to provide this information to customers in a separate leaflet that could be enclosed with their bill from time to time. EWON notes that Sydney Water provides this to their customers in their bi-annual *Water Wrap* publication (www.sydneywater.com.au/Publications).

Draft Policy Position 8:

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

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

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

EWON supports this policy position. Rule 217 in the draft NECF requires that a retailer must provide a customer with 'historical billing' for the past 12 months, but this needs further clarification in the context of the half-hourly billing data available with interval meters.

Customers with interval meters who are disputing the accuracy of their billing will often request the complete set of half-hourly records to check. These requests are often strongly resisted by the retailer, due both to the unwieldy nature of the data, and to concerns as to its usefulness compared to the summary that appears on the customer's bill. For many customers this summary of their quarterly usage into the three time bands is sufficient for them to evaluate whether this realistically reflects the usage patterns of the household, but for those who dispute that breakdown, the complete half-hourly records may still be required.

While the draft NECF requires the historical data to be provided without charge for the first 12 months, EWON appreciates that the provision of the half-hourly data over a 12-month period in a paper format could incur significant costs in printing and mailing. We would therefore support an option for retailers to provide this in an electronic format most convenient to their customer, such as via email or CD.

In EWON's original submission to the draft NECF, we noted that the limitation to the 'free of charge' period to 12 months was at odds with the proposed change in the requirement for an actual meter reading only once every 12 months. Customers may now only become aware of a problem with their billing on receipt of an actual bill after receiving up to three estimated bills, and may wish to query the accuracy with their retailer. It would appear reasonable for a customer to be able to request historical billing data for up to two years free of charge, and EWON's submission recommended that the references to 12 months in Rule 217 be changed to two years.

Draft Policy Position 9:

SCO does not propose any changes to the draft NECF at this stage to regulate direct load control.

EWON agrees that any involvement by customers in a direct load control (DLC) program should be expressly agreed to in their market contract. To avoid ambiguity, and to protect against unintentional involvement in a DLC program, EWON would support a requirement that specific informed consent needs to be obtained before any DLC could be applied to a customer's appliance.

EWON notes that any further recommendations by SCO need to await the completion of the NSSC's work on access arrangements, service levels and service standards.

Draft Policy Position 10:

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

EWON considers there is insufficient information available on this issue to comment on this policy position at this stage. We note the advice in the Draft Policy Paper that any further recommendations by SCO need to await the completion of the NSSC's work on this topic.

We note that supply capacity control (SCC) by retailers is not currently allowed by the draft NECF, and it is also not currently considered a standard ‘customer distribution service’ under the terms of the deemed customer distributor contract.

SCC by distributor

This functionality of the smart meter may assist distributors in load shedding in the event of emergency situations. We do not see that any changes to the NECF would be required for this, as the normal rules relating to interruptions would appear to apply.

EWON would not have any objection at this stage for a proposal that customers could enter a separate agreement with their distributor to agree to supply capacity control, provided it was voluntary, there was full disclosure, and it was not open to anyone with a serious medical condition or on life support. There should also be a clear procedure to have the capacity limit readjusted at the customer’s request.

It is not clear, however, how any incentive for the customer to participate in such a program could be reflected in their tariff, as the distributor is not a party to the customer’s retail agreement. It is possible that a cash incentive unrelated to the customer’s energy bill may be the most appropriate delivery method for any such incentive.

SCC by retailer

EWON can see some advantages for customers in financial difficulty, but who may not have been identified by a retailer’s hardship program, to have their electricity supply capacity limited by their retailer rather than disconnected/de-energised for non-payment. This is purely on the basis that some supply is better than no supply at all, and is a preferable position particularly for vulnerable customers such as families with young children, the ill or the elderly. There would need to be the usual protection for any occupant on life support.

However, supply capacity limiting does raise some concerns about the ongoing relationship between the retailer and the customer. When supply is totally disconnected, it can force a customer to seek assistance in managing their energy payments. Customers identified as being in hardship can then be assisted by a range of policies and rebates. If the supply is only restricted, seeking assistance may not seem such an imperative. There would need to be requirements that customers whose supply capacity is limited are offered participation in the retailer’s hardship program and case managed with a view to restoring full capacity as soon as possible.

We understand there may also be health and safety concerns relating to supply capacity limiting, and there would also need to be more extensive research on the minimum supply capacity to run basic household appliances - noting that this could vary from one geographic region to another, and according to whether the premises was all electric, or also had gas for hot water, cooking or heating. EWON would therefore be extremely cautious before supporting supply capacity limiting by retailers without a good deal of further information and discussion.

Draft Policy Position 11:

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

EWON supports this policy position. We note that the proposed *National Energy Marketing Rules* in the draft NECF refers to ‘retail marketers’ and ‘retail market contracts’. If distributors (or their agents) undertake marketing activities to encourage customers to participate in DLC or SCC programs to assist their demand management, it appears only reasonable that the same provisions should apply to them.

EWON notes the proviso that the marketing provisions in the NECF may be later rendered unnecessary by the generic marketing provisions in the *Australian Consumer Law*, currently in development.

Draft Policy Position 12:

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

EWON supports this policy position. The ease and increased speed with which remote de-energisation can occur with smart meters may potentially reduce the opportunity for a customer to identify themselves as a hardship customer to their retailer, or to make a payment to avoid losing supply.

Notification requirements

Rule 605 of the draft NECF provides that before de-energisation for non-payment of a bill by the pay-by date can take place, the retailer must issue two further notices:

- a reminder notice and
- a de-energisation warning notice.

One of the requirements of the de-energisation warning notice is that it “*inform the customer of applicable re-energisation procedures*”: Rule 604 (2) (d). EWON recommends that this Rule is expanded to include specific information as to the time-frame in which remote de-energisation of smart meters can apply.

Rule 605 further refers to the requirement for a retailer to use its ‘*best endeavours to contact the customer, either in person or by telephone, mail, facsimile or email*’ prior to de-energisation. EWON considers that personal contact advising of the reduced time frame for remote de-energisation of a smart meter is a critical customer protection, and that advice about the time-frame in which remote de-energisation of smart meters can apply should also be included as part of this contact.

EWON also noted in our earlier submission on the draft NECF the need for any communication to customers to be expressed clearly and unambiguously, particularly in relation to the term ‘*de-energisation*’ which will not be familiar to most customers. We have recently consulted with a wide range of community workers and advocates who strongly oppose use of the term ‘*de-energisation*’ as it will not be understood by customers, particularly in circumstances where they are at risk of losing electricity supply.

Checking for correct meter

EWON has investigated a significant number of customer complaints relating to the incorrect transfer of sites due to errors on the part of the marketer or retailer. This has led to concerns about a similar potential for error when de-energisation is done remotely, with no visual check to ensure it is the correct meter.

As the effect of an incorrect de-energisation is potentially disastrous for customers and their families, EWON supports the additional comments made that “*appropriate safeguards*” should be in place to ensure accuracy in remote de-energisation, and suggests they should also include an appropriate level of customer compensation for wrongful de-energisation to encourage compliance. We would appreciate the opportunity to review suggestions as to what form these “*appropriate safeguards*” would take, and note that appropriate checking mechanisms are still under review by the NSSC.

Draft Policy Position 13:

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

EWON considers there is insufficient information available on this issue to comment on this policy position at this stage. We note that advice has been sought from the *Australian Communications and Media Authority (ACMA)* as to how material transmitted by an In-Home Display (IHD) would be regulated.

EWON would be concerned if any advertising material on an IHD distorted its primary purpose, or in any way confused the customer or deterred them from engaging with relevant and useful information about their energy usage.

Draft Policy Position 14:

SCO does not propose any changes to prepayment provisions in the draft NECF at this stage.

We note that smart metering may enable more customers to sign up to pre-payment offers, and to switch more easily between pre-payment and post-payment contracts. EWON supports this extension of wider choice to customers.

The draft NECF requires retailers to have systems in place to identify customers in hardship and to provide assistance where necessary. In particular we note the requirements for retailers to have systems capable of identifying every instance of a customer's self-disconnection and the duration of that self-disconnection.

Rule 816 (2) (c) provides that if they have self-disconnected 3 or more times in any 3 month period for longer than 240 minutes on each occasion, the retailer must contact the customer and offer to remove the *pre-payment meter system* and install a *standard meter*.

To avoid confusion, this reference to the *pre-payment meter system* and the *standard meter* may need to be clarified if in fact there is no need to replace the smart meter in these circumstances.

Draft Policy Position 15:

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

EWON considers there is insufficient information available on this issue to comment on this policy position at this stage. We note that the Second Exposure draft of the NECF is intended to address connection arrangements for embedded generation to electricity distribution networks.