

ELECTRICITY CODE REVIEW

The Electricity Code Consultative Committee (ECCC), in conjunction with the Economic Regulation Authority (ERA) recently released for public comment the Draft Review Report on the Electricity Code of Conduct (for the Supply of Electricity to Small Use Customers).

The WACOSS Consumer Utilities Project believes the Code is an important regulatory tool essential in protecting the rights of West Australian electricity consumers and as such has been actively involved in the review process.

As a participating member of the Electricity Code Consultative Committee (ECCC) WACOSS has been actively involved in the process, outcomes and recommendations put forward in the ECCC's Review of the Electricity Code of Conduct Report.

The Code Review has provided an opportunity for the Authority and consumer representatives, together with industry, to consider the effectiveness of the regulation in the electricity market. The Code offers clear standards of conduct to utility providers and safeguards the interests of consumers in Western Australia's electricity market.

WACOSS included a number of recommendations in our submission to the ECCC, some of which are outlined below.

- WACOSS recommended that an amendment be made to the Code that allows customers undergoing payment difficulties the right to request and be placed on shortened billing cycles and that there be provision for bill smoothing.
- WACOSS recommended that there be a requirement for a retailer to clearly identify current amounts due and historical debt and that individual reference numbers be assigned to each.
- WACOSS recommended that the ECCC calls for a prohibition of the expansion of any further pre-payment meters in Western Australia until independent consultation and research on the current use of Pre-payment meters in remote communities has been undertaken, and shows that consumers are not placed under undue risk or further vulnerability to disconnection.
- WACOSS recommended that service standard payments be increased from the current figure of \$50 a day to \$250 a day as a disconnection disincentive for retailers. WACOSS also recommended that the Code explicitly state that receipt of a service standard payment by a customer does not affect the customer's right to claim damages.
- WACOSS recommended that there be a temporary suspension of actions from the time an appointment is made until the customer has been seen and is assessed by a financial counselor.
- WACOSS recommended that the Code should stipulate that the Hardship Policy must be submitted to the Authority (or other independent organisation) for approval. WACOSS also recommended that consumers and consumer representatives are given copies of an approved hardship policy (rather than details of the policy) on request at no charge.

ECONOMIC REGULATION AUTHORITY 2005/06 ANNUAL REPORT – CODE OF CONDUCT

The Economic Regulation Authority (ERA) recently released a report which highlights how electricity retailers in WA are performing in the reformed energy market. The key finding of the report was the disturbing number of households disconnected from electricity in Western Australia, because they could not afford to pay their bills. The report is available on the ERA website <http://www.era.wa.gov.au/>

The report, *2005/2006 Annual Report: Code of Conduct (For the Supply of Electricity to Small Use Customers)*, publishes data showing that disconnections in WA are 5 times higher than they are interstate. 1.16 % of customers are disconnected in WA compared to only 0.22% of customers in Victoria.

Based on the reports figures, WACOSS estimates that during the year more than ten thousand households went without power, many of which are likely to have been families with children. This is an unacceptable level of deprivation from an essential service. We are all aware of the tragic consequences that can arise in households because of the actions they resort to when they are disconnected, such as attempting illegal connections, burning candles, running extension cords between properties and other makeshift energy sources.

The benefit of improved regulation in WA is that this important data about the performance of businesses which sell an essential service has been publicly reported. Now we need improvements to regulate the conduct of electricity retailers towards customers in financial hardship to ensure they are not disconnected unfairly.

Unfortunately the outcomes of this report highlight a shameful rate of disconnection in Western Australia and prove that we have a long way to go to improve outcomes for consumers. The large numbers of people who can not afford to maintain their connection to an essential service, shows that WA can not afford any price hikes and that the market is not ready for any further competition.

HARDSHIP POLICIES

WACOSS considers that the Hardship Policies of utility providers offer vital consumer protection for vulnerable and disadvantaged consumers.

We believe that the current obligation (under the Code) on retailers to develop a Hardship Policy is insufficient. We believe that the Code should also stipulate that the Hardship Policy must be submitted to the Authority (or other independent organisation) for approval. This requirement would be consistent with Victorian best practice where it is a Code requirement that Hardship Policies are submitted to Victoria's Essential Services Commission for approval¹. Developing Hardship Policies, in consultation with consumer representatives, to specific guidelines would also ensure that the resulting policies are effective in assisting consumers suffering from utility hardship.

It is important that consumers and consumer representatives are given copies of an approved hardship policy (rather than details of the policy) on request at no charge. The Committee for Melbourne's *Supporting Utility Customers Experiencing Financial Hardship Guiding Principles* articulates the need for information provision to be transparent and accessible. We concur with the statement that the "policy should be readily available to customers on request"² and believe that the development and application of Hardship Policies must be made more transparent.

The Code stipulates that retailers must *provide for annual review of the hardship policy in consultation with relevant consumer representative organisations*³; and although the retailers have expressed a commitment to assisting customers, they have had two years to review and improve its performance on hardship provisions. WACOSS believes that it is now time for government and the regulator to step in and guarantee protections for consumers.

GAS MARKETING CODE

Significant change has occurred in the area of consumer protection for gas consumers in Western Australia since WACOSS gave evidence. In 2006 there was disparity between gas and electricity consumer protection whereby gas consumers were protected only by a gas marketing code that

¹ Essential Services Commission, Victoria, Draft Decision Energy Retailers' Financial Hardship Policies, March 2007

² Committee for Melbourne Debt Spiral Prevention Program *Supporting Utility Customers Experiencing Financial Hardship Guiding Principles*. Version 1 June 2006.

³ Extract from Code of Conduct (for the supply of electricity to small use customers) 31 December 2004 GOVERNMENT GAZETTE, WA 7197 Currently under review by the Economic Regulation Authority

protects people only from undue marketing conduct rather than the whole range of issues that are covered by the electricity code of conduct for small-use customers.

In the time since WACOSS gave evidence the Gas Marketing Code has been reviewed with an outcome that effectively lessens consumer protection.

The Gas Marketing Code Consultative Committee's (GMCCC) Draft Report for Review of the Marketing Code of Conduct 2004 proposed a series of recommendations to the Economic Regulation Authority (Authority) in relation to the Gas Marketing Code of Conduct, the most significant of which was the recommendation that the Gas Code be repealed by the Authority.

We are concerned about the temporary lessening of consumer protection for gas consumers and have articulated our concerns that the GMCCC has moved away from a Code and instead has developed a Standard which is somewhat ambiguous in its nature and further entrenches inconsistencies between energy markets, rather than streamlining them.

However, as a participating member of the GMCCC, WACOSS supported this way forward providing that this is a transitional move and that the Authority undertake further work through a separate committee to consider the development of a more comprehensive code, converging gas and electricity consumer protection regulation.

It is vital that the move away from a regulatory code not be considered precedence for good practice. WACOSS was not satisfied with the methods or outcome of the review, except to the view to developing a more appropriate, comprehensive gas customer service code in future.

We believe that this work is essential to fill the current gap in regulatory protection for gas consumers in WA and were assured that the fact that the replacement of the Gas Marketing Code with a Gas Marketing Standard is the first step towards the development of a more comprehensive code.

LPG HARDSHIP INQUIRY

In January 2007, WACOSS made a submission to the Office of Energy in response to their Inquiry into *Bottled LPG Affordability*. In this submission, WACOSS highlighted bottled LPG affordability as being a major issue concerning many Western Australians living in regional, as well as some metropolitan areas. The key issues we raised in our submission have been the issues that we believe are contributing to the disadvantage of LPG consumers, namely affordability issues, equity issues, housing constraints, a lack of competition, theft and a lack of consumer protection and regulation.

The equity issues identified within WACOSS' submission are substantial with the relatively high price of bottled LPG resulting in disproportionate household expenditure on energy costs in comparison to households with access to reticulated gas for water and household heating and cooking. This expenditure, in turn has resulted in substantial and negative effects on those facing economic hardship or living on a low income.

Further to WACOSS' submission to the Office of Energy, WACOSS met with Inquiry members the Hon. Max Trenorden and the Hon. Mick Murray to discuss the issues around the inquiry. WACOSS has been informed that the inquiry is currently examining a number of options in regards to this issue, including additional measures to promote greater competition in bottled LPG retailing and supply as well as possible alternative distribution systems. WACOSS has previously been advised that the Inquiry intends to report to the Minister concerned by June, 2007. We look forward to the outcome of the Inquiry and are hopeful that due consideration will be given to the recommendations made in our submission and that they assist the taskforce to provide advice and recommendations to the Government to help address some of the issues suffered by people reliant on LPG as their essential energy source.

WACOSS continues to identify issues around access to affordable bottled LPG as having significant, negative effects on those facing financial hardship and living on lower incomes. WACOSS continues to recommend that additional action be taken by government to reduce the current levels of inequity in household energy provision.

CONSUMER PROTECTION FOR WATER CONSUMERS

WACOSS have consistently stated that there are gaps and inconsistencies in consumer protection between the essential services. The focus of water is often on security of supply; however there are a number of key residential water consumer issues that WACOSS are advocating for.

- The introduction of a Water Ombudsman (similar to the energy ombudsman)
- The development of a comprehensive Code of Conduct for water
- A review of the policy of charging high level of interest on overdue accounts
- Reform in how water debts within Aboriginal Communities are dealt with

The Department of Water is currently undertaking a review into Western Australia's Water Service Legislation. This review covers areas such as water pricing, the creation of enforceable codes by government and the formation of a water industry ombudsman scheme. WACOSS has responded to this review by written submission. In our submission to the review, WACOSS recommended the formation of an enforceable code of conduct, an independent Water Ombudsman Scheme and made recommendations against the use of water pricing as a demand management strategy.

Subsequent to our submission to the Department of Water, the Department of Water advised WACOSS that the current review is not intending to result in the formation of a legislated code of conduct for the water industry and that whilst the revised legislation may greatly facilitate the Minister for Water Resources' capacity to set water tariffs, further action in regards to water pricing remains at the relevant Minister's discretion. The Department of Water also recommends that any future Ombudsman Scheme be located within the Department of Water, as opposed to being a totally independent body for redress.

WACOSS continues to assert that the independence of Ombudsman Schemes represent best practice in this area of dispute resolution. Such schemes exist as an impartial arbiter with the capacity to make binding decisions on providers. Counter to many popular arguments, WACOSS asserts that increase to water tariffs as a demand management strategy may be both inequitable and ineffective. Such changes to pricing have the potential to disproportionately affect people living on lower incomes, especially those with larger families.

The Economic Regulation Authority (ERA) is currently undertaking a review into the state's current water provider licenses. Whilst the ERA has stated that this review is not intended to directly result in the creation of consumer protection provisions as a schedule of licenses, it is envisaged that reforms as are currently being proposed will enable such provisions to become a schedule of provider licences in the future. WACOSS believes that a legislated, enforceable industry code of conduct represents the best option for consumers, in the interest of equity.

Currently in the area of water, no mechanisms exist for people residing in residential tenancies to access dispute resolution through the Water Corporation. People living on low incomes or experiencing financial hardship are generally overrepresented in this type of housing tenure. Problems associated with water billing and residential tenancies can be significant and place people's housing at risk. WACOSS is continuing to discuss these issues with the Water Corporation in order to promote an equitable and fair outcome for people residing in tenancies.

WACOSS IS CALLING FOR:

A central policy unit to monitor the affordability and accessibility of essential services in WA

WACOSS believes that Government has an obligation to ensure universal access to essential services and that government needs to improve policy coordination around guaranteeing an essential service in a user pays market. Currently there is an ambiguous line between the responsibilities of social welfare and corporate behaviour in relation to utility regulation. This unit would play a critical role in clarifying rights and responsibilities between government, utilities and consumers.

A Customer Service Code for gas and water markets

WACOSS believes that codes are an appropriate way of delivering consumer protection in essential service markets since the conduct of licensees, who are selling essential services in the community, has a direct bearing on people's well being, and therefore must be responsibly regulated. WACOSS is concerned about a lack of consumer protection regulation in the gas and water markets and has been calling for comprehensive Gas and Water Codes of Conduct.

An Ombudsman for complaints resolution in the water industry

WACOSS continues to assert that the independence of Ombudsman Schemes represent best practice in this area of dispute resolution. Such schemes exist as an impartial arbiter with the capacity to make binding decisions on providers. WACOSS believes that the scope of the Energy Ombudsman could be extended to water and gas bottle consumers, similarly to the way the Energy and Water Ombudsman scheme operates in Victoria.

Regulatory improvements for LPG consumers

As a means of addressing current affordability and inequity issues WACOSS is calling for a range of regulatory improvements for LPG consumers including billing practice and pricing transparency.

Regulation of financial hardship policies for energy retailers

Hardship Policies are instrumental in preventing disconnections and although utilities are required to develop a hardship policy there are currently no formal guidelines to follow or obligation for the policies to be approved by an independent body such as the Economic Regulation Authority. WACOSS would like to see the development of formal hardship policy guidelines and a requirement for them to be approved by the ERA. We are also waiting for Synergy and Horizon Power to announce the review of their current hardship policies.

Increases in service standard payments for wrongful disconnection to \$250

WACOSS has recently called for an increase in Service Standard Payments for Wrongful disconnection. Victoria's Wrongful Disconnection Payment was introduced on 8 December 2004 specifically for cases of disconnection in breach of the Energy Retail Code. The rationale was a disincentive for retailers, but it also provides compensation for affected customers. The amount is \$250 per day (pro rata for parts of a day) and its introduction has seen a considerable drop in disconnections. WACOSS would like to see the current Western Australian figure of \$50 a day increased to \$250 a day as it is in Victoria.

A government funded utility assistance scheme to provide grants to pay bills

WACOSS has used its pre-budget submission to call on the government to establish a Utilities Assistance Scheme to provide funding to help people in crisis to stay connected. We believe that there is a role for Government to play in avoiding the social costs to consumers caused by disconnection. Disadvantaged and vulnerable utility consumers would be greatly relieved by such a scheme.

Pricing Policy

Energy and water should be affordable for all consumers. Supply must be assured and never denied to any consumers on the basis of their capacity to pay, financial hardship or vulnerable circumstances. Whilst price signals as a demand management strategy may be effective in many commodity markets, its efficacy as it relates to the consumption of essential services, is debatable. People living in poverty and experiencing disadvantage have a limited (if any) ability to change their consumption patterns. WACOSS believes that any changes to the price of essential services such as water, electricity and gas should be accompanied by an assessment as to the social impact of such changes, conducted by the relevant government authority.

Efficiency and sustainability

Energy should be sustainable and derived from an appropriately secure mix of sources, including renewable energy sources. Water resources should be managed to ensure that the provision of an adequate level of water at an appropriate quality is sustainable and affordable. Achieving sustainability and efficiency in water and energy markets means putting a price on pollution and investing in sustainable, clean energy solutions. It involves research, education and a commitment to policies which specifically consider the interests of low-income and disadvantaged communities.

To this end, all consumers, especially the more vulnerable low-income consumers need to be protected from the impacts of climate change, the most significant environmental problem threatening their wellbeing.

Equally, the response to climate change and other environmental challenges must be equitable and not impact disproportionately on low-income consumers.

Households need funding and behavioural assistance to improve the energy and water efficiency of their homes, both to reduce environmental impact and to improve the affordability of those services.