

Australian Capital Territory

Utilities (Consumer Protection Code) 2003 (No 1)

Disallowable Instrument DI2003-147

made under the

Utilities Act 2000, s 59 (Determined codes)

The Independent Competition and Regulatory Commission:

1. revokes the determination of the Consumer Protection Code made on 21 December 2000 under the *Utilities Act 2000* ("the Act"), section 235 (now expired); and
2. determines the Consumer Protection Code set out in the attached schedule.

Paul Baxter
Senior Commissioner
Independent Competition and Regulatory Commission
18 June 2003

SCHEDULE

Consumer Protection Code

June 2003



AUSTRALIAN
CAPITAL TERRITORY

INTRODUCTION

The Consumer Protection Code is an industry code under part 4 of the *Utilities Act 2000* (ACT) (the “Utilities Act”). The Code outlines the basic rights of consumers (including customers) and utilities with respect to access to, and provision of, utility services. Utilities are obliged to give effect to these rights primarily through customer contracts. The Code also deals with the general conduct of utilities (and their agents) in the delivery of utility services.

The Code applies to all utilities licensed under the Utilities Act to provide utility services to customers and consumers. It is divided into a number of parts. Part 1 addresses formal matters of the code. Part 2 contains generic provisions that apply to all utilities, including utilities that provide services to large, franchise (“contestable”) customers. Part 3 applies only to utilities in the provision of utility services to franchise (“non-contestable”) customers, that is network services and gas and electricity supply to customers on standard customer contracts. Part 4 applies to suppliers of electricity and gas to small, contestable customers. Part 4 also deals with the marketing of such services.

The Code is enforceable under the Utilities Act. The Independent Competition and Regulatory Commission (the “ICRC”) is responsible for monitoring utilities’ compliance with this Code, and other industry codes.

The code is intended to operate in conjunction with other Commonwealth and ACT law. To the extent that this Code is inconsistent with any such law, that law will take precedence.

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PART 1 PRELIMINARY**1 PURPOSE OF THIS CODE**

The purpose of this Code is to:

- (1) outline the basic rights of a **Customer** or a **Consumer** in relation to:
 - (a) connection to, and disconnection from, a **Utility's Network**;
 - (b) the supply of **Utility Services** by a **Utility**; and
 - (c) access to product and service information;
- (2) set out the circumstances in which a **Utility** can interrupt, restrict or disconnect supply of a **Utility Service** to a **Customer** or a **Consumer**;
- (3) outline particular obligations that a **Utility** must meet in dealing with **Customers** and **Consumers**;
- (4) outline obligations that a **Marketer** has in relation to the **Marketing** of electricity and gas supply services;
- (5) set out the provisions that a **Utility** must give effect to in its **Customer Contracts** for the provision of **Utility Services**.

2 OTHER RIGHTS

This Code supplements and shall not limit any rights a **Customer** or a **Consumer** may have under the *Utilities Act 2000* (ACT), the *Fair Trading Act 1992* (ACT), the *Door-to-Door Trading Act 1991* (ACT) or any other **Law**.

3 FORMAT AND APPLICATION OF THIS CODE**3.1 Parts and Application - Utilities**

This Code is divided into four parts:

- (1) *Part 1* outlines formal matters about the Code;
- (2) *Part 2* applies to all **Utilities**. This part outlines matters that relate to the protection of **Customers** and **Consumers** and that **Utilities** must comply with in providing **Utility Services** to **Customers** and **Consumers**;
- (3) *Part 3* applies to **Electricity Distributors, Gas Distributors, Water and Sewerage Utilities, Gas Suppliers of Franchise Customers, and Electricity Suppliers of Franchise Customers**. This part specifies matters that must be addressed in the **Standard Customer Contracts of Franchise Customers**. In addition it outlines **Utilities'** obligations with respect to distributing and varying **Standard Customer Contracts**;
- (4) *Part 4* applies to **Gas Suppliers of Small Non-Franchise Customers, and Electricity Suppliers of Small Non-Franchise Customers**. It specifies matters that must be addressed in **Negotiated Customer Contracts** for the provision of electricity supply services and gas supply services. This part also outlines matters that relate to the **Marketing** of gas supply and electricity

supply services. The **Marketing** provisions concern mainly **Consumers** as a whole, but some apply specifically to **Customers**.

Note: The threshold for **Small** and **Large Non-Franchise** (electricity) **Customers** is set at 100Mwhpa, which is lower than in other jurisdictions and than the industry (**MSATS**) definition.

3.2 Application – Consumers and Customers

- (1) A **Consumer** of a **Utility Service** includes:
 - (a) a **Customer** for the **Utility Service**; and
 - (b) an **Occupier** of the **Premises** of a **Customer** to which the **Utility Service** is provided.
- (2) A **Customer** means:
 - (a) a **Person** for whom a **Utility Service** is provided under a **Customer Contract**; or
 - (b) a **Person** who has applied to enter into a **Customer Contract** with the relevant **Utility**.

Note: Usually the **Customer** of a **Utility Service** is also the **Consumer** of the **Utility Service** and the terms are interchangeable. However, in some instances a **Consumer** of the **Utility Service** is not the **Customer**, for example, in the case of a rented property the landlord is usually the **Customer** of water and sewerage services but not the **Consumer**. In this instance the landlord is the **Person** contracted with the **Utility** to receive the **Utility Service** but it is the tenant who is the **Consumer**.

- (3) For the avoidance of doubt the Code has been structured to make it clear which provisions apply to **Consumers** in general, and which provisions apply to **Customers** in particular. Where a reference is made to a **Consumer** it includes a **Customer**.

3.3 Dictionary

Emboldened terms are defined. Definitions are specified in the Dictionary at the end, and are part, of this Code.

3.4 Schedule

Performance Standards are specified in the schedule to, and are part of, this Code.

PART 2 PROTECTION OF CUSTOMERS AND CONSUMERS

PART 2.1 OBLIGATIONS OF THE UTILITY UNDER LAW

4.1 OBLIGATIONS UNDER LICENCE

- (1) A **Utility** is required under its licence to comply with all **Laws** in force in the **Territory** and applicable to any services provided by the **Utility** in the **Territory**.
- (2) Without limiting the generality of clause 4.1(1), in providing a **Utility Service** a **Utility** must comply with:
 - (a) any requirement of the **Act**;
 - (b) relevant **Industry Codes**;
 - (c) relevant **Technical Codes**; and
 - (d) any direction, including guidelines, given to the **Utility** by the Independent Competition and Regulatory Commission (**ICRC**) or the **Chief Executive** under the **Act**.

4.2 UTILITIES' RESPONSIBILITIES FOR CONDUCT OF AGENTS

A licence issued to a **Utility** under the **Act** allows the **Utility** to contract out to an **Agent** the provision, construction, operation, management or maintenance of any of the systems or services that are the subject of the licence of the **Utility**. Despite contracting out a system or service the **Utility** remains bound by its licence conditions and, as such, is responsible for the activities of, and the representations made by any **Agent**, including for the purposes of **Marketing**.

PART 2.2 PROTECTION OF CONSUMERS

5 CONDUCT OF UTILITIES

- (1) A **Utility** must act ethically, fairly and honestly in all its dealings with a **Consumer**.
- (2) A **Utility** must not call or contact a **Consumer**:
 - (a) during a public holiday in the **Territory**;
 - (b) on a Saturday or Sunday, between midnight and 9:00am or between 5:00pm and midnight; or
 - (c) on any other day, between midnight and 8:00am or between 8.00pm and midnight,unless it is during an emergency or the **Consumer** has given express approval.
- (3) The staff of a **Utility** must attempt to identify themselves to a **Consumer** before entering the **Premises** of the **Consumer** unless:
 - (a) the **Utility** staff are entering the **Premises** to read, or check the accuracy, of a meter; or

- (b) the **Utility** staff are responding to an emergency.
- (4) The obligations of a **Utility** under this Code are subject to a **Consumer** informing the **Utility**, to the extent that such information is relevant to that obligation, of the following events as soon as possible after each relevant occurrence:
 - (a) any change in the person or body responsible for the payment of an **Account**;
 - (b) any change to the contact details of a **Consumer**;
 - (c) any change or proposed change to the **Premises** or the **Installation** of the **Consumer** which may affect the quality or safety of the **Utility Service** to the **Consumer** or another **Person**;
 - (d) the **Consumer** becoming aware of a problem with a **Utility Service** at the **Premises** of the **Consumer** (for example, burst or leaking pipes).
- (5) For the purposes of clauses 5(1), (2) and (3), a **Utility** includes an **Agent** acting on the behalf of the **Utility**.

6 COMPLAINTS AND DISPUTE RESOLUTION

6.1 Consumer Complaints Procedures

A **Utility** must develop, maintain and implement procedures to deal with:

- (1) A complaint of a **Consumer**, including:
 - (a) a right to have the complaint considered by a senior employee within the **Utility** if the **Consumer** is not satisfied with the manner in which the **Utility** is handling the complaint; and
 - (b) a complaint by a **Consumer** against an **Agent** of the **Utility**; and
- (2) the resolution of a dispute between the **Utility** and a **Consumer**.

6.2 Practices and Procedures to comply with Australian Standards

The procedures implemented by a **Utility** under clause 6.1(1) must provide for the handling of a complaint in accordance with the relevant Australian Standard on complaints handling.

6.3 Addressing the Complaint of a Consumer

A **Utility** that receives a complaint from a **Consumer** must advise the **Consumer** of the following matters:

- (1) in its initial response to the **Consumer**—the **Utility's Consumer** complaint handling practices and procedures; and
- (2) in a response giving its final decision on a complaint—any right the **Consumer** may have to refer their complaint to the Essential Services Consumer Council (**ESCC**).

6.4 Utility to keep Records

A **Utility** must keep its records of a complaint made by a **Consumer** for not less than 12 months after the complaint is resolved.

7 CONSUMER INFORMATION

7.1 Utility to provide Information

- (1) A **Utility** must, on request, provide a **Consumer** with information about the services provided by the **Utility** to the **Consumer's Premises**;
- (2) A **Utility** must, on request, provide a **Customer** with information about:
 - (a) **Load Profiles** and **Power Factors**, if applicable;
 - (b) meter readings for **Utility Services** provided to the **Customer's Premises** by the **Utility**;
 - (c) the **Account** of a **Customer** with the **Utility**; and
 - (d) efficient energy consumption;

to the extent that the information is reasonably available to the **Utility**.

7.2 Utility May Recover Costs of Providing Information

- (1) Subject to the prior approval of the **ICRC** either in a particular case or generally for the type of information being requested, a **Utility** may charge a **Consumer** for the reasonable costs of supplying information under clause 7.1.
- (2) A **Charge** approved under clause 7.2(1) should be listed on the website of the **Utility**.

7.3 Disclosure of Consumer Information by a Utility to a Third Party

A **Utility** must not disclose personal information about a **Consumer** to a third party except in accordance with the *Privacy Act 1988 (Cth)* and the *Utilities Act 2000 (ACT)*. "Personal information" is defined in the *Privacy Act 1988 (Cth)*, section 6(1).

8 NOTICE

8.1 Requirements for Effective Notice to Consumer

- (1) A **Utility** must ensure that a notice required to be issued to a **Consumer** under this Code is in writing and:
 - (a) delivered by hand to the **Premises** of a **Consumer** (unless the **Consumer** has specified an alternative address for service); or
 - (b) sent by prepaid mail to the **Premises** of a **Consumer** (unless the **Consumer** has specified an alternative address for service); or
 - (c) sent by facsimile to the facsimile number of the **Consumer**; or
 - (d) sent to the **Consumer** by some other electronic means capable of generating a delivery confirmation report;

except where this Code specifies another method of notification.

- (2) A **Utility** serving notice on a **Consumer** under clause 8.1(1) must send the notice to:
- (a) in the case of a **Consumer** who is a **Customer**, the address last nominated by the **Consumer** to the **Utility**; or
 - (b) in the case of a **Consumer** who is not a **Customer**, the **Premises** of the **Consumer**; or
 - (c) the electronic mail address or facsimile number last nominated by the **Consumer** to the **Utility**.

8.2 Deemed Delivery

If a **Utility** has followed the procedures set out in clause 8.1, the **Consumer** is deemed to have received the notice:

- (1) if delivered by hand, upon leaving it at the relevant address;
- (2) if mailed to an address, two **Business Days** after the date of posting; or
- (3) if sent by facsimile or electronic mail before 4:00pm on a **Business Day** at the place of receipt, on the day it is sent, and otherwise on the next **Business Day** at the place of receipt.

9 SUMMARY OF CONSUMER AND UTILITY RIGHTS

9.1 Utility to Prepare Summary

- (1) A **Utility** must prepare a statement summarising the rights of a **Consumer** and the **Utility** under the **Act**, this Code and the relevant **Customer Contract** with respect to the **Utility Service** provided by the **Utility** to the **Consumer** ("Summary").
- (2) A **Gas Supplier** or an **Electricity Supplier** is not required to prepare a statement under clause 9.1(1) for **Non-Franchise Customers**.

9.2 Content and Format of Summary

- (1) The Summary must deal with:

Consumer Rights

- (a) the level of service standards a **Consumer** is entitled to receive;
- (b) a **Consumer's** right to information;
- (c) a **Consumer's** right to complain about a **Utility's** conduct and service levels, and who complaints can be made to;

Utility Rights

- (d) the right of a **Utility** to payment for services provided to a **Customer**;
- (e) the right of a **Utility** to disconnect or restrict supply to a **Customer** for non-payment of a **Customer Account**;
- (f) any rights of access and asset protection that the **Utility** has, including the right to enter the **Premises** of a **Consumer**.

- (2) The Summary must be expressed in simple and straightforward language.
- (3) In addition, the Summary must advise a **Consumer** of the availability of:
 - (a) interpreter services; and
 - (b) non-English and other versions of the Summary.

9.3 Summary to be Available in Different Languages and Formats

- (1) A **Utility** must ensure that the Summary is available in the following versions:
 - (a) English;
 - (b) large print; and
 - (c) each of the five most common non-English languages used in the **Territory**.
- (2) A **Utility** must take any other reasonable steps to provide a **Consumer** with a summary of the rights of the **Consumer** and of the **Utility** under the **Act** and this Code.

9.4 Utility to Provide Copy of Summary

- (1) A copy of the Summary must be included in a **Customer's** initial **Account** unless provided previously. If the Summary is changed in any significant respect a copy must be sent to each **Customer** with the **Account** following the change.
- (2) A **Utility** must, on request, provide a **Consumer** with a copy of the Summary.
- (3) A **Utility** must make the most recent version of the Summary available on its website.

10 SPECIAL NEEDS

10.1 Utility Must Not Disconnect

- (1) If a **Consumer** provides evidence from a registered medical practitioner or a hospital that a **Person** residing at the **Consumer's Premises** requires a life support machine, the operation of which requires a **Utility Service**, the relevant **Utility** must record those **Premises** as a life support machine supply address ("supply address");
- (2) Where the operation of a life support machine requires electricity supply services, the **Electricity Supplier** must immediately notify the **Electricity Distributor** that a **Premises** has been registered as a supply address. The **Electricity Distributor** must update its special needs records not later than two **Business Days** after notification;
- (3) The **Utility** must not disconnect the **Utility Service** to the supply address while any life support equipment is in use at the supply address unless:

- (a) it has been notified by the **Consumer** or, in the case of electricity supply services, by the **Electricity Supplier**, that the **Person** no longer resides at that address or no longer requires the life support machine; or
 - (b) the **Consumer** fails to provide evidence to a **Utility**, at the **Utility's** request, that the **Person** still resides at that address and still requires the life support machine.
- (4) Subject to clause 10.1(5), the **Utility** must give the **Consumer** not less than four **Business Days** written notice of a planned interruption to the supply of **Utility Services** at the supply address;
- (5) A period of notice longer than four **Business Days** may be given provided it is:
- (a) requested by the **Consumer**;
 - (b) reasonably necessary; and
 - (c) able to be provided by the **Utility**;
- (6) The **Utility** must:
- (a) to the extent that it is able, assist the **Consumer**, upon request, to prepare a contingency plan in case of an unplanned interruption in the supply of the **Utility Service** to the **Consumer**; and
 - (b) provide an emergency telephone contact number.

10.2 Cessation of Special Needs

A **Utility** may include as a condition of the **Customer Contract** that a **Consumer** whose address has been recorded by a **Utility** as a supply address must inform the **Utility** if the **Person** for whom the life support machine is required:

- (1) vacates the supply address; or
- (2) no longer requires the life support machine.

11 OBLIGATION TO COMPLY WITH PERFORMANCE STANDARDS

11.1 Compliance by Utilities with Performance Standards

A **Utility** must comply with all applicable performance standards set out in the Schedule to this Code, except to the extent that:

- (1) alternative arrangements or standards have been agreed between the **Utility** and a **Consumer**; or
- (2) events or conditions, outside the control of the **Utility**, including emergencies declared under the *Emergency Management Act 1999 (ACT)* or any other **Law**, prevent the **Utility** from complying with the performance standards of this Code.

11.2 Obligation to Pay Rebate for Non-Compliance

- (1) If:
 - (a) a **Utility** does not comply with its obligations under clause 11.1, and
 - (b) the **Utility** becomes aware of the fact that it has not so complied; and
 - (c) there is a resultant liability to pay a rebate prescribed in the Schedule to an affected **Consumer**,the **Utility** must pay the rebate.
- (2) A **Utility** is not required by clause 11.2(1) to pay more than one rebate to each affected **Premises** per event of non-compliance with the performance standards.¹
- (3) For the purposes of clause 11.2(2), each **Premises** where a **Customer** receives an **Account** from the **Utility** is a separate **Premises**.
- (4) A **Utility** is not required by sub-clause 11.2(1) to pay any rebate unless a **Consumer** has:
 - (a) applied for a rebate; and
 - (b) the application has been made within three months of the non-compliance by the **Utility**.

11.3 Method of Payment of Rebate

- (1) A **Utility** required under this Code to pay a rebate to a **Customer** may pay the rebate by deducting the amount of the rebate from the amount payable by the **Customer** under the next **Customer Account** which is due after the rebate became payable; or
- (2) in the case of a **Non-Franchise Customer**, the rebate may be paid by the **Utility** to the **Non-Franchise Customer's** electricity or gas supplier, to be passed on to the **Customer**; or
- (3) in the case of a **Customer** who has discontinued the **Utility Service**, the rebate may be paid directly to the **Customer** or as otherwise agreed by the **Customer**; or
- (4) in the case of a **Consumer** who is not a **Customer**, the rebate may be paid directly to the **Consumer** or as otherwise agreed by the **Consumer**.

11.4 Rebates to be Paid in Addition to Damages

If a **Utility** becomes liable under this Code to pay a **Customer** a rebate, that liability is in addition to, and not in substitution for, any claim for damages that the **Customer** may have against the **Utility** for breach of the **Customer Contract**.

¹ For example, a family of 2 adults and 3 children whose premises have had their electricity supply interrupted and who have not been given the required notice of interruption would be eligible for 1 rebate, not 5 rebates. Likewise, in the case of a shopping centre that has had its electricity disrupted, any store tenants, whether they are electricity account holders or not, would be eligible for rebates, but not every visitor to the shopping centre.

PART 2.3 PROTECTION OF CUSTOMERS

12 CHARGES

12.1 Information about Charges

- (1) A **Utility** must provide information about the **Charges** (including alternative **Charges** and variation of **Charges**), which it makes for the supply or sale of **Utility Services** to the **Customer**.
- (2) On request by a **Customer**, a **Utility** must make a copy of its **Charges** available to the **Customer** free of charge.
- (3) A **Utility** must list the **Charges** which it makes for the supply or sale of **Utility Services** to **Franchise Customers** on the website of the **Utility**.

12.2 Variation of Charges

An increase in the **Charge** for a **Utility Service** operates from the date of the relevant notice of the increase or from a later date specified in the notice and does not apply retrospectively, unless with the prior approval of the **ICRC**.

13 CUSTOMER ACCOUNTS

13.1 Maximum Intervals between the sending of Customer Accounts

A **Utility** must send a **Customer Account** to each **Customer** at least every 120 days from the issue of the last **Customer Account** unless the **Customer** and the **Utility** have agreed to an alternative arrangement.

13.2 Notice

A **Customer Account** when sent by a **Utility**, is a notice for the purpose of clause 8.

13.3 Content of Customer Accounts

- (1) A **Customer Account** must contain the following information:
 - (a) the name and bill number of the **Customer**, the address of the **Premises** of the **Customer** and any relevant mailing address;
 - (b) the date on which the **Account** period begins and ends;
 - (c) the **Utility Service** (or any particular or additional goods or services) to which the **Account** relates;
 - (d) the dates of current and previous meter readings or estimates (if applicable);
 - (e) current and previous meter readings or estimates (if applicable);
 - (f) current and comparative consumption data (if applicable);
 - (g) the **Customer's National Metering Identifier** and **Checksum**, in the case of an **Electricity Supplier**;
 - (h) the **Customer's Delivery Point Identifier**, in the case of a **Gas Supplier**;

- (i) the **Charges** payable (fixed and variable), specifying the particular **Utility Service** they are for, and whether they are **Utility Service** related **Charges** or **Charges** for other goods and services;
 - (j) any amount deducted, credited or received under:
 - (i) a **Territory** Government sponsored rebate or concession scheme; or
 - (ii) an instalment plan which applies to the **Customer**;
 - (k) the amount of any arrears or credit standing to the **Customer's** name;
 - (l) the amount of any payments received from the **Customer** during the **Account** period;
 - (m) the total amount due;
 - (n) the due date for payment;
 - (o) a summary of payment methods;
 - (p) the address to which payment is to be made or the alternative mode of payment options (see clauses 13.5 (2) and (3));
 - (q) in the case of electricity and gas supply:
 - (i) the amount of greenhouse gas emissions associated with the electricity or gas supplied, as per the "Guidelines for Greenhouse Gas Disclosure on Customer Accounts"; and
 - (ii) any other information specified by the **ICRC** in the "Guidelines for Greenhouse Gas Disclosure on Customer Accounts";
 - (r) in the case of electricity, to the extent that the data is available, the contribution of accredited **Green Power** electricity generation to the **Customer's** electricity consumption;
 - (s) contact details for a 24 hour telephone number for faults, difficulties and emergencies;
 - (t) a referral telephone number for an interpreter service (set out in the five most common non-English languages used in the **Territory**);
 - (u) a telephone number for the **Customer** to call for any queries relating to:
 - (i) the **Customer Account**;
 - (ii) the complaints handling procedures of the **Utility**;
 - (iii) how to make a hardship complaint to the **ESCC**; or
 - (iv) how to apply for a **Territory** Government sponsored rebate or concession that the **Utility** provides.
- (2) A **Gas Supplier** or an **Electricity Supplier** is not required to include the information referred to in sub-clauses 13.3(1)(u)(iii) and (iv) in the **Accounts** of **Large Non-Franchise Customers**.

13.4 Historical billing information

- (1) A **Utility** must, at the request of a **Customer**, provide the **Customer** with the information held by the **Utility** that concerns the **Account** of the **Customer**.
- (2) If the information requested relates to the last 12 months, the **Utility** must provide the information free of charge.

- (3) If the information requested is more than 12 months old, the **Utility** is entitled to charge the **Customer** the reasonable cost of providing the **Customer Account** information.

13.5 Payment of Customer Accounts

- (1) A **Utility** must give a **Customer** not less than 12 **Business Days** to pay the **Customer Account** from the date on which the **Customer Account** is sent to the **Customer**, unless an alternative period has been agreed between the **Utility** and the **Customer**.
- (2) A **Utility** must provide a **Customer** with the following options for the payment of **Accounts**, namely payment:
 - (a) in person at any of the offices or agencies designated by the **Utility**;
 - (b) by mail to the address nominated by the **Utility**.
- (3) **Utilities** are also encouraged to provide **Customers** with a range of other flexible options for the payment of **Accounts** including, but not limited to, payment:
 - (a) by direct debit from a **Customer's** cheque, savings or accepted credit card account;
 - (b) by telephone from a **Customer's** cheque, savings or accepted credit card account;
 - (c) by automatic direct debit under a payment arrangement agreed upon between the **Customer**, the **Utility** and the **Customer's** bank or financial institution;
 - (d) by electronic payment over the Internet from a **Customer's** cheque, savings or accepted credit card account; and
 - (e) if available, by direct debit from **Centrelink**.

13.6 Review of Customer Accounts

- (1) Subject to this clause, on request by a **Customer** who disagrees with the amount of a **Customer Account**, a **Utility** must review the **Customer Account** free of charge. (This review does not include reading a **Customer's** meter.)
- (2) The **Utility** is entitled to receive payment for that part of the **Customer Account** that is not in dispute and which is due before commencing the review.
- (3) If a review of a **Customer Account** shows that the amount required for payment on the **Account** was incorrect, the **Utility** must adjust the **Account** after the review.
- (4) A **Utility** is not required to review a **Customer Account** more than once per **Account** period.

13.7 Overcharging

If a **Utility** becomes aware that it has overcharged a **Customer** as a result of a review of a **Customer Account** or by any other means, the **Utility** must adjust the **Customer Account** by refunding the amount overcharged or by reducing the

amount of the next **Customer Account** sent to the **Customer** after becoming aware of the overcharge.

13.8 Undercharging

- (1) If a **Utility** becomes aware that it has undercharged a **Customer** as a result of a review of a **Customer Account** or by any other means, the **Utility** may recover the undercharge.
- (2) The amount to be recovered must be listed separately and explained on the **Customer Account** and interest may not be charged on the amount being recovered.
- (3) The **Utility** must give the **Customer** a period of time to pay the undercharge that is at least equal to the period during which the undercharging occurred, if requested by the **Customer**.
- (4) Despite clause 13.8(1), a **Utility** may not recover the undercharge if it occurred more than 12 months previously.
- (5) Clause 13.8(4) does not apply to the extent that the undercharging by the **Utility** was caused or contributed to by the **Customer**, or by dishonesty or deceit against the **Utility**, or by the unreasonable failure of the **Customer** to provide to the **Utility** information for the purpose of calculating charges.

13.9 Final Customer Account on Disconnection or on Vacating Premises

- (1) A **Customer** may seek termination or disconnection of a **Utility Service** provided to the **Customer** by the **Utility**.
- (2) A **Customer** must give the **Utility** up to three **Business Days** notice of the date on which the **Customer** seeks to have a **Utility Service** disconnected or to vacate **Premises** to which the **Utility** provides a **Utility Service** and must provide an address to which a final **Customer Account** can be sent.
- (3) The **Utility** may require the **Customer** to pay all the **Charges** (including minimum **Charges**) for services provided to the **Customer's Premises** until whichever of the following first occurs:
 - (a) the date for disconnection of the service in accordance with clause 13.9(2) or
 - (b) the **Utility** reads the **Customer's** meter prior to disconnection of the service; or
 - (c) the **Utility** disconnects, suspends or transfers the service.
- (4) Termination of a **Utility Service** to a **Customer** does not affect rights or obligations incurred prior to the date of termination. Moreover, the **Customer** continues to have access to the complaints and dispute resolution process in accordance with clause 6.

13.10 How payments to be applied

- (1) If a **Utility** supplies a **Customer** with goods and services in addition to a **Utility Service**, the **Utility** must first apply any payments received from the **Customer** towards payment of the relevant **Utility Service**. The payment should begin with the oldest part of the debt, unless otherwise directed by the **Customer**.
- (2) In the case of dual energy, the payment should be equally distributed, unless otherwise directed by the **Customer**.

13.11 Territory Government Sponsored Rebates

If:

- (1) the **Utility** provides a **Territory** Government-sponsored rebate or concession on the cost of providing a **Utility Service**; and
- (2) a **Customer** applies to a **Utility** for a rebate or concession; and
- (3) the **Utility** is satisfied that the **Customer** is entitled to the rebate or concession;

the **Utility** must grant the **Customer** the relevant rebate or concession.

13.12 Customer Difficulties in Paying Customer Account

- (1) If a **Customer** informs a **Utility** that the **Customer** is experiencing difficulty in paying the **Customer Account** or requires payment assistance, the **Utility** must offer the **Customer**:
 - (a) subject to clause 13.13, an advance payment plan or instalment payment plan option;
 - (b) information about, and referral to, any **Territory** Government assistance program; and
 - (c) information about independent financial counselling services;at no cost to the **Customer**.
- (2) A **Gas Supplier** or an **Electricity Supplier** is not required to offer **Large, Non-Franchise Customers** the assistance referred to in clause 13.12(1).

13.13 Instalment Plan Options

A **Utility** is not required to offer an advance payment plan or an instalment plan to a **Customer** who has, in the previous 12 months, had two or more advance payment or instalment plans cancelled due to non-payment.

14 INTEREST AND OTHER CHARGES

14.1 Interest Charges

- (1) A **Utility** may charge interest on the **Account** of a **Customer** if at least 14 days have passed after the due date for payment of the **Account** of a **Customer**.

- (2) A **Utility** may charge interest on the **Account** of a **Customer** from the due date of payment of the **Account**.
- (3) If the **Customer** is a **Franchise Customer**, the **Utility** must not charge a rate of interest which:
 - (a) is not specified in the **Standard Customer Contract**; and
 - (b) exceeds the **Default Rate**.

PART 3 PROTECTION OF FRANCHISE CUSTOMERS²**PART 3.1 MATTERS THAT MUST BE ADDRESSED IN STANDARD CUSTOMER CONTRACTS****15 STANDARD CUSTOMER CONTRACT PROVISIONS****15.1 Obligations under the Act**

Under the **Act**, a **Utility** that provides a **Utility Service** to a **Franchise Customer** must do so in accordance with a **Standard Customer Contract**.

15.2 Provisions to be contained in Standard Customer Contracts

A **Standard Customer Contract** must contain provisions to give effect to this Part of the Code.

15.3 Provisions to be Regarded as Minimums Only

Nothing in this Part of the Code is to be taken to prevent a **Utility** including provisions in its **Standard Customer Contract** that are in addition to, and not inconsistent with, matters covered by this Part.

16 CONNECTION AND SUPPLY**16.1 Obligation to Connect and Supply**

A **Utility** that is licensed to provide a **Utility Service** to a **Franchise Customer**, and receives an application to provide a **Utility Service** from a **Franchise Customer**, must provide the service requested within a reasonable time.

16.2 Utility not required to Connect or Supply

Notwithstanding clause 16(1), a **Utility** is not required to provide the **Utility Service** if a **Customer**:

- (1) does not meet any charges payable to the **Utility** with respect to the provision of the **Utility Service**, the connection of the **Premises** or any applicable capital contribution;
- (2) does not provide satisfactory evidence of identity;
- (3) does not have a contract with a licensed **Utility** for the supply of electricity, gas or water services to the **Premises** if the **Customer** is seeking electricity, gas or water connection services, respectively;
- (4) does not meet any other condition that has been approved by the **ICRC**;
- (5) is seeking to have their **Installation** connected to the **Network** of the **Utility** and the **Installation** of the **Customer** does not meet:

² In the case of water and sewerage services, the provisions include **Occupiers of Premises** who are not **Customers**.

- (a) the requirements of the relevant **Service and Installation Rules**, or any applicable **Technical Code** or **Law**; and
 - (b) any other reasonable requirements by the **Utility** in relation to the **Customer's Installation**;
- (6) pay a security deposit if required by the **Utility** under clause 20.

16.3 Deeming of Standard Customer Contract

- (1) On the acceptance by a **Utility** of an application by a **Franchise Customer**, the **Customer** is deemed to have entered into a **Standard Customer Contract** with the **Utility** for the provision of the **Utility Service** requested.
- (2) A **Utility** may require the application for the provision of a **Utility Service** to be in an approved form, or as varied by agreement between the **Utility** and the **Franchise Customer**.

17 DISCONNECTION OF PREMISES FROM A UTILITY NETWORK AND RESTRICTION OF WATER SUPPLY

17.1 Utility Must Not Disconnect or Restrict Utility Services

- (1) A **Utility** must not, in relation to the **Premises** of a **Customer**:
- (a) disconnect the **Premises** from the:
 - (i) electricity **Network**; or
 - (ii) water **Network**; or
 - (iii) gas **Network**; or
 - (iv) sewerage **Network**; or
 - (b) restrict the supply of water to the **Premises**;
except in accordance with clauses 10.1, 17.2 and 17.3, and subject to clause 18.
- (2) Subject to clauses 10.1 and 17.4, a **Utility** must not disconnect, or restrict the supply of, a **Utility Service** to the **Premises** of a **Customer** for failure by a **Customer** to pay an outstanding **Account**.
- (3) A **Utility** must not disconnect, or restrict the supply of, a **Utility Service** under clause 17.1(2):
- (a) after 3.00pm on any day;
 - (b) on a Friday, Saturday or Sunday;
 - (c) on a day that is a public holiday in the **Territory** or on the day before a public holiday; or
 - (d) if the **Customer** has made a hardship complaint to the **ESCC** following the non-payment of an **Account** and the **ESCC** has notified the **Utility** that the complaint has been received.

17.2 When a Utility Must Disconnect Premises from a Utility Network

A **Utility** must disconnect the **Premises** of a **Customer** from a **Utility Network** if it is:

- (1) requested to do so by the **Customer**;
- (2) directed to do so by the **Chief Executive**; or
- (3) directed to do so by a **Person** permitted under **Law** to issue the direction (for example, the Territory Controller under the *Emergency Management Act 1999* (ACT)).

17.3 When a Utility May Disconnect or Restrict Supply

Subject to the **Act** and clauses 10.1, 17.2 and 17.4, a **Utility** may disconnect or restrict the supply of a **Utility Service** to the **Premises** of a **Customer** if the **Utility**:

- (1) is entitled to do so under the **Customer Contract**;
- (2) reasonably believes that the **Customer** has contravened the **Act**;
- (3) reasonably believes that failure to disconnect may constitute a health or safety risk to the **Customer** or to another **Person**;
- (4) reasonably believes that failure to disconnect will cause, or is likely to cause, serious damage to property;
- (5) reasonably believes that failure to disconnect may affect the safe operation of the **Network** of the **Utility**;
- (6) reasonably believes that the **Installation** of the **Customer** does not comply with the relevant **Service and Installation Rules** or any other reasonable **Installation** requirement prescribed by the **Utility**;
- (7) is an **Electricity Distributor** that has received a notice from the **Electricity Supplier** of the **Customer** requesting the disconnection of supply, and the **Electricity Supplier** confirms that the request is given in accordance with the **Customer Contract** of the **Electricity Supplier**; or
- (8) is a **Gas Distributor** that has received a notice from the **Gas Supplier** of the **Customer** requesting the disconnection or restriction of supply, and the **Gas Supplier** confirms that the request is given in accordance with the **Customer Contract** of the **Gas Supplier**.

17.4 Disconnection or Restriction of Utility Services to Residential Premises for Failure to Pay a Customer Account

- (1) Subject to clause 10.1, a **Utility** may take action to disconnect the supply of electricity or gas or to restrict the supply of water to **Residential Premises** for failure by a **Customer** to pay an outstanding **Customer Account** only if:
 - (a) the amount of the unpaid **Customer Account** exceeds the amount agreed between the **Utility** and the **ESCC**;

- (b) two written notices have been served on the **Customer** at least seven days apart;
 - (c) the **Customer Account** has not been paid within five days of the second notice being served on the **Customer**, and a reasonable attempt has subsequently been made to contact the **Customer** either in person or by telephone on a day other than the day of disconnection; and
 - (d) after the procedures outlined in clauses 17.4(1) (b) and (c) have been followed, the **Customer** has failed to make and comply with a payment arrangement to pay the **Customer Account** that is reasonable in the financial circumstances of the **Customer** and satisfactory to, and agreed to by, the **Utility**.
- (2) If the **Customer** fails to comply with any arrangement made with the **Utility** in clause 17.4(d), nothing in clause 17.4 requires the **Utility** to repeat the steps referred to in clauses 17.4(a) to (c) prior to taking action to disconnect or restrict supply.
 - (3) If, after following the procedures outlined in clause 17.4 (1) the **Utility** is entitled to take action to disconnect the supply of electricity or gas or to restrict the supply of water to the **Premises** of a **Customer**, the **Utility** must do so not more than six weeks after the second notice has been issued;
 - (4) If a **Utility** is advised by the **ESCC** that the **ESCC** has received and accepted a hardship complaint from a **Customer**, the **Utility** must not take action to disconnect or restrict the **Utility Service** to the **Premises** of that **Customer** until the matter has been determined by the **ESCC**.
 - (5) If a **Utility** has taken action to disconnect or restrict a **Utility Service** to the **Premises** of a **Customer** under clause 17.4(1) and it is advised by the **ESCC** that the **ESCC** has received and accepted a hardship complaint from the **Customer**, the **Utility** must arrange to restore the service as soon as practicable and, in any event, within 24 hours, until the matter has been determined by the **ESCC**.
 - (6) If a **Utility** has taken action to disconnect or restrict a **Utility Service** to the **Premises** of a **Customer** under clause 17.4(1) and the **Customer** pays the **Customer Account**, or the **Utility** accepts an arrangement by the **Customer** to pay the **Account**, the **Utility** must arrange to restore the service, as soon as practicable and, in any event, within 24 hours.
 - (7) The **ESCC** must notify within two **Business Days** the **Utility** and the **Customer** that a determination has been made.
 - (8) This clause 17.4 does not apply to disconnection by an **Electricity Distributor** or a **Gas Distributor** under clauses 17.3(7) or 17.3(8).

17.5 Restrictions on Water Restrictions to Residential Premises

If a **Utility** restricts the supply of water to **Residential Premises** the **Utility** must ensure that the restriction is to a flow rate of no less than two litres per minute.

17.6 Content and Format of Notices

A **Utility** must ensure that a notice issued to a **Customer** under clause 17.4(1):

- (1) is in simple and straightforward language;
- (2) is served in accordance with clause 8 of this Code;
- (3) advises that the **Customer** has failed to pay the **Customer Account** by the due date;
- (4) makes clear when is the due date, if the notice is for a subsequent failure to pay a **Customer Account**;
- (5) advises the **Customer** that failure to pay the amount due will entitle the **Utility** to take steps to disconnect or restrict the supply of the **Utility Service** to the **Premises**;
- (6) requests the **Customer** to contact the **Utility**;
- (7) specifies details of any **Territory** Government sponsored rebates or concessions that the **Utility** provides that may be available to the **Customer**;
- (8) outlines the availability of payment options;
- (9) advises the **Customer** of their eligibility to make a hardship complaint to the **ESCC** in a format approved by the **ESCC**;
- (10) provides advice, in the five most common non-English languages used in the **Territory** on the availability of translation services for a non-English speaking **Customer**; and
- (11) provides other information which the **ESCC** may require from time to time, by notice, in writing.

18 DISCONNECTIONS AND RESTRICTIONS IN EMERGENCIES AND UNDER RESTRICTION SCHEMES

In addition to the right to disconnect or restrict the supply of **Utility Services** as set out in clause 16, a **Utility** may restrict or ration the supply of electricity, gas or water and sewerage services if:

- (1) there is a **Declared Emergency**; or
- (2) a restriction under a restriction scheme approved under a **Law** is in force; and
- (3) the restriction or rationing is in accordance with the **Emergency Plan** of a **Utility** or an approved restriction scheme, as the case may be.

19 INTERRUPTIONS TO SUPPLY

19.1 When a Utility May Interrupt Supply of a Utility Service

A **Utility** may only interrupt the supply of a **Utility Service** to the **Premises** of a **Customer**:

- (1) if required to do so by **Law**;
- (2) if requested to do so by the **Customer**;

- (3) for planned maintenance, repair or augmentation of the **Network**;
- (4) for unplanned maintenance or repair of the **Network** in circumstances where, in the opinion of the **Utility**, there is a risk of fire or a threat of injury or material damage to a person, to property or to the **Network**;
- (5) the total demand for electricity or gas at the relevant time exceeds the total supply available and the **Utility** needs to shed electricity or gas load;
- (6) if required to do so by **NEMMCO**, the **System Operator** or the **Chief Executive**;
- (7) for the purpose of connecting or installing a new supply to the **Premises** of another **Customer**;
- (8) for the purpose of restoring supply to the **Premises** of the **Customer** or another **Customer**; or
- (9) in an emergency.

19.2 Planned Interruptions to the Supply of Utility Services

- (1) A **Utility** must give at least two **Business Days** notice of a planned interruption to a **Utility Service** under clause 19.1(3) to each **Premises** that will be affected by the interruption. The notice must:
 - (a) specify the reason for the interruption and the expected date, time and reasonably anticipated duration of the interruption; and
 - (b) provide either:
 - (i) a business hours telephone number for inquiries; or
 - (ii) a 24 hour telephone number for inquiries
- (2) A **Utility** undertaking a planned interruption to a **Utility Service** must take all steps that are reasonable and practicable to ensure that the duration of the interruption does not exceed the expected duration set out in a notice given under clause 19.2(1).
- (3) Clause 19.2(1) does not apply to **Premises** that have been registered as a supply address under clause 10.1.

19.3 Unplanned Interruptions to the Supply of a Utility Service

- (1) A **Utility** must, within one hour of being advised of an unplanned interruption to a **Utility Service**, establish a 24 hour telephone service which provides affected **Persons** with:
 - (a) information on the nature of the interruption; and
 - (b) an estimate of:
 - (i) when the **Utility** expects that supply of the relevant **Utility Service** will be restored; or

- (ii) when reliable information on the restoration of the supply of the relevant **Utility Service** will be available; and
 - (c) the facility, as far as it is within the power of the **Utility**, for a **Person** to be connected to a telephone operator if required.
- (2) Following an unplanned interruption a **Utility** must take all steps that are reasonable and practicable to restore the supply of the **Utility Service** to affected **Premises** as soon as possible, subject to other reasonable priorities.

19.4 Load Shedding

A **Utility** must, to the extent that it is reasonably possible and practicable, provide prior notice to a **Customer** whose electricity or gas supply is likely to be interrupted under clause 19.1(5).

19.5 Liability for an Interruption

A **Standard Customer Contract** may provide that a **Utility** will not be liable for an interruption to the supply of a **Utility Service** in certain circumstances, including where:

- (1) the interruption was caused by events or circumstances beyond the control of the **Utility**;
- (2) the interruption was not caused by the negligence of the **Utility**; and
- (3) the **Utility** has otherwise complied with all relevant performance standards.

19.6 Trade Practices Act 1974 (Cth), Part V

Nothing in clause 19.5 is to be taken to affect any right a **Customer** may have under Part V of the *Trade Practices Act 1974 (Cth)* or any other **Law**.

20 SECURITY DEPOSIT

20.1 When may a Security Deposit be Required

- (1) A **Utility** may require the payment of a security deposit by a **Customer** only if:
 - (a) the **Customer**:
 - (i) does not have a satisfactory payment record with the **Utility**; or
 - (ii) cannot provide satisfactory payment record data from another source; or
 - (b) the **ESCC** directs that the **Customer** must pay a security deposit; or
 - (c) the **Customer** has previously vacated **Premises** without paying an outstanding **Customer Account** and the **Customer's** debt to the **Utility** remains outstanding; or
 - (d) during the last 12 months the **Customer** has on two or more occasions not paid a **Customer Account** (whether for the **Customer's** current **Premises** or other **Premises**) by the due date or within a reasonable time after that date.

20.2 Maximum Amount of Security Deposit

If a **Utility** requires a **Customer** to pay a security deposit, the security deposit must not be greater than:

- (1) 1.5 times the estimated quarterly **Customer Account**, if the **Customer** is billed quarterly; or
- (2) 2.5 times the estimated monthly **Customer Account**, if the **Customer** is billed monthly;
- (3) an amount determined by the **ESCC** either generally or in a specific case having regard to the financial circumstances of the **Customer** or a class of **Customers**.

20.3 Interest on Security Deposits

Interest earned on security deposits must be at a rate no less than the rate specified from time to time by the **ICRC**.

20.4 Repayment of Security Deposits

A **Utility** must repay a security deposit (including any interest earned) to a **Customer** if the **Customer** pays his or her **Customer Account** on or before the due date for a continuous period of 12 months.

20.5 Purposes for which Security Deposits must not be used

A **Utility** must not use a security deposit, or any part of a security deposit, to recover amounts due in respect of **Charges** other than **Charges** related to the supply or sale of **Utility Services**.

PART 3.2 STANDARD CUSTOMER CONTRACTS

21 AVAILABILITY OF AND CHANGES TO A STANDARD CUSTOMER CONTRACT

21.1 Utility to make Contract available to Customers

A **Utility** must make a copy of its **Standard Customer Contract** available to a **Customer**, on request and free of charge. The **Utility** must also make the **Standard Customer Contract** available on its website.

21.2 Additional copies

A **Utility** may charge a **Customer** the reasonable cost of providing any additional copy of a **Standard Customer Contract**.

21.3 Changes to contracts

- (1) If a **Standard Customer Contract** is changed the **Utility** must publish a notice of the change in a newspaper that circulates in the **Territory**. The notice must provide:
 - (a) a summary of the scope, intent and general effect of the variation; and
 - (b) advice about where the details of the changes may be found.
- (2) The **Utility** must also provide a summary of the contract variation to an affected **Customer** in the next **Customer Account** given after the date of the publication of the notice.
- (3) If requested by a **Customer**, the **Utility** must make available a copy of the amended **Standard Customer Contract** to the **Customer** free of charge.

PART 4 PROTECTION OF A SMALL, NON-FRANCHISE CUSTOMER**PART 4.1 MATTERS THAT MUST BE ADDRESSED IN A NEGOTIATED CUSTOMER CONTRACT****22 NEGOTIATED CUSTOMER CONTRACT PROVISIONS****22.1 Obligations under the Act**

Under the **Act**, a **Utility** that provides a **Utility Service** to a **Non-Franchise Customer** must do so in accordance with a **Negotiated Customer Contract**.

22.2 Provisions to be contained in the Negotiated Customer Contract

A **Negotiated Customer Contract** with a **Small, Non-Franchise Customer** must give effect to this Part of the Code.

22.3 Provisions to be Regarded as Minimums Only

Nothing in this Part of the Code is to be taken to prevent a **Utility** including provisions in a **Negotiated Customer Contract** with a **Small, Non-Franchise Customer** that are in addition to, and not inconsistent with, matters covered by this Part.

23 DISCONNECTION OF SUPPLY**23.1 Disconnection of Utility Services for Failure to Pay a Customer Account**

- (1) Subject to clause 10.1, a **Utility** may request that a **Gas Distributor** or an **Electricity Distributor** disconnect the **Premises** of a **Customer** from the relevant **Utility Network** for failure by the **Customer** to pay an outstanding **Account** only if:
 - (a) the amount of the unpaid **Account** exceeds the amount agreed between the **Utility** and the **ESCC**;
 - (b) two written notices have been served on the **Customer** at least seven days apart;
 - (c) the **Account** has not been paid within five days of the second notice being served on the **Customer**, and a reasonable attempt has subsequently been made to contact the **Customer** either in person or by telephone on a day other than the day of disconnection; and
 - (d) after the procedures outlined in clauses 23.1(1) (b) and (c) have been followed, the **Customer** has failed to make and comply with a payment arrangement to pay the **Customer Account** that is reasonable in the financial circumstances of the **Customer** and satisfactory to, and agreed to by, the **Utility**.
- (2) If the **Customer** fails to comply with any arrangement made with the **Utility** in clause 23.1(d), nothing in clause 23.1(1) requires the **Utility** to repeat the steps referred to in clauses 23.1(1)(a) to (c) prior to disconnection of supply.

- (3) If, after following the procedures outlined in clause 23.1 (1) the **Utility** is entitled to take action to disconnect electricity or gas supply to the **Premises** of a **Customer**, the **Utility** must do so not later than six weeks after the second notice has been issued;
- (4) If a **Utility** is advised by the **ESCC** that the **ESCC** has received and accepted a hardship complaint from a **Customer**, the **Utility** must not take action to disconnect the service until the matter has been determined by the **ESCC**.
- (5) If a **Utility** has taken action to disconnect a **Utility Service** to the **Premises** of a **Customer** under clause 23.1(1) and it is advised by the **ESCC** that the **ESCC** has received and accepted a hardship complaint from the **Customer**, the **Utility** must arrange to restore the service as soon as practicable and, in any event, within 24 hours, until the matter has been determined by the **ESCC**.
- (6) The **ESCC** must notify within two **Business Days** the **Utility** and the **Customer** that a determination has been made.
- (7) If a **Utility** has taken action to disconnect a **Utility Service** to the **Premises** of a **Customer** under clause 23.1(1) and the **Customer** pays the **Customer Account**, or the **Utility** accepts an arrangement by the **Customer** to pay the **Account** subject to this Code, the **Utility** must arrange to restore the service, as soon as practicable and, in any event, within 24 hours.

23.2 Content and Format of Notices

A **Utility** must ensure that a notice issued to a **Customer** under clause 23.1(1):

- (1) is in simple and straightforward language;
- (2) is served in accordance with this Code;
- (3) specifies that the **Customer** has failed to pay the **Customer Account** by the due date;
- (4) makes it clear when is the due date, if the notice is for a subsequent failure to pay a **Customer Account**;
- (5) notifies the **Customer** that failure to pay the amount due will entitle the **Utility** to take steps to disconnect the supply of the **Utility Service** to the **Premises**;
- (6) requests the **Customer** to contact the **Utility**;
- (7) specifies details of any **Territory** Government sponsored rebates or concessions that the **Utility** provides that may be available to the **Customer**;
- (8) outlines the availability of payment options;
- (9) advises the **Customer** of their eligibility to make an application for relief from hardship with the **ESCC** in a format approved by the **ESCC**;
- (10) provides advice, in the five most common non-English languages used in the **Territory**, on the availability of translation services for non-English speaking **Customers**; and

- (11) provides other information which the **ESCC** may require from time to time, by notice, in writing.

24 NOTICE WHERE NEGOTIATED CUSTOMER CONTRACT ENDS

- (1) Not less than four weeks before the end of the period of supply of gas or the supply of electricity under a **Customer Contract**, the relevant **Utility** must give notice to the **Customer** advising that the contract period is due to come to an end on a specified date, subject to provisions referred to in clause 24(2).
- (2) The notice must also advise the **Customer**:
- (a) what are the options of the **Customer**, including to negotiate a new **Customer Contract** with the **Utility** or with another **Utility**; and
 - (b) of the **Charges** and terms and conditions that will apply to the **Customer** beyond the end of the period of supply of gas or the supply of electricity if the **Customer** fails to negotiate a new **Customer Contract** with the **Utility** or with another **Utility**.

25 SECURITY DEPOSIT

25.1 Repayment of Security Deposits

If a **Utility** has required a **Customer** to pay a security deposit, the **Utility** must repay the security deposit (including interest earned, if any) to the **Customer** if the **Customer** pays his or her **Customer Accounts** on or before the date they are due for a continuous period of 12 months.

25.2 Purposes for which Security Deposits must not be used

A **Utility** must not use a security deposit, or any part of a security deposit, to recover amounts due in respect of **Charges** other than **Charges** related to the supply or sale of **Utility Services**.

PART 4.2 NEGOTIATED CUSTOMER CONTRACTS

26.1 Utility to make Contract available to Customers

A **Utility** must make a copy of a **Negotiated Customer Contract** available to the **Customer**, free of charge.

26.2 Additional copies

A **Utility** may charge a **Customer** the reasonable cost of providing any additional copies of a **Negotiated Customer Contract**.

PART 4.3 **MARKETING OF ELECTRICITY AND GAS SUPPLY SERVICES**

Clauses 27 – 29 concern **Consumers**. Clause 30 addresses matters that **Utilities** must include in **Negotiated Customer Contracts** and is therefore specific to **Customers**.

27 **MARKETING OBLIGATIONS**

27.1 **Obligations of Marketer**

For the purposes of **Marketing**, a **Marketer** must:

- (1) understand and comply with the obligations under this part of the Code and all applicable **Laws**;
- (2) have product knowledge, including knowledge about tariffs, billing procedures, payment options, and redress available to **Consumers** experiencing financial hardship;
- (3) understand and be able to explain all offers made to **Consumers**; and
- (4) understand what is misleading, deceptive or unconscionable conduct.

27.2 **Obligations of Utility**

Where a **Marketer** is not a **Utility**, the **Utility** on whose behalf the **Marketer** is contracted, must:

- (1) take steps to ensure that the **Marketer** meets the requirements set out in clause 276.1; and
- (2) obtain a written statement of compliance with this Part of the Code and all applicable **Laws** from the **Marketer** where the **Marketer** introduces a **Consumer** to the **Utility** or where the **Marketer** arranges or facilitates a supply arrangement on behalf of that **Utility**.

28 **CONTACT WITH CONSUMERS**

28.1 **Conduct**

- (1) A **Marketer** shall:
 - (a) not harass or coerce a **Consumer**;
 - (b) not engage in misleading, deceptive or unconscionable conduct, whether by act or omission;
 - (c) not make a false or misleading representation;
 - (d) provide all relevant facts in an accurate and truthful way.
- (2) A **Marketer** must not call or contact a **Consumer**:
 - (a) during a public holiday in the **Territory**;
 - (b) on a Saturday or Sunday, between midnight and 9:00am or between 5:00pm and midnight; or

(c) on any other day, between midnight and 9:00am or between 8.00pm and midnight,
unless the **Consumer** has given express approval.

(3) A **Marketer** must ensure that a **Consumer** is able to contact the **Marketer** or the **Utility** on whose behalf the **Marketer** is acting during normal business hours.

28.2 Duties of Marketers

- (1) To the extent not otherwise required by the *Door-to-Door Trading Act 1991* (ACT), a **Marketer** that contacts a **Consumer** for the purposes of **Marketing** must, as soon as practicable, clearly:
- (a) identify his or her name and the name of the company that the **Marketer** works for;
 - (b) where a **Marketer** is not a **Utility**, the name of the **Utility** on whose behalf the **Marketer** is acting;
 - (c) identify, if requested, the **Marketer's** contact number and address or the contact number and address of the **Utility** on whose behalf the **Marketer** is acting;
 - (d) explain the purpose for contacting the **Consumer**; and
 - (e) ask the **Consumer** if the **Consumer** wishes to proceed further in the **Marketing** process.
- (2) If a **Consumer** indicates, at any time during a conversation with a **Marketer**, that the **Consumer** does not wish to proceed, the **Marketer** must cease **Marketing** promptly and must not contact that **Consumer** for the purposes of **Marketing** for not less than 28 days, unless requested by the **Consumer**.
- (3) The requirements of clauses 28.2 (1) and (2) apply to **Marketing** in any form and by any technology by **Marketers**, including contact by telephone, at a **Consumer's Premises**, outside a **Consumer's Premises**, and by internet or e-mail.
- (4) Where a **Marketer** makes personal contact with a **Consumer** either at the **Consumer's Premises** or outside the **Consumer's Premises** the **Marketer** must display an identity card that shows:
- (a) his or her full name, and the name of the **Utility** that the **Marketer** represents; and
 - (b) where a **Marketer** is not a **Utility**, the name of the company that the **Marketer** works for.

28.3 Contract information

- (1) After a **Consumer** has accepted an invitation to treat from a **Marketer**, the **Marketer** shall provide the following information, in writing, to the **Consumer** at or immediately before the **Consumer** enters into a contract with the **Utility**:
- (a) the type and frequency of **Accounts** the **Consumer** will receive, and the payment methods available to the **Consumer**;

- (b) details of all applicable charges³ and service levels that will apply to the **Consumer** including, if applicable, any fees or commissions that a **Marketer** is entitled to receive as a result of introducing the **Consumer** to a **Utility** or facilitating a supply arrangement between the **Consumer** and a **Utility**;
 - (c) the full name, address and telephone number of the **Utility**;
 - (d) the **Consumer's** entitlement to a cooling-off period;
 - (e) the length of the cooling-off period;
 - (f) any rights the **Consumer** has to cancel or rescind the contract and any charges that would apply on cancellation together with a notice explaining the right of the **Consumer** to rescind the contract and a notice that may be used by the **Consumer** to rescind the contract;
 - (g) the full terms of the contract including the period of the contract;
 - (h) the name and contact number of the **Utility** responsible for providing the relevant connection services, if not arranged by the **Utility** providing the supply service;
 - (i) the **Consumer's** right to make a complaint and to whom it should be made;
 - (j) any other information reasonably necessary for the **Consumer** to make an informed decision about entering into a contract.
- (2) A **Utility** shall send the following information to a **Consumer** within two **Business Days** of entering into a contract with a **Consumer**, unless this information has been previously supplied to the **Consumer**:
- (a) the full terms, conditions and applicable costs of the contract including the period of the contract;
 - (b) advice to the **Consumer** that the **Consumer** has the right to cancel the contract,
 - (c) a **Utility** contact point which the **Consumer** may contact for further information or to cancel the contract;
 - (d) reference to any **Territory** Government sponsored rebates or concessions that the **Utility** provides that the **Consumer** may be eligible for; and
 - (e) how to make a complaint against the **Utility**.
- (3) Any information provided to a **Consumer** under clauses 28.3 (1) and (2) must be in simple and straightforward language.

29 INFORMED CONSENT

- (1) Subject to clause 30, a **Utility** must not transfer the supply of electricity or gas supply of a **Consumer** unless the **Utility** has the informed consent of the **Consumer**.
- (2) For the purposes of this part, a **Consumer** is taken to have given informed consent if the **Consumer**:

³ Charges must be inclusive of all costs, including GST

- (a) has been fully and accurately informed of what the **Consumer** is consenting to;
- (b) understands what they are consenting to; and
- (c) gives consent in writing.

30 NEGOTIATED CUSTOMER CONTRACT

30.1 Cooling off period under Negotiated Customer Contract

- (1) A **Negotiated Customer Contract** must make provision:
 - (a) for a cooling-off period, commencing on, and concluding not later than 10 **Business Days** after, the day the contract is made; and
 - (b) that the **Utility** is not entitled to the payment of any costs, compensation or any other amount as a consequence of a termination of contract during the cooling-off period, other than charges payable in respect of any **Utility Service** supplied, or any other services provided, under the contract.
- (2) Except where a **Negotiated Consumer Contract** has been negotiated and concluded in a **door-to-door trading situation**, a **Utility** may commence the supply of gas or electricity to the **Premises** of a **Customer** during the cooling-off period.

30.2 Rescission under Negotiated Customer Contract

- (1) A **Negotiated Customer Contract** must make provision for a **Customer** to rescind the contract within six months of the date of commencement of the contract if a **Marketer** was in serious breach of their obligations under clause 28 of this Code.
- (2) A right of rescission conferred under this clause may be exercised notwithstanding:
 - (a) affirmation of the contract by the **Customer**; or
 - (b) the execution of the contract.
- (3) In order to exercise a right of rescission a **Customer** must give notice, in writing, to the **Utility** indicating the **Customer's** intention to rescind the contract. A notice of rescission must be given to the **Utility**:
 - (a) in person; or
 - (b) delivered or posted to the address of the **Utility**.
- (4) Nothing in this part affects other rights in **Law** or in equity that the **Customer** may have in relation to the contract or the conduct of the **Marketer**.

DICTIONARY

In this Code, unless the contrary intention appears:

- (1) “**Account**” – see “**Customer Account**”;
- (2) “**Act**” means the *Utilities Act 2000* (ACT);
- (3) “**Agent**” means a **Person** whom a **Utility** has contracted to provide, construct, operate, manage or maintain any of the systems or services that it is licensed to provide, including **Marketing**;
- (4) “**Business Day**” means a day, other than a Saturday or Sunday, or a declared Public Holiday in the **Territory**;
- (5) “**Centrelink**” means the agency known as **Centrelink** established under the *Commonwealth Services Delivery Agency Act 1997* (Cth);
- (6) “**Charges**” includes prices, tariffs and fees;
- (7) “**Checksum**” means the single numeral associated with a **National Metering Identifier** used to assist with data validation when the **National Metering Identifier** is passed manually between parties in the National Electricity Market;
- (8) “**Chief Executive**” means the **Chief Executive** responsible for the **Technical Codes** under the **Act**;
- (9) “**Consumer**”- see clause 3.2(1);
- (10) “**Customer**” – see clause 3.2(2);
- (11) “**Customer Account**” means an **Account** sent by a **Utility** to a **Customer** in accordance with the requirements of this Code
- (12) “**Customer Contract**” means a **Standard Customer Contract** or a **Negotiated Customer Contract**;
- (13) “**Declared Emergency**” has the same meaning as in the *Emergency Management Act 1999* (ACT);
- (14) “**Default Rate**” means the rate of interest that is fixed from time to time for the purposes of section 70 of the *Supreme Court Act 1933* (ACT);
- (15) “**Delivery Point**” means a point on a gas **Network** at which gas is withdrawn for delivery to a **Customer** or **Customers**;
- (16) “**Delivery Point Identifier**” means the numeric or alpha numerical name of a **Delivery Point**;
- (17) “**door-to-door trading situation**” has the same meaning as in the *Door-to-Door Trading Act 1991* (ACT), namely a trading practice under which a person goes from place to place, or makes telephone calls, seeking out persons who may be prepared to enter, as consumers, into contracts for the supply of goods or services, and that person or some other person then or subsequently

enters into negotiations with those prospective consumers with a view to the making of the contracts;

- (18) “**Emergency Plan**” means an **Emergency Plan** required to be developed under the **Emergency Planning Code**;
- (19) “**Emergency Planning Code**” means the **Emergency Planning Code** approved by the **Minister** as a **Technical Code** under the **Act**;
- (20) “**Electricity Distributor**” means a **Person** who holds a licence to distribute electricity under Part 3 of the **Act**;
- (21) “**Electricity Supplier**” means a **Person** who holds a licence to supply electricity under Part 3 of the **Act**;
- (22) “**ESCC**” means the Essential Services Consumer Council established under Part 11 of the **Act**;
- (23) “**Franchise Customer**” means a **Customer** who has entered into a **Standard Customer Contract**: the term has the same meaning as “non-contestable customer” and means a **Customer**;
- (24) “**Gas Distributor**” means a **Person** who holds a licence to distribute gas under Part 3 of the **Act**;
- (25) “**Gas Supplier**” means a **Person** who holds a licence to supply gas under Part 3 of the **Act**;
- (26) “**Industry Code**” means a code approved or determined by **ICRC** under Part 4 of the **Act**;
- (27) “**Installation**” means the wiring, pipes and associated structures or equipment, owned by a **Customer** and within the **Customer’s Premises**, that are used to convey electricity, gas or water or dispose of sewage but, in the case of electricity, does not include anything connected to and extending beyond an electrical outlet socket;
- (28) “**ICRC**” means the Independent Competition and Regulatory Commission established under section 5 of the *Independent Competition and Regulatory Commission Act 1997* (ACT);
- (29) “**Large Non-Franchise Customer**”:
- (a) for electricity supply services, means a **Non-Franchise Customer** who is consuming more than or equal to 100MWh pa; and
 - (b) for a gas supply services, means a **Non-Franchise Customer** who is consuming more than or equal to 1 TJ pa;
- (30) “**Law**” means:
- (a) an Act; or
 - (b) a subordinate law; or
 - (c) any other statutory instrument of a legislative nature; or
 - (d) the common law;
- (31) “**Load Profile**” means the daily and seasonal pattern of electricity usage;

- (32) **“Marketer”** means:
- (a) a **Person** who acts as an **Agent** or intermediary between **Customers** and a **Utility**; or
 - (b) a **Utility**;
who undertakes the **Marketing** of gas or electricity supply services;
- (33) **“Marketing”** includes, but is not limited to, advertising, sales, promotion, market research, public relations by any means, whether solicited or unsolicited, for the purposes of obtaining new **Customers**, or retaining existing **Customers**, for the provision of gas or electricity supply services;
- (34) **“Minister”** means the **Minister** responsible for administering Part 5 of the **Act**;
- (35) **“MSATS”** means the Market Settlement and Transfer Solution, a system operated by **NEMMCO**;
- (36) **“National Metering Identifier”** means a unique identification for each (electricity) connection point;
- (37) **“Negotiated Customer Contract”** means a contract that is a **Negotiated Customer Contract** for the purposes of Part 6 of the **Act**;
- (38) **“NEMMCO”** means the National Electricity Market Management Company Ltd;
- (39) **“Network”** means the infrastructure used for the provision of a **Utility Service** by a **Utility** to the **Premises** of a **Customer** or a **Consumer**;
- (40) **“Non-Franchise Customer”** means a **Person** who has entered into a **Negotiated Contract** with a **Utility**: the term has the same meaning as “contestable customer”;
- (41) **“Occupier”**, of **Premises**, means a **Person** who has, or is entitled to, lawful possession or control of the **Premises** (whether alone or together with one or more other **Persons**);
- (42) **“Person”** includes a natural **Person**, a firm, an unincorporated association or a body corporate;
- (43) **“Power Factor”** means the ratio of the rate that electrical energy flows to the apparent power at a metering point;
- (44) **“Premises”** includes land and place;
- (45) **“Residential Premises”** means **Premises** to which a **Utility** provides a **Utility Service** for domestic use;
- (46) **“Service and Installation Rules”** means the **Service and Installation Rules** adopted by a **Utility** in accordance with the relevant **Service and Installation Rules Code**;
- (47) **“Service and Installation Rules Code”** refers to either the **Electricity Service and Installation Rules Code** or the **Water and Sewerage Service**

and Installation Rules Code, whichever the case may be, approved by the **Minister** as a **Technical Code** under the **Act**;

- (48) “**Small Non-Franchise Customer**”:
- (a) for electricity supply services, means a **Non-Franchise Customer** who is consuming less than 100MWh pa; and
 - (b) for gas supply services, means a **Non-Franchise Customer** who is consuming less than 1 TJ pa;
- (49) “**Standard Customer Contract**” means a contract that is a **Standard Customer Contract** for the purposes of Part 6 of the **Act**;
- (50) “**System Operator**” means the **Person** responsible for operating and administering the National Electricity Market;
- (51) “**Technical Code**” means a code approved or determined by the **Minister** under Part 5 of the **Act**;
- (52) “**Territory**” means the Australian Capital Territory;
- (53) “**Utility**” means a **Person** licensed to provide a **Utility Service** under Part 3 of the **Act**;
- (54) “**Utility Service**” includes:
- (a) electricity distribution, connection and supply service;
 - (b) gas distribution, connection and supply service;
 - (c) water collection, treatment, distribution, connection and supply service, and the provision of a water **Network**; and
 - (d) sewerage service, sewerage connection service, and the provision of a sewerage **Network**;
- (55) “**Water and Sewerage Utility**” means a **Person** who holds a licence to provide water supply and sewerage services under Part 3 of the **Act**.

SCHEDULE: PERFORMANCE STANDARDS

COLUMN 1: SUBJECT OF THE PERFORMANCE STANDARD	COLUMN 2: PERFORMANCE STANDARD REQUIRED (<i>SUBJECT TO CLAUSE 11</i>)	COLUMN 3: REBATE AMOUNT FOR EACH FAILURE TO MEET PERFORMANCE STANDARD
1. Customer Connection Times	<p>If a Customer's Installation is:</p> <p>(a) physically connected to the electricity Network, the gas Network, the water Network or the sewerage Network; and</p> <p>(b) a Customer is entitled to supply of the relevant Utility Service or Services,</p> <p>a Utility must provide those services:</p> <p>(c) on the same day as the request is made if the request is made before 2:00pm; or</p> <p>(d) by the end of the next Business Day if a request is made after 2:00pm,</p> <p>otherwise, on a day agreed between the Customer and the Utility.</p>	\$60 for each day after the date the Utility Service or Services should have been provided until those services are provided.
2. Keeping Agreed Appointments	<p>(1) A Utility must:</p> <p>(a) not be more than 30 minutes late for an agreed appointment with a Consumer, unless at least one hour's notice has been given to the Consumer that the Utility will be late; and</p> <p>(b) give 24 hours notice of the cancellation of an appointment.</p> <p>(2) A Utility may, when making an agreed appointment with a Consumer, negotiate a time-frame in which the Utility must keep that appointment (for example, between 8:00am and 11:00am).</p>	\$20
3. Responding to Written Queries and Complaints	<p>Customer Account Queries:</p> <p>A Utility, upon receipt of a written Customer Account query, must:</p> <p>(a) acknowledge the query within 10 Business Days; and</p> <p>(b) respond to the query within 20 Business Days.</p> <p>Consumer Complaints:</p> <p>A Utility, upon receipt of a written Consumer complaint in relation to the supply by the Utility of a Utility Service to the Consumer, must:</p> <p>(a) if a visit to the Consumer's Premises or enquiries of a third party are necessary, acknowledge the complaint within 10 Business Days and respond within 20 Business Days; or</p>	\$20

COLUMN 1: SUBJECT OF THE PERFORMANCE STANDARD	COLUMN 2: PERFORMANCE STANDARD REQUIRED (<i>SUBJECT TO CLAUSE 11</i>)	COLUMN 3: REBATE AMOUNT FOR EACH FAILURE TO MEET PERFORMANCE STANDARD
	(b) in all other cases, respond to the complaint within 10 Business Days .	
4. Response Time to Consumer Notification of Problem or Concern	A Utility notified by a Consumer of a problem or concern with the Utility's Network that affects the Consumer must: (a) if the notification relates to damage to the Utility's Network which is likely to affect public health, or is causing, or has the potential to cause, substantial damage or harm to a person or property, respond as soon as practicable and within six hours; or (b) in all other cases, respond within 48 hours.	\$60 for each day after the day on which the response should have been provided, until that response is provided.
5. Planned Interruptions to Utility Services <i>(applies only to Gas and Electricity Distributors, and Water & Sewerage Utilities)</i>	(1) A Utility must give at least two days notice of a planned interruption to a Utility Service to each Premises that will be affected by the interruption. (2) A Utility must take all steps that are reasonable and practicable to restore the supply of the service to affected Premises as soon as possible, subject to other reasonable priorities and, in any event, within 12 hours of the initial interruption.	\$50
6. Unplanned Interruptions to Utility Services <i>(applies only to Gas and Electricity Distributors, and Water & Sewerage Utilities)</i>	(1) A Utility must, within one hour of being advised of an interruption to a Utility Service , and as soon as practicable, establish a 24 hour telephone service in accordance with clause 19.3(1). (2) A Utility must take all steps that are reasonable and practicable to restore the supply of the relevant Utility Service to affected Premises as soon as possible, subject to other reasonable priorities.	\$20
7. Response Time to Notification of Problem or Concern by a third party <i>(applies only to Gas and Electricity Distributors, and Water & Sewerage Utilities)</i>	A Utility notified of a problem or concern with the Utility's Network by a third party, ie a Person other than the Consumer , must: (1) if the notification relates to a problem concerning the Utility's Network that is affecting public health or is causing, or has the potential to cause, substantial damage or harm to a Person or their property, respond as soon as practicable and within six hours; or (2) in all other cases, respond within 48 hours.	nil
8. Water Quality Standards <i>(applies only to Water & Sewerage Utilities)</i>	A Utility must not allow a Consumer to be without drinking water for more than 12 hours.	\$50 per Consumer for each subsequent 12 hour period without water

COLUMN 1: SUBJECT OF THE PERFORMANCE STANDARD	COLUMN 2: PERFORMANCE STANDARD REQUIRED (<i>SUBJECT TO CLAUSE 11</i>)	COLUMN 3: REBATE AMOUNT FOR EACH FAILURE TO MEET PERFORMANCE STANDARD
9. Sewage Overflows <i>(applies only to Water & Sewerage Utilities)</i>	In the event of becoming aware of a sewerage spillage from a Sewerage Network (“overflow”) into a Customer’s dwelling, a Utility must respond to the overflow within one hour.	\$50 per overflow event