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Regulatory Review - Smart Meters
Essential Services Commission
Level 2, 35 Spring Street
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Dear Ms Prentice

Submission to Smart Meters Regulatory Review – Capacity Control and Verifying Bills Issues Paper

The Consumer Action Law Centre (**Consumer Action**) welcomes the opportunity to make a submission to the Essential Services Commission's (the **Commission**) Smart Meters Regulatory Review - Capacity Control and Verifying Bills Issues Paper.

We continue to support the Commission's work in reviewing its regulatory instruments and the consumer protections that apply to energy supply in light of the changed environment brought by the mandatory rollout of smart meters in Victoria.

Consumer Action was largely supportive of the Commission's Final Decision on its *Regulatory Review - Smart Meters*. Two areas of outstanding concern related to capacity control products and information to allow consumers to verify their bills. We therefore welcome this further review.

In summary, regarding capacity control, we continue to be extremely concerned about the potential proposal to allow the use of supply capacity control by retailers. We support the use of this function by distribution businesses as an emergency response mechanism, however, we find it hard to see for which purposes retailers would use this function beyond those related to credit management, and believe that it would be too difficult for consumers to negotiate supply capacity control contract options in an informed manner. We therefore recommend its use by retailers be prohibited. We see some value in the use of load control, but recommend that various safeguards be implemented to ensure it operates in a fair, safe and effective manner.

Regarding verification of bills, we strongly recommend that consumers be given necessary information to enable them to understand and verify their bills against their meter. This includes the final read of their old accumulation meter on changeover to a smart meter, and ongoing start and end reads on future bills once a smart meter has been installed.

About Consumer Action

Consumer Action is an independent, not-for-profit, campaign-focused casework and policy organisation. Consumer Action provides free legal advice and representation to vulnerable and disadvantaged consumers across Victoria, and is the largest specialist consumer legal practice in Australia.

Consumer Action is also a nationally-recognised and influential policy and research body, pursuing a law reform agenda across a range of important consumer issues at a governmental level, in the media, and in the community directly. Consumer Action has been actively involved in energy advocacy work in Victoria and nationally since the 1990s. Over this time we have provided key consumer input into important energy regulatory processes for consumers, including the current Victorian smart meter rollout and initiatives relating to improved energy price and product information disclosure following the deregulation of Victorian retail energy prices.

Since September 2009 we have also operated a new service, *MoneyHelp*, a not-for-profit financial counselling service funded by the Victorian Government to provide free, confidential and independent financial advice to Victorians with changed financial circumstances due to job loss or reduction in working hours, or experiencing mortgage or rental stress as a result of the current economic climate.

Consumer Advocacy Panel grant recipient

This project was funded by the Consumer Advocacy Panel (www.advocacypanel.com.au) as part of its grants process for consumer advocacy projects and research projects for the benefit of consumers of electricity and natural gas.

The views expressed in this document do not necessarily reflect the views of the Consumer Advocacy Panel or the Australian Energy Market Commission.

Capacity Control Products

Supply Capacity Control

Consumer Action supports the use of supply capacity control by distribution businesses in emergency situations as a means of rationing power to avoid power outages.

However, we do not believe that supply capacity control is a function that should be able to be offered by retail businesses.

To be offered by retailers, supply capacity control would form a component of the consumer's retail electricity supply contract. This means that it could only be incorporated in a fair and effective manner into the retail electricity market if consumers were able to understand how supply capacity control might affect them and calculate the price and risks, and thus value, associated with agreeing to this additional function as part of their contract.

This adds another layer of complexity to retail contracts that consumers already struggle to understand and compare. A study conducted for the Commission in 2009 indicated that consumers still failed to understand many of the basics of the energy market in Victoria. The study involved a survey of Victorian consumers and demonstrated that Victorians have a very high awareness of the ability to choose their energy retailer, but much lower awareness of the types of information that would inform an effective decision on this choice. For example, most consumers did not understand how prices were set, they had low awareness of retailers other than their own, and the survey did not even ask consumers directly if they were on a standing offer or a market contract, instead choosing to derive the answer from other questions.¹

To make an explicit, informed decision to choose a contract incorporating supply capacity control, a consumer would require an understanding not only of these features but also of more complex matters such as their consumption behaviour and their household's appliance mix. We therefore agree with the Commission that Victorian consumers are highly unlikely to be able to negotiate electricity supply options that involve supply capacity control in an effective and informed manner.

This is particularly important given that supply capacity control is not merely another function, rather, it is a function that can lead to disconnection – power can be rationed by disconnecting electricity to a household once a certain level of consumption load is reached. As previously recognised by the Commission and the Government, it would be inappropriate to use this function for credit management purposes, as consumers in financial difficulties could be rationed or could “self-disconnect” when they are unable to pay, diverting such customers from established methods to address payment difficulties and financial hardship such as payment plans and hardship programs.

The Commission is now asking whether there would be benefits in the use of supply capacity control by retailers for ‘purposes other than credit management’. However, no examples are given of such other retail purposes.

The Commission does state that it envisages that a load limit could be set by a retailer and agreed by the customer in return for an inducement such as a tariff reduction, but we do not consider it likely that retailers would encourage consumers to use (and pay for) less of the product they are selling in return for a further price reduction.

It seems more likely that retailers might offer contracts with a set load limit to consumers who they have identified as potentially having payment difficulties, in the same way they might identify consumers from whom to ask for a refundable advance. This would effectively be the same as credit management, merely established at the outset. Alternatively, retailers might offer contracts with a “soft” set load limit to a broader range of consumers, with that limit triggered in certain events such as if the customer is late in paying a bill.

¹ Wallis Consulting Group, *Essential Services Commission - Communications Effectiveness Final Report*, June 2009.

Thus, while Consumer Action recognises the distinction between retail and network use of supply capacity control, we do not see a clear distinction between the use of supply capacity control for credit management purposes and for other retail purposes.

If the Commission does propose to allow the use of supply capacity control by retailers, we ask the Commission to clarify how retailers might use the function and how such uses would differ from means to perform a credit management function.

The Commission would also need to set a range of new regulatory safeguards to prevent health and safety risks as well as guarding against the inadvertent use of the function for credit management. For example, the Commission would need to develop requirements to prevent risks from sudden reconnection and thresholds of minimum supply below which the load limit cannot be set, which necessarily involves practical as well as value judgements about how much electricity is enough for a household. The Commission would also need to develop new requirements on retailers to contact customers if supply capacity control is activated to ensure it is not related to payment difficulties. To facilitate informed decision-making, the Commission would need to develop measures to increase consumer understanding about how much electricity they use and the impact of different appliance mixes and would need to prohibit the incorporation of supply capacity control in standing offers.

Our recommendation is that the Commission allow the use of supply capacity control for network management but prohibit its use by retailers.

Load Control

We support the introduction of load control as a good means to reduce overall demand on the network without impacting materially on individual consumers.

However, we do have concerns that it could introduce added complexity to retail contracts, with consumers needing to understand peak demand and which appliances will be affected. It will be difficult to ensure consumers are able to give explicit, informed consent to its inclusion in their supply offer. We therefore recommend that any offers incorporating load control must be accompanied by simple, easy-to-understand information about the way in which load control will operate, and consumers should be able to cancel a contract that includes load control at any time, with early termination fees strictly limited.

We also recommend that certain minimum standards be set for the use of load control. For example, we believe that it should only be permitted for use with certain appliances and not with essential household appliances such as fridges or appliances that do not meet the Australian standards in this area. As another example, we believe that matters such as load control limits and on/off cycling timeframes should be developed by the Commission in consultation with stakeholders and then set as regulatory minimum standards. This would ensure both that baseline consumer protections are guaranteed and that the complexity of load control products is reduced to enable better consumer comparison and decision-making in the market.

In some areas, existing protections should operate effectively in relation to load control or could require only minor modifications or additions. For example the *Privacy Act* should ensure that distributors and retailers can only share information for the purpose for which it was provided, and existing safeguards for customers on life support should ensure that distributors are aware of life support households and essential appliances are not turned off.

Verifying Bills

A consumer's ability to verify their electricity bill against their electricity meter is one of the most basic elements of our system. It is the only way in which a consumer can obtain their own independent information about their electricity usage to compare against the bill provided by their retailer. Consumer Action strongly believes that this ability must be preserved with the introduction of smart meters.

Readings at meter changeover

We strongly believe that consumers should be entitled to know the final accumulation read on their meter when it is replaced with a smart meter.

Distributors should be required to provide customers with a copy of the final read by leaving a final read note at the premises. It should also be noted on the customer's next bill.

As an additional step, the letter that distributors send to customers informing them of imminent installation of their smart meter could also include basic advice to check and note the current meter reading. This would at least prompt consumers to take a form of independent reading ahead of changeover and give interested consumers the warning and opportunity to do so. However, this reading will not necessarily correspond with the final reading and, in any case, we think it is unlikely that many consumers would act on this advice, given many consumers will not read the letter closely and it contains a reasonably large amount of other information as well.

We note that this matter is urgent, as many Victorian customers have already been changed over to a smart meter and this basic protection has been lacking. Attached is an example we have been given by a consumer of two successive bills they received last year covering their changeover. The Commission will see that they bills are confusing because the billing periods do not match up and the final accumulation meter read and date of changeover are not noted.

"Start" readings on smart meter bills

As with the information above, Consumer Action strongly believes that the inclusion of a consumption read corresponding to the start (and end) of the billing period is essential for consumers to understand and verify their bills.

We do not understand how this could be particularly difficult to implement given the meter is regularly recording consumption reads including for the start and end of the billing period. Presumably, it would be no more difficult than including the end read on the bill, which the Commission has already decided should be required, a decision we support.

In the attached example of two successive bills referred to above, the second bill contains two reads that both came from the new smart meter installed (meter number was the same but blacked out for privacy). The first reading notes a start and end read as well as total usage for the period (showing that this can be done) but the second reading shows only the total usage amount, and it is immediately evident that it is harder for the consumer to verify this information.

We also note that the advice sheet that came with this bill states that neither a start or end read will be provided in future, but the Commission's *Regulatory Review - Smart Meters* Final Decision of September 2010, before this bill was dispatched, states that end reads will be required in the future. This may be contributing to additional confusion for consumers.

Thank you again for the opportunity to comment on the Issues Paper. Should you wish to discuss this submission further, please contact Janine Rayner on 9670 5088 or at janine@consumeraction.org.au.

Yours sincerely

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Attach.