

Utilities (Industry Code) Approval 2006 (No 1)

Disallowable instrument DI2006–182

made under the

Utilities Act 2000, section 58

EXPLANATORY STATEMENT

The Independent Competition and Regulatory Commission (“the Commission”) has approved the Prepayment Meter System Code (“the Code”) detailed in the *Utilities (Industry Code) Approval 2006 (No1)* under section 58 of the *Utilities Act 2000* (“the Utilities Act”).

Aurora Energy, an electricity supplier licensed under the Utilities Act, submitted a draft industry code to the Commission for its approval pursuant to Part 4 of the Utilities Act. The Commission has consulted interested parties on the draft industry code in accordance with section 60 of the Utilities Act. The Commission has given due regard to the submissions made and is satisfied that the draft industry code is not inconsistent in material respects with another industry code or a technical code and that the draft industry code is appropriate.

Prepayment meters

Prepayment meters (PPMs) are meters that are designed to cater for the ‘prepayment’ of electricity or gas by households and businesses. Customers purchase ‘credit’ from designated outlets through a variety of mechanisms, such as smart cards or keypad technology. This pre-purchased credit is downloaded into the PPM, which deducts payments from the credited amount as energy is consumed.

If a customer elects to use a PPM, the electricity retailer is no longer required to send, and the customer is no longer required to pay, quarterly accounts for electricity already consumed. Instead, the customer pays in advance for credit that is used to pay for energy as it is consumed.

The general diversification of metering solutions and the introduction of PPMs to the ACT fits into the broader context of the development of the national energy market.

Need for a Prepayment Meter System Code

There are many regulations that protect electricity customers in the ACT. The Consumer Protection Code, developed pursuant to the Utilities Act, provides comprehensive protection to consumers of gas and electricity (as well as water and wastewater services). The *Fair Trading Act 1992* (ACT) and the *Door-to-Door Trading Act 1991* (ACT), and the Commonwealth Government's *Trade Practices Act 1974* provide further avenues of protection for customers.

There are, nonetheless, gaps in protection for customers of PPM systems. Specifically, the Consumer Protection Code contemplates electricity retailers supplying energy through meters that require accounts to be issued to customers in arrears, based upon the customers' usage in the latest period. PPMs, in contrast, rely on customers purchasing credit in advance of using electricity, which credit is then used to pay for the electricity consumed. As this approach to purchasing electricity is quite different to that currently practised, the protections set out in the Consumer Protection Code are inadequate when applied to PPMs and their operations. It is for this reason that a code dealing specifically with PPMs was felt to be necessary.

Key provisions

Purpose of code

The Code sets out the circumstances in which a utility can install a PPM and outlines a utility's obligations in dealing with customers and consumers.

Specifically the Code outlines the rights of customers and consumers, in relation to:

- connection to and disconnection from PPMs
- the supply of electricity from PPMs
- access to PPMs and to service information.

The Code sets out the circumstances in which PPMs can be installed and outlines utilities' obligations vis-à-vis customers.

Other Rights

The Code is intended to supplement and not limit customer rights under the Utilities Act, the Fair Trading Act, the Door-to-Door Trading Act, and the Trade Practices Act. The Code works in conjunction with the Consumer Protection Code, with a number of exceptions, which are listed. The provisions of the Consumer Protection Code prevail in the case of any inconsistencies.

Application of the Draft Industry Code

The Code is intended to apply to utilities supplying a PPM system to small, non-franchise customers¹. It is not intended to apply to utilities supplying a PPM system to other non-franchise customers.

¹ A non-franchise customer is a customer who consumes less than 100 MWh pa.

Agreement to supply through a PPM

It is anticipated that the rights and obligations of customers and consumers that are contained in the Code are given effect through negotiated customer contracts. The Code provisions are intended to be minimums only. Hence, utilities may include additional provisions in their negotiated customer contracts with customers, providing they are not inconsistent with the matters specified in the Code. Utilities cannot require customers to install or retain a PPM system.

Informed consent

The Code requires customers to give explicit informed consent before entering into a contract to receive electricity supply through a PPM system. The utility, for its part, must provide the customer with timely, accurate, verifiable and truthful information about the customer contract before the customer can give their consent.

The Code specifies certain information that the utility must give the customer:

- the date of commencement of the contract
- all costs including fees, charges and tariffs relating to the supply of energy and associated with entering into a contract, connection and installation costs
- the method by which customers will receive any concession entitlements
- the methods by which customers can make payments, and the locations of payment centres or recharge centres
- amount of emergency credit to be provided in the PPM system
- termination and removal of PPM systems (including “move-in” customers), including charges, the circumstances in which the charges apply and the method of calculation of the charges
- dispute resolution options available to the customer
- details of the customer’s rescission rights and trial period entitlements
- contact details for the utility’s enquiry, complaints and emergency services.

Provision of information

The Code requires utilities to provide to customers who intend to enter, or have entered, into a contract to receive a PPM system instructions on how to operate the PPM system, which is expressed in clear, simple and concise language and which is in a format that is easy to understand for a person not familiar with the operation of a PPM system.

If requested, the utility must use its best endeavours to provide a customer with operating instructions in a language other than English. Information must be provided within five business days of the customer’s request and before the customer agrees to the contract, where practical.

The utility must also place on the PPM system contact numbers to which the customer can make complaints or enquiries, including hardship complaints to the Essential Services Consumer Council (ESCC), and to report faults and emergencies.

Minimum terms and conditions of contract

The Code specifies a number of minimum terms and conditions for the inclusion in PPM contracts. These terms relate to trial period entitlements, termination rights during the trial period, and information about market contract options available to the customer.

Utilities must provide customers with the following additional information:

- credit refund arrangements;
- how to access emergency credit;
- the utility's complaints number and numbers the customer can phone for details of its national metering identifier and checksum, and for information to calculate the customer's greenhouse gas emissions;
- availability of interpreter services;
- information about, and contact details for, the ESCC.

If requested, the utility must provide a customer, at no cost, with information about the customer's total energy consumption, average daily consumption and average daily cost of consumption for the previous two years or since the commencement of the contract, whichever is the shorter, divided into quarterly segments.

Life support equipment

The Code prohibits the use of PPM systems in the premises of any customer requiring life support equipment. Moreover, if a customer who has a PPM system installed notifies the utility that they require life support equipment, the utility must make immediate arrangements to remove or deactivate the PPM system and either replace it with a standard meter or revert the PPM system to a standard operating mode, at no cost to the customer. The utility must also provide the customer with information about alternative contract options.

Separate charging and recovery of debt

The Code requires separate charging of goods and services that are not for the supply of electricity or gas or directly related to such supply and must not recover such payment through the PPM system. Similarly, a utility may not recover debts through the PPM system unless the debt relates to illegal energy use.

Prepayment meter system requirements

The Code requires PPM systems to display the following:

- the financial balance of the PPM system, to within \$1.00 accuracy of the actual balance
- the mode in which the PPM system is operating: namely, normal, credit, or emergency credit, and
- current consumption information, both in kW and \$AUD.

Disconnections may occur only between 10.00am and 3.00pm on weekdays. Ideally, disconnections should not occur on public holidays so, to that end, utilities are required to assist customers who contact them concerned that they might be

disconnected on a public holiday. Utilities must agree in advance with the Commission a procedure to provide such assistance.

Supply is to be restored as soon as information is conveyed to the PPM system that payment exceeding the emergency credit has been paid into the customer's account.

A minimum of \$10 emergency credit must be provided and the PPM system must be able to identify to the utility the number of times a customer has self-disconnected and the duration of the disconnections.

The Code provides that payment for PPM systems and associated accounts must be made available:

- by cash, at not less than two readily accessible locations: one of these must be open from 9.00am to 6.00pm seven days a week (except Christmas Day); or
- by phone, 24-hours, seven days a week, using credit card, debit card, electronic funds transfer or any other method of telephone payment agreed by the utility and the customer; or
- electronically or by some other means agreed to by the utility and the customer, 24 hours a day, seven days a week; or
- by another method approved by the Commission where the utility's PPM technology is unable to meet these requirements;
- by another method approved by the Commission where a customer in an emergency is unable to use or access the prescribed PPM payment facilities.

At least 70 percent of a customer's payment must be applied to service electricity (or gas) supply, with the remainder able to be applied to the repayment of emergency credit or other amounts. A utility that is unable to meet this requirement must agree with the Commission an alternative method for allocating payments before offering PPMs to ACT customers.

Customers experiencing financial difficulties

The Code provides a number of safeguards for customers experiencing financial difficulty. The Code defines such customers as anyone who informs the utility in writing or by phone that they are experiencing payment difficulties or as someone who the utility's PPM system has identified as self-disconnecting three or more times, for more than 4 hours on each occasion, in any three month period.

Where such a customer is identified the utility must offer to make immediate arrangements to remove or deactivate the PPM system and either replace it with a standard meter or revert the PPM system to a standard operating mode, at no cost to the customer. The utility must also provide the customer with information about the availability of alternative contract options, financial assistance programs, and independent financial and other relevant counselling services.

A utility that is unable to identify and assist customers in financial difficulty as prescribed by the Code must agree with the Commission an alternative method before offering PPMs to ACT customers.

Utilities supplying energy through PPMs must report quarterly to the Commission on the number of:

- small customers using PPMs;
- small customers who have self-disconnected;
- PPMs removed or deactivated during the trial period; and
- PPMs removed or deactivated as a result of a customer's financial difficulty.

System testing

The Code provides for the testing or checking of all or part of the PPM system when requested by a customer. When so requested by a customer, the utility must make immediate arrangements to do one or more of the following:

- check the metering data
- check or test the PPM system
- arrange for the responsible person to check or test the meter installation at the customer's connection point.

If requested by the utility, the customer must pay, in advance, the reasonable costs associated with any checks or tests undertaken. If the PPM system is found to be inaccurate or not operating correctly, the utility must correct the overcharging or undercharging and reimburse the customer any charges paid for the testing or checking of the PPM system. The utility must also immediately repair or replace the PPM.

Overcharging

The Code provides that where a customer has been overcharged as a result of an act or omission by the retailer, the customer is to be advised within 10 business days of the utility becoming aware of the overcharging, and arrangements made to repay the overcharged amount to the customer or to adjust the PPM balance.

Undercharging

The Code provides that if the utility has undercharged a customer through an act or omission on the utility's part, the utility may recover the amount undercharged. However, the amount recoverable is limited to undercharging in the 12 months prior to the utility notifying the customer, the customer must be provided with details and an explanation of the amount to be recovered, the customer must not be charged any interest on the amount owed, and the customer must be given time, at least equivalent to the period over which the undercharging occurred, to repay the amount owed.

Illegal energy use

The Code allows a utility to recover debt arising from fraudulent or illegal use of energy by either billing the customer for the unpaid amount or adjusting the PPM balance.

Reversion and transfer

If a customer terminates their PPM contract or requests the removal of a PPM system, the utility must make immediate arrangements to remove or deactivate the PPM system and either replace it with a standard meter or revert the PPM system to a standard operating mode. The utility must also provide the customer about the availability of alternative contract options. The Code makes provision for the utility to recover any fair and reasonable termination and exit charges and costs associated with the meter removal or reversion, unless the request is made during the trial period, or the customer is in financial hardship, or the customer requires life support equipment.

If a new retailer enters into a contract with a customer who is on a PPM, that retailer may request that the utility providing the PPM service make immediate arrangements to either remove the PPM and replace it with a standard meter, or revert the PPM to a standard operating mode. If the PPM contract is terminated after the trial period has elapsed the new retailer may recover from the customer the fair and reasonable costs of the PPM replacement or reversion.