



**SACOSS' Submission to the
Essential Services Commission of South Australia on
the small-scale energy networks consumer protection
framework review: Draft Decision**

October 2022

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Introduction

The South Australian Council of Social Service is the peak non-government representative body for health and community services in South Australia, and has a vision of *Justice, Opportunity and Shared Wealth for all South Australians*. SACOSS does not accept poverty, inequity or injustice. Our mission is to be a powerful and representative voice that leads and supports our community to take actions that achieve our vision, and to hold to account governments, business, and communities for actions that disadvantage vulnerable South Australians.

SACOSS' purpose is to influence public policy in a way that promotes fair and just access to the goods and services required to live a decent life. We undertake policy and advocacy work in areas that specifically affect disadvantaged and low income consumers in South Australia. With a strong history of community advocacy, SACOSS and its members aim to improve the quality of life for people disadvantaged by the inequities in our society.

SACOSS has a long-standing interest in the delivery of essential services. Our research shows that the cost of basic necessities like water and electricity impacts greatly and disproportionately on people experiencing vulnerability and disadvantage.

SACOSS would like to thank the Essential Services Commission of South Australia (ESCOSA) for the opportunity to provide feedback on the *Small-scale energy networks consumer protection framework review: Draft Decision*, dated August 2022¹ (the Draft Decision), as well as the Consultation Drafts of the *Small-scale Electricity Networks Code* (the Draft Code) and the *Prepayment Meter Systems Code* (the Prepayment Code). We once again congratulate ESCOSA on its work in developing the Draft Code and reviewing the Prepayment Code, to ensure remote and regional energy consumers are meaningfully supported to maintain a connection to a secure energy supply, in line with the rest of the South Australian community.²

In previous submissions to ESCOSA,³ SACOSS has highlighted the dangers of prepayment and associated increased risks of disconnection. Speaking broadly, SACOSS does not support prepayment arrangements for customers who may experience difficulty in paying for their

¹ ESCOSA, [Small-scale energy networks consumer protection framework review: Draft Decision](#), August 2022

² People living in the communities of Amata, Iwantja, Kalka, Kaltjiti, Kanpi, Mimili, Murputja, Nyapari, Pipalyatjara, Pukatja, Umuwa, Watinuma, Yunyarinyi, Yalata, Oak Valley, and associated homelands, are subject to mandatory prepayment arrangements. The decision of the SA government to mandate prepayment in these communities has had the effect of removing key consumer protections that would otherwise apply to those residents under ESCOSA's Prepayment Meter System Code.

³ SACOSS, [Submission to the Department for Energy and Mining on its consultation on proposed amendments to customer payment under the Remote Area Energy Supply \(RAES\) Scheme](#), 16 September 2021, SACOSS, [Submission to ESCOSA on the Prepayment Meter System Code Review](#), 11 May 2021, SACOSS, [Submission to ESCOSA on its Draft Inquiry Report into the regulatory arrangements for small-scale water, sewerage and energy services](#), 30 September 2020, SACOSS, [Submission to the Essential Services Commission of South Australia on the off-grid energy consumer protection framework Review: Consultation paper](#), March 2022

energy supply. With that qualification, we acknowledge and support the protections contained within the Prepayment Code, and we expect those protections to be robustly monitored and enforced by ESCOSA.

This consultation highlights the inequities created by the decision of the South Australian government⁴ to mandate prepayment in the communities of Amata, Iwantja, Kalka, Kaltjiti, Kanpi, Mimili, Murputja, Nyapari, Pipalyatjara, Pukatja, Umuwa, Watinuma, Yunyarinyi, Yalata, Oak Valley, and associated homelands. People living in these communities will not have the benefit of key consumer protections established under the Prepayment Code, including the requirement for explicit informed consent before entering into a prepayment arrangement, and the option to revert to post pay if experiencing multiple disconnections. SACOSS remains deeply concerned about the negative health, social and economic impacts of mandatory prepayment on people in those communities, and we will continue to advocate for mandatory prepayment to be abolished.

⁴ Pursuant to the [Electricity \(General\)\(Payment Condition\) Variation Regulations 2021](#) to commence operation on 1 July 2022

Summary of Submissions

SACOSS has provided a summary of relevant submissions contained in our previous submission on the Consultation paper,⁵ as well as additional submissions made in response to ESCOSA's Draft Decision, below. We look forward to receiving ESCOSA's response to each of these submissions:

- SACOSS strongly supports the inclusion of **clear principles** within the proposed Codes that align with those set out in section 45(3) and section 47 of the *National Energy Retail Law* (NERL), and / or clear **objectives** that align with each division of Victoria's *Payment Difficulty Framework*.
- Additional performance indicators and reporting requirements for consumer protection obligations under the Small-scale Electricity Networks Code need to be included in Guideline No.5. At a minimum, SACOSS considers indicators relating to debt / energy consumption / hardship / payment plan customer numbers / disconnection / credit-collection / Centrepay / life support / and concessions should be included within Guideline No. 5.
- SACOSS submits it is essential that sustainable and affordable payment plans are established having regard to a customer's capacity to pay, and guidance around this obligation would be useful for retailers.
- SACOSS strongly supports the alignment of the definition of 'life support system' under ESCOSA's frameworks with the definition of 'life support equipment' under the NECF. This definition should be consistently adopted across both the proposed Small-scale Electricity Networks Code and the Prepayment Code.
- ESCOSA will need to consider the licensed distributor's obligations to life support customers for planned / unplanned interruptions of an energy supply, as well as the Distributor's disconnection obligations under Rule 120 of the *National Energy Retail Rules*, and customer information obligations under Rule 80.
- SACOSS submits the NECF is continuing to evolve, and the development of the Draft Code presents a unique opportunity for ESCOSA to align with national best practice when drafting and enacting meaningful consumer protections.
- The AER's Final Strategy on consumer vulnerability titled '*Towards Energy Equity – a strategy for an inclusive energy market*,' will be released on 20 October 2022. SACOSS is seeking that ESCOSA take the findings in the Final Strategy into consideration in the development of the Final SSEN Code.
- SACOSS submits the use and definition of the term 'financial hardship' should be removed from the Draft Code, and replaced with 'anticipating or experiencing

⁵ SACOSS, [Submission to the Essential Services Commission of South Australia on the off-grid energy consumer protection framework Review: Consultation paper](#), March 2022

payment difficulty'. At the very least, establishing the customer is in 'financial hardship' should not be a precondition to accessing support under the Code.

- All reference to 'financial hardship' should be removed from the payment difficulties section (4.15 of the Draft Code).
- ESCOSA considers adopting the Victorian PDF approach of referring to customers as 'anticipating or experiencing payment difficulties'; with all customers entitled to support, and customers in arrears receiving more tailored ('hardship') assistance under the Draft Code.
- SACOSS is very supportive of ESCOSA including a \$55 debt trigger within the Draft Code.
- Clause 4.14.5(c) of the Draft Code could be amended to include the offer of a payment plan, as well as advising of other tailored supports on offer (rather than solely advising the customer of the hardship policy).
- Clause 4.22 should be amended to include:
 - protection from disconnection for customers receiving hardship supports or adhering to a payment plan (Rule 116(1)(d))
 - protection from disconnection during an extreme weather event (Rule 116(1)(h)), and during all protected periods defined in the NERR, including the day before a public holiday and after 3pm on a business day (Rule 108).
- SACOSS is seeking ESCOSA to do all that it can to support regional and remote customers' access to solar, energy efficient appliances and energy efficiency advice to assist with reducing consumption and addressing energy affordability.
- SACOSS is seeking further information on tariffs (incorporating reduced renewable generation costs), time of use tariffs and the default market offer as these matters apply to customers of small-scale networks.
- SACOSS strongly submits the current monitoring and reporting requirements for small-scale networks on consumer protection obligations under ESCOSA's 2022 *Regulatory Reporting Requirements for Small-scale Networks, Guideline No.5*⁶ (Guideline No. 5), are inadequate.
- At a minimum, SACOSS is seeking Guideline No.5 be amended to include the following metrics to align with the decision in ESCOSA's Final Report on the small-scale networks inquiry, as well as a metric on the number of life support customers notified to the retailer:
 - The number of complaints received by each off-grid retailer and distributor

⁶ ESCOSA, [Guideline No.5: Regulatory Reporting Requirements for Small-scale Networks](#), July 2022, p.5

- The number of disconnections for non-payment of a bill
 - The number and duration of supply interruptions for off-grid distributors.
- SACOSS is seeking Guideline No. 5 be further amended to better align with the AER's reporting requirements, through the inclusion of additional reporting requirements covering debt, hardship and payment difficulty obligations (as set out in the submission).
- SACOSS considers robust *enforcement* of the important consumer protection obligations established under the proposed Codes is essential, and we support ESCOSA being adequately resourced to enable a strong compliance focus on protections for off-grid customers in vulnerable circumstances, including life support customers.
- SACOSS supports the alignment of the reporting requirements and timeframes contained in Cowell Electric's licence variation (for mandatory prepayment customers in remote Aboriginal communities), with the reporting requirements for other licensees providing prepayment in small-scale networks in South Australia.
- SACOSS submits customers *should not* be charged, or to have to pay in advance, for a check of the metering data (clause 4.13.1(a)), or a check or test of the prepayment meter system (clause 4.13.1(b)) under the Prepayment Code.
- SACOSS is seeking the removal of the 'pay in advance' requirement from Clause 4.13 of the Prepayment Code, and the amendment of clause 4.13.2 to read '*... for any check or tests undertaken in accordance with **clause 4.13.1(c)***' (as opposed to clause 4.13.1).

Consultation areas

SACOSS has summarised the background to this broader consultation in our previous submission on the Consultation paper.⁷

The purpose of this consultation is to provide feedback on the costs and benefits of adopting the proposals in ESCOSA's Draft Decision, and also to provide specific feedback on:

- the proposed amendments to improve the strength and consistency of consumer protections for small-scale energy networks customers
- the proposed additional hardship and disconnection protections for small-scale energy networks customers, including greater alignment with the NECF, and
- the proposed changes to the Prepayment Meter System Code.

SACOSS fully supports the development of an enforceable Code containing consumer protections for remote and regional South Australians supplied with energy by small-scale networks. Relevantly, the Australian Energy Regulator (AER) recently summarised the reasons for the development of the National Energy Consumer Protection framework (NECF), in the following terms:⁸

*Energy is considered an essential service given its role in providing vital daily needs in modern life such as lighting, heating, cooling, refrigeration and the operation of appliances and electronics. The NECF was enacted to supplement the ACL and regulates the sale and supply of electricity and gas to ensure all consumers can access energy **on fair and reasonable terms**. The implementation of the NECF was also driven by the recognition that small residential and small business customers have little bargaining power and can be put at a significant disadvantage by energy retailers and distributors if their practices are not regulated to ensure certain minimum service standards.⁹*

These matters hold true for all South Australians, irrespective of where they live. Given the current and forecast climate extremes in remote South Australia,¹⁰ the importance of ensuring energy customers in these regions have access to a secure energy supply, and are supported to maintain their connection to an energy supply, is more critical now than ever before.

⁷ SACOSS, [Submission to the Essential Services Commission of South Australia on the off-grid energy consumer protection framework Review: Consultation paper](#), March 2022, pp. 9-13

⁸ AER, [Retailer authorisation and exemption review: issues paper](#), April 2022, p.13

⁹ See: Second Reading Speech to the National Energy Retail Law (South Australia) Bill, South Australia, Parliamentary Debates, House of Assembly, 27 October 2010, pp 1748–1750.

¹⁰ Thomas Longden, Simon Quilty, Brad Riley, Lee V. White, Michael Klerck, Vanessa Napaltjari Davis and Norman Frank Jupurrurla, '[Energy insecurity during temperature extremes in remote Australia](#)' (2021) *Nature Energy* <https://doi.org/10.1038/s41560-021-00942-2> (Note this has been provided to the Committee by Brad Riley) and [Policy Brief](#), and [Blog](#)

We provide feedback on the specific consultation questions, below.

The proposed amendments to improve the strength and consistency of consumer protections for small-scale energy networks customers

- ▶ Do stakeholders have any questions or feedback on the proposed amendments to improve the strength and consistency of consumer protections for small-scale energy customers?

SACOSS supports ESCOSA's proposed amendments to improve the strength and consistency of consumer protections for small-scale energy customers across gas and electricity networks, as well as across generation, distribution and retail licences.

To provide for further clarity and consistency, we strongly support the inclusion of **clear principles** within the proposed Codes that align with those set out in section 45(3) and section 47 of the *National Energy Retail Law* (NERL), or clear **objectives** that align with each division of Victoria's *Payment Difficulty Framework*:¹¹

The NECF principles provide:

- that the supply of energy is an essential service for residential customers
- that retailers should assist hardship customers by means of programs and strategies to avoid de-energisation (or disconnection) solely due to an inability to pay energy bills
- that de-energisation (or disconnection) of premises of a hardship customer due to inability to pay energy bills should be a last resort option
- that residential customers should have equitable access to hardship policies, and that those policies should be transparent and applied consistently.

The objectives of the PDF are:¹²

- To help residential customers avoid getting into arrears with their retailer.
- To make it easier for residential customers to pay for their ongoing energy use, repay their arrears when they have missed a bill, and lower their energy costs.
- To ensure residential customers are only disconnected for non-payment of a bill as a measure of last resort.

These objectives are established under the PDF through statements at the commencement of Part 6, and each Division under that Part:

¹¹ [National Energy Retail Law 2011, and](#) ESC Vic, [Energy Retail Code of Practice](#), Part 6, Clauses 121, 124, 126

¹² Essential Services Commission Victoria, [Payment Difficulty Framework review 2022, Findings Report](#), 31 May 2022, p.6

- *The purpose of this Part is to set out the **minimum standards of assistance to which residential customers anticipating or facing payment difficulties are entitled, so that **disconnection of a residential customer for not paying a bill is a measure of last resort**** (Clause 121).*
- *The objective of this Division is to give residential customers an entitlement to minimum standard forms of assistance, **to help them avoid getting into arrears with their retailer** (Clause 124 – standard assistance).*
- *The objective of this Division is to give residential customers **who are in arrears** an entitlement to **minimum standards of flexible and practicable assistance** that makes it easier for them to pay for their on-going energy use, repay their arrears and lower their energy costs (Clause 126 – tailored assistance).*

Principles and objectives provide both consumers and providers with clarity around the meaning and intent of the provisions of the Code, and assist with the interpretation and framing of the document as a whole.

- ▶ Are there any electricity distribution or generation specific requirements that need to be considered if current standard conditions are transferred from licences to the code?

ESCOSA will need to consider the licensed distributor’s obligations to life support customers for planned / unplanned interruptions of an energy supply.

It is worth noting Rule 120 in the *National Energy Retail Rules*¹³ (NERR) provides for circumstances when a *distributor* must not de-energise premises:

120 When distributor must not de-energise premises

(1) Restrictions on de-energisation

*Despite any other provisions of this Division but subject to subrules (2), (3) and (4), **a distributor must not de-energise a customer's premises:***

*(a) **where the premises are registered under Part 7 as having life support equipment; or***

*(b) **where the customer has made a complaint, directly related to the reason for the proposed de-energisation, to the distributor under the distributor's standard complaints and dispute resolution procedures, and the complaint remains unresolved; or***

*(c) **where the customer has made a complaint, directly related to the reason for the proposed de-energisation, to the energy ombudsman and the complaint remains unresolved; or***

*(d) **where the customer's premises are to be de-energised under rule 111— during **an extreme weather event; or*****

*(e) **during a **protected period.*****

¹³ [National Energy Retail Rules](#)

An ‘*extreme weather event*’ means an event declared by a local instrument¹⁴ as an extreme weather event in the jurisdiction in which the customer’s premises are located.

A ‘*protected period*’ is defined under the Rules to mean:

protected period means:

(a) a business day before 8am or after 3pm; or

(b) a Friday or the day before a public holiday; or

(c) a weekend or a public holiday; or

(d) the days between 20 December and 31 December (both inclusive) in any year.

The current Draft Code doesn’t provide for specific distribution disconnection obligations, including around extreme weather events and protected periods. The disconnection obligations under the Draft Code fall on the retailer under Part 4 of the Draft Code. Given the roll out of smart meters, the role of the distributor may be more limited in the disconnection process, but this is something for ESCOSA to consider. In addition, the protections from disconnection during extreme weather events and during protected period apply equally under the NERR to retailers (Rule 116), which we will comment on in further detail below.

► Do stakeholders have any comments on additional consumer protections the Commission should consider?

To determine whether there are any NECF protections that may be applicable to distributors in regional and remote South Australia, ESCOSA should consider Part 4 of the NERR which deals with the relationship between distributors and customers. Rule 80 specifically covers what information distributors are required to provide to customers, and deals with connections, service standards, GSL schemes, de-energisation and re-energisation.

SACOSS covers additional consumer protection obligations for retailers, below.

The proposed additional hardship and disconnection protections for small-scale energy networks customers, including greater alignment with the NECF

Consultation question

► Do stakeholders have any further feedback, comments or questions on the proposed hardship and/or disconnection protections for small-scale energy customers?

Evolution of hardship / payment difficulty protections

The Draft Decision acknowledges that:¹⁵

¹⁴ See Regulation 8 of the [National Energy Retail Law \(Local Provision\) Regulations 2013](#)

¹⁵ ESCOSA, [Small-scale energy networks consumer protection framework review: Draft Decision](#), August 2022

‘Since the current consumer protection frameworks were introduced for small-scale electricity in 2008, and small-scale gas in 2014, the NECF, which provides consumer protections for the majority of energy customers in South Australia, has evolved considerably.’

SACOSS submits the NECF is continuing to evolve, and may rapidly change in the near future. We consider the development of the Draft Code presents a unique opportunity for ESCOSA to align with best national practice when drafting and enacting meaningful consumer protections.

Victoria’s Payment Difficulty Framework (PDF)¹⁶ is an entitlement framework that came into effect on 1 January 2019. The framework **entitles** Victorian energy customers **anticipating or experiencing payment difficulty to minimum levels of assistance**. These rules ensure minimum entitlements to all customers (known as ‘standard assistance’) and further minimum entitlements to customers with arrears (‘tailored assistance’).¹⁷ This differs from the NECF in that retailers must identify customers experiencing hardship, or customers must self-identify as experiencing payment difficulties due to hardship, prior to providing more tailored / hardship assistance.¹⁸

The PDF was developed to meet the following objectives:¹⁹

- *To help residential customers **avoid getting into arrears** with their retailer.*
- *To make it easier for residential customers **to pay for their ongoing energy use, repay their arrears when they have missed a bill, and lower their energy costs.***
- *To ensure residential customers are **only disconnected for non-payment of a bill as a measure of last resort.***

On 31 May 2022 the Essential Services Commission of Victoria delivered its *Findings Report* on the implementation of the PDF.²⁰ The Review found the PDF was broadly meeting its objectives:²¹

¹⁶ Essential Services Commission Victoria, [Energy Retail Code of Practice](#), 2022

¹⁷ AER, [State of the Energy Market 2022](#), September 2022, p.198

¹⁸ This turns on the definition of ‘hardship customer’ under the NECF – section 2(1) of the [NERL](#) provides: ‘a hardship customer means a residential customer of a retailer who is identified as a customer experiencing financial payment difficulties due to hardship in accordance with the retailer’s customer hardship policy’. See also section 44 of the NERL around identification.

¹⁹ Essential Services Commission Victoria, [Payment Difficulty Framework review 2022, Findings Report](#), 31 May 2022, p.6

²⁰ Essential Services Commission Victoria, [Payment Difficulty Framework review 2022, Findings Report](#), 31 May 2022

²¹ Essential Services Commission Victoria, [Payment Difficulty Framework review 2022, Findings Report](#), 31 May 2022, p. 13-14

- *the framework has provided a clear basis for customers to receive help when paying their energy bills, especially when they are experiencing payment difficulty*
- *since its implementation in 2019, more customers have been receiving tailored assistance compared to customers in past retailer hardship programs*
- *interactions between customers and energy retailers had improved.*

Given the success of the Victorian PDF, Action 3 in the AER's *Draft Consumer Vulnerability Strategy* is for the AER to consider the need for a NECF payment difficulty framework:²²

The AER considers there is value in undertaking a review of the ways in which customers experiencing payment difficulty are currently supported in the NECF, and determining whether current protections are fit for purpose. If stronger protections are required, we could consider advocating for protections that are aligned across the jurisdictions where this is feasible and would support consumer and market outcomes.

*Through this review process, **we could explore the merits of developing a payment difficulty framework for the NECF, which could align with some or all of the Victorian Payment Difficulty Framework (PDF). We envisage this could result in removing the current hardship and payment plan framework, to be replaced with one payment difficulty framework that is focused on tailored supports and improved, early identification of people who need support.***

The AER's final strategy, now called '*Towards Energy Equity – a strategy for an inclusive energy market*,' will be released on 20 October 2022. SACOSS is seeking ESCOSA take the Final Strategy into consideration in the development of the Final SSEN Code.

Remove the definition of 'financial hardship'

With these developments in mind, SACOSS has significant concerns about the inclusion of the definition of 'financial hardship' within the SSEN Code:

'Financial hardship means a circumstance of experiencing a lack of financial means, which may be either ongoing or temporary, but does not include circumstances where a person chooses not to meet a liability for an unpaid debt.'

We understand the term 'financial hardship' and the definition within the Draft Code is based on the Minister's *Hardship Policy for customers of water industries*,²³ dating from 2013. We are concerned this definition is not appropriate for energy customers and may operate to exclude customers experiencing payment difficulty from accessing assistance. The 'financial hardship' definition fails to acknowledge that consumer vulnerability may stem from characteristics in the energy market (e.g. complexity), as well as personal circumstances (low-income, disability, poor mental health). In addition, the term 'hardship'

²² AER, [Consumer Vulnerability Strategy: Draft for Consultation](#), December 2021, p.38

²³ Minister's [Hardship Policy for customers of water industry entities](#), February 2013

risks reinforcing stigma and acts as a deterrent against people reaching out for help if they are anticipating payment difficulty, or are early in the debt cycle.

Further, the definition of 'financial hardship' within the Draft Code, and the inclusion of this term within clause 4.15 dealing with payment difficulties, **does not align with the NECF**.

Under the NECF, *any customer* who is experiencing payment difficulties is entitled to a payment plan.²⁴ There is NO requirement that the customer 'be experiencing payment difficulties *due to financial hardship*', as is the case under Clause 4.15.1 of the Draft Code.

The NECF creates a tiered framework that provides for different levels of support depending on whether the customer is:

- experiencing payment difficulties (attracts a lower level of support, including payment plans and protection from disconnections etc.),
- or experiencing payment difficulties *due to hardship* (as identified by the retailer, and attracts more tailored supports).²⁵

Under the NECF, hardship supports are provided to customers where the retailer identifies the customer is experiencing payment difficulties *due to hardship* in accordance with its hardship policy.

A 'hardship customer' is defined within section 2(1) of the NERL to mean:

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

Therefore, neither the Victorian PDF approach where all customers '**anticipating or experiencing payment difficulty**' are entitled to support, nor the approach under the NECF (which is likely to be reviewed) have been applied in the Draft Code.

SACOSS is strongly of the view that:

- The definition of 'financial hardship' be removed from the Draft Code
- All reference to 'financial hardship' should be removed from the payment difficulties section (4.15 of the Draft Code)
- ESCOSA consider adopting the Victorian PDF approach of referring to customers 'anticipating or experiencing payment difficulties', with customers in areas receiving more tailored 'hardship' assistance under the Draft Code.

It is important to remember the objectives of energy consumer protection frameworks are to identify customers who are struggling to pay and provide supports to customers early in

²⁴ [NERL](#), Section 50

²⁵ SACOSS, [Effectiveness of supports for customers experiencing payment difficulties: strengthening protection for customers under the NECF](#), June 2018 pp 12-23. SACOSS' 2018 Report on the effectiveness of supports for customers experiencing payment difficulties under the NECF outlines the consumer protection framework for on-grid customers in South Australia.

the debt cycle (payment plans or more tailored supports), to avoid debt and disconnection. To achieve this, **every customer** should be entitled to a payment plan that is established having regard to their capacity to pay, and associated protection from disconnection. Customers in arrears may require more tailored assistance to meet ongoing energy costs and pay off debts.

SACOSS is very supportive of ESCOSA including a \$55 debt trigger within the Draft Code. Research shows customers experience shame and stigma associated with asking for help to pay bills, and may resist contacting their retailer. The \$55 debt trigger is a useful tool to prompt retailers to reach out and offer assistance to customers, if only to remind customers of their right to enter into a payment plan. Ideally, the earlier customers are provided with assistance, the better the chance of avoiding debt and disconnection.

We consider Clause 4.14.5(c) could be amended to include offering a payment plan as well as advising of other tailored supports on offer (rather than solely advising the customer of the hardship policy).

Protection from disconnection

Rule 116(1)(d) of the NERR prohibits retailers from disconnecting hardship customers, or customers who are adhering to a payment plan (which has been established having regard to the customers capacity to pay, and is therefore sustainable and affordable).²⁶ Clause 4.22 of the Draft Code does not provide for protection from disconnection for hardship customers, or payment plan customers. This protection is fundamental to the national consumer protection framework. Customers are supported by their retailers to pay back debt and meet ongoing energy costs without the fear of disconnection. SACOSS believes this essential protection from disconnection for hardship customers and payment plan customers must be included within Clause 4.22 of the Draft Code.

Also, as outlined above in relation to distributor's obligations, SACOSS considers Clause 4.22 should be amended to include protection from disconnection during an extreme weather event (Rule 116(1)(h)), and during all protected periods defined in the NERR, including the day before a public holiday and after 3pm on a business day (Rule 108).

Prohibition of remote disconnection for non-payment

SACOSS is strongly opposed to remote disconnection for non-payment. Acknowledging the roll-out of smart meters in the areas affected by this Draft Decision, SACOSS supports the inclusion of a prohibition on remote disconnection for non-payment. SACOSS acknowledges the benefits of remote disconnection and reconnection in certain circumstances, but we are firmly of the view that remote disconnection for non-payment is not in the best interests of vulnerable customers.

²⁶ See Rules 33 and 72 of the NERR, as well as the AER's [Sustainable Payment Plans Framework](#)

In Victoria, where there has been a state-wide roll out of smart meters, there appears to have been a strong link between smart meters and increases in disconnection completion rates, as well as increases in households experiencing multiple disconnections.²⁷ SACOSS understands the stronger disconnection safeguards implemented in Victoria as part of its PDF (where the onus of proof is on retailers to show they have complied with the payment difficulty processes), were in response to increases in disconnections.

SACOSS is currently working with the Energy Charter to develop a Code which will require retailers to engage in a 'knock to stay connected' program. This involves a face-to-face visit by the DNSP prior to disconnection, where the customer is provided with leaflets outlining supports available and retailer's contact details. A trial of SA Power Networks' pre-visit service resulted in more than 50% of disconnection for non-payment service orders being cancelled.²⁸ SA Power Networks' program has been picked up by Essential Energy in NSW, with even greater success (an 80% disconnection cancellation order in their pilot 'knock before you disconnect' program).²⁹ This highlights the importance of maintaining a disconnection process that involves personal contact.

Energy efficiency, Time of Use Tariffs and Default Market Offer

SACOSS is requesting further information on the tariffs small-scale networks customers will be paying, in particular:

- Will the benefits of lower cost renewable power generation³⁰ be passed on to customers, or will these customers continue to pay the average of on-grid customer tariffs in line with the RAES Scheme?
- Will customers be able to access Time of Use tariffs, if appropriate and beneficial for that customer?
- Will customers have access to the Default Market Offer (given average on-grid electricity rates are likely to rise above the DMO in the coming year)?
- Will customers have access to No interest loans (NILS) and lower cost appliances through the Retailer Energy Productivity Scheme?

²⁷ St Vincent de Paul Society & Alvis Consulting, *Households in the Dark II: Mapping electricity disconnections in South Australia, Victoria, New South Wales and South East Queensland*, by Sophie Labaste, August 2019. <https://alvisconsulting.com/wp-content/uploads/2019/10/Households-in-the-Dark-II-Report.pdf>

²⁸ 875 sites were "pre-visited" and 492 disconnection for non-payment service orders were cancelled prior to schedule date (56.23% successful pre-visit).

²⁹ Essential Energy's personal contact approach to reducing disconnections was commended by the Energy Charter's Independent Accountability Panel in [its Assessment of achievement of better outcomes for Australian energy consumers in 2019-20](#), December 2020

³⁰ See [Coober Pedy Hybrid renewable power station](#), 'Since commencing operations in July 2017, the multi-award-winning power station has **delivered lower-cost and more stable electricity** (99.99% reliability) for the community at world-leading renewable energy penetration rates. It has also set a global benchmark for renewables in isolated grids and often operates on 100% renewables for long periods'. See also [EDL Energy](#) site.

- Will customers be subject to structural barriers leading to an inability to connect roof-top solar?

Small-scale networks customers in South Australia are increasingly exposed to extreme weather events due to climate change, often live in inadequate / inefficient housing, and do not have equitable access to energy efficient appliances. This leads to increased energy usage and an inability to reduce consumption. The AER's *State of the Energy Market Report 2021* highlighted these issues (SACOSS' emphasis):

Autonomy and resources to address energy use also plays an important role in energy affordability. For example, customers on hardship programs in 2021 consumed on average over 60% more electricity than a typical customer. This likely reflects 2 aspects:

- ***consumers who don't have access to energy saving or self-generating measures, such as solar PV systems, have high consuming appliances and live in less energy efficient dwellings face higher bills – therefore, they are more likely to experience financial hardship***
- ***consumers who live in rental properties may be reliant on property owners to make the needed property improvements before they can reduce their energy use, and property owners may lack incentives to make these improvements, leading to a waste of energy resources that could be absorbed back into the system.***

As the local regulator, SACOSS is seeking ESCOSA to do all that it can to support regional and remote customers' access to solar, energy efficient appliances and energy efficiency advice to assist with reducing consumption and addressing energy affordability.

Increased consumer protection monitoring and reporting requirements for small-scale energy networks

SACOSS strongly submits the current monitoring and reporting requirements for small-scale networks on consumer protection obligations under ESCOSA's 2022 *Regulatory Reporting Requirements for Small-scale Networks, Guideline No.5*³¹ (Guideline No. 5), are inadequate.

By way of background, ESCOSA's 2021 *Final Report on its inquiry into regulatory arrangements for small scale water, sewerage and energy services* (the Final Report) found (SACOSS' emphasis):³²

'While the Draft Inquiry Report suggested that there might be reduced reporting on hardship and affordability, noting the concerns of SACOSS, and having considered the matter further, the Commission will maintain reporting of those metrics, to at least the current level.'

³¹ ESCOSA, [Guideline No.5: Regulatory Reporting Requirements for Small-scale Networks](#), July 2022, p.5

³² ESCOSA, [Inquiry into regulatory arrangements for small-scale water, sewerage and energy services: Final Report](#), February 2021, p. 36

This finding was reflected in Decision 4 of ESCOSA's *Final Decision* on the Verify Trust and Accountability (VTA approach) (SACOSS' emphasis):³³

VTA approach – Decision 4

Category A licensees

Category A licensees' annual reporting returns are required to be approved by the licensee's CEO (or equivalent) and comprise the following:

- *a list of office holders, to assure the Commission that the licensee is a fit and proper person*
- *connection and customer numbers, to be used primarily for calculating Commission licence fees (water) and EWOSA membership fees respectively*
- ***information on hardship and affordability, at least equivalent to that required prior to the VTA approach being formally implemented at 1 July 2022***
- *identification of any material changes to operations, and*
- *a statement of assurance that the licensee is complying with its obligations and engaging in a competent operation to the level contemplated (in Box 1).*

ESCOSA's *Off-grid Energy Networks Regulatory Performance Report for 2020-21* identified the following key consumer protection metrics for off-grid energy licensees, **required prior to the formal implementation of the VTA approach on 1 July 2022:**³⁴

- *the number of **complaints** received by each off-grid retailer and distributor*
- ***the number of disconnections for non-payment of a bill*** made by each off-grid retailer
- *the **number and duration of interruptions of supply** for each off-grid distributor, and*
- *licensees' **compliance** with their licence requirements.*

These consumer protection metrics do not appear in Guideline No. 5.

Guideline No.5 establishes that Category A and Category B licensees must provide an *annual return* with the following information (as set out in Annexure A to Guideline No.5):

2.5 Annual return - Category A licensees

(a) a list of office holders

(b) connection and customer numbers

(c) number of customers on flexible payment arrangements

³³ ESCOSA, [Inquiry into regulatory arrangements for small-scale water, sewerage and energy services: Final Report](#), February 2021, p. 6

³⁴ ESCOSA, [Energy Fact Sheet – Off-grid Energy Networks Regulatory Performance Report 2020-21](#)

(d) number of customers receiving a concession toward their energy or water bill

(e) number of customers registered as life support customers

(f) identification of any material changes to operations

(g) information on all licensee compliance breaches in the preceding 12 months

(h) information on all licensee material service issues in the preceding 12 months, and

(i) a signed statement of assurance confirming that it is complying with its obligations.

SACOSS considers the reporting requirements outlined in Guideline No.5, are not consistent with Decision 4 in ESCOSA's Final Report. Specifically, licensees are not required to report on the following metrics **that were required prior to 1 July 2022**:

- The number of complaints received by each off-grid retailer and distributor
- The number of disconnections for non-payment of a bill³⁵
- The number and duration of supply interruptions for off-grid distributors.

These metrics, and in particular metrics around complaints and disconnections for non-payment, provide essential insights into the experience of off-grid energy consumers, and the adequacy of the operation of the protections in place. Consumption data would also be useful in terms of analysing the energy usage requirements of regional and remote customers.

At a minimum, SACOSS is seeking Guideline No.5 be amended to include the above metrics to align with the decision in the Final Report, as well as a metric on the number of life support customers notified to the retailer.

In addition to deciding to maintain existing reporting metrics for small-scale networks after the introduction of the VTA model, ESCOSA's Final Report on the inquiry went on to state (SACOSS' emphasis):³⁶

Further, there may be a need, for a period of time, to enhance these reporting requirements, or any other reporting requirement, depending on circumstances. An example of this is the Future Sustainability program, which includes the introduction of electricity charging for some electricity customers (section 2.2.2.2). SACOSS, in its response to the Draft Inquiry Report, put the view that this program should be subject to additional reporting obligations during its rollout. SACOSS noted that the

³⁵ It is worth noting that SACOSS is equally concerned there is no obligation for Minor and Intermediate Water retailers to report on the number of water restriction for non-payment of a bill.

³⁶ ESCOSA, [Inquiry into regulatory arrangements for small-scale water, sewerage and energy services: Final Report](#), February 2021, p. 36

program may result in customers self-disconnecting, as they cannot afford a full-time service, based on studies in other jurisdictions.

*The Commission agrees with that submission, noting that the program represents a significant change in circumstances for both licensees, and some customers involved with the RAES scheme. The Commission will work with the relevant licensees and SACOSS to monitor the impact that such changes (and other policy-related changes) may have upon operations and customers. **This may include the collection of specific additional data for a time. It could also include requiring the relevant licensees to publish specific information, or the Commission itself publishing this information on its website.***

For the purposes of this consultation, SACOSS is seeking Guideline No. 5 be amended to include **additional reporting requirements covering debt, hardship and payment difficulty obligations (as outlined in more detail, below)**. SACOSS is also seeking ESCOSA publicly report on these enhanced monitoring requirements. SACOSS acknowledges the current reporting requirements under Guideline No. 5 are on an annual basis for the licensees affected by this consultation, but we consider more frequent quarterly reporting is more appropriate and aligns with the AER's reporting framework, and Cowell Electric's mandatory prepayment licence obligations. This should not be an onerous task for licensees, given the roll-out of smart meters, information and access to data should be readily available to retailers.

It is worth noting ESCOSA's adoption of a VTA approach to regulation, was aimed at reducing reporting requirements for licensees. This is in contrast to the AER's approach which requires retailers operating under the NECF to report on 58 performance indicators covering consumer protections alone (including 16 dedicated hardship program indicators).³⁷ SACOSS' previous submission in relation to this consultation set out the reporting requirements imposed on retailers under the national frameworks,³⁸ and highlighted the importance of these requirements in ensuring retailers comply with their obligations.

SACOSS has found the AER data around debt, payment plan numbers, hardship customer numbers and disconnection to be invaluable in an assessment of retailers' conduct and compliance with protection obligations. We therefore submit that ESCOSA consider amending Guideline No. 5 to better align with the AER's reporting requirements and include additional requirements around the following:

- Number of small customers repaying an energy bill debt

³⁷ Australian Energy Regulator, [AER \(Retail Law\) Performance Reporting Procedures and Guidelines](#), 1 January 2019

³⁸ SACOSS, [Submission to the Essential Services Commission of South Australia on the off-grid energy consumer protection framework Review: Consultation paper](#), March 2022, p 16-17

- Average amount of energy bill debt for small customers (including residential and small business customers)
- Number of residential customers on a payment plan
- Number of residential customers who have been referred to an external credit collection agency for the purposes of debt recovery
- The number of customers disconnected for non-payment
- The number of customers with debts at the time of disconnection
- The number of customers eligible for concessions
- The number of security deposits held by retailers for residential customers
- The aggregate value of security deposits held by retailers
- The number of customers in the retailer’s hardship program
- Average debt on entry into the hardship program
- Levels of debt of customers entering the hardship program
- Average debt of hardship customers
- Disconnection of previous hardship program customers.

Enforcement of consumer protection obligations

In addition to monitoring, SACOSS considers robust *enforcement* of the important consumer protection obligations established under the proposed Codes, is essential.

To ensure licensees are encouraged to comply with their consumer protection obligations, and to determine whether the existing enforcement options are adequate, SACOSS is seeking further information from ESCOSA on the compliance options available to it under its Enforcement Policy.³⁹ SACOSS considers breaches of consumer protection obligations (particularly life-support obligations) should attract the strongest penalties.⁴⁰

Life Support system

The Draft Code defines ‘Life support system’ to mean:

- (a) an oxygen concentrator, or*
- (b) an intermittent peritoneal dialysis machine, or*
- (c) a chronic positive airways pressure respirator, or*
- (d) medically required heating or cooling (a customer must be eligible for the medical heating and cooling concession to be a life support customer under this definition), or*
- (e) a nebuliser, or*
- (f) a kidney dialysis machine, or*
- (g) a ventilator for life support, or*

³⁹ ESCOSA, [Enforcement Policy: Version 2.6](#), August 2021

⁴⁰ Noting the AER’s [compliance action against Origin](#) in June 2022, for breaches of customer hardship obligations under the NECF which resulted in a \$17 million penalty.

(h) other equipment as advised by the Commission from time to time.

SACOSS welcomes the addition of ‘medically required heating or cooling’, but we maintain our support for the broader alignment of the definition of ‘life support system’ under the Draft Code, with the definition of ‘life support equipment’ under the NECF. This definition should be consistently adopted across both the Draft Code and the Prepayment Meter System Code. We refer ESCOSA to our previous submissions on this matter.⁴¹

SACOSS is also seeking further information from ESCOSA on the definition of ‘medical practitioner’ under the Draft Code, which is defined to mean:

‘a person currently registered under the *Health Practitioner Regulation National Law* to practise in the medical profession (other than as a student)’

Does this definition include nurses and health workers, or is it confined to practitioners with a medical degree? SACOSS supports a broad inclusive definition, given challenges faced by regional and remote people to access medical professionals.

We also repeat our previous submission that protections for all life support customers serviced by small-scale networks in regional and remote South Australia need to be better **communicated, monitored and enforced**. SACOSS strongly supports ESCOSA being adequately resourced to enable a strong compliance focus on protections for off-grid customers in vulnerable circumstances, including life support customers.⁴²

The proposed changes to the Prepayment Meter System Code

Consultation question

- ▶ Do stakeholders have any further feedback on the proposed consumer protections contained in the Prepayment Meter System Code.

SACOSS welcomes the amendments to the Prepayment Code, and makes the following submissions.

Reporting requirements for prepayment under Guideline No 5

ESCOSA is currently proposing retailers will be required to report on the following metrics (as at the end of each month), quarterly and in aggregate:

- Total number of prepayment customers
- Number of times emergency credit was accessed
- Number and duration of self-disconnections

⁴¹ SACOSS, [Submission to the Department for Energy and Mining on its consultation on proposed amendments to customer payment under the Remote Area Energy Supply \(RAES\) Scheme](#), 16 September 2021, pp.30-33 and SACOSS, [Submission to the Essential Services Commission of South Australia on the off-grid energy consumer protection framework Review: Consultation paper](#), March 2022, pp.37-39

⁴² Noting in November 2020, Alinta Energy paid penalties totalling \$200,000 for breaching requirements around the *registration* of life support customers. AER, [Alinta pays penalties for life support breaches](#), 26 November 2020

- Number of times the minimum requirements for retailer follow-up were met
- Where follow-up is undertaken, the reasons for any disconnection
- Number of prepayment customers reverted to post pay

SACOSS supports the alignment of the reporting requirements and timeframes contained in Cowell Electric’s licence variation⁴³ (for mandatory prepayment customers in remote Aboriginal communities), with the reporting requirements for other licensees providing prepayment in small-scale networks in South Australia. Additionally, SACOSS supports ESCOSA publicly reporting on the data on a quarterly basis, through performance reports published on its website.

As noted above, ESCOSA did anticipate the potential need for additional and increased reporting obligations in its small-scale network inquiry, and we consider it is appropriate to include additional requirements in Guideline No. 5.

As noted in previous submissions, the AER has the following 6 quarterly indicators relating to the experience of prepayment customers (\$3.29 – 3.35), including:

- *The total number of prepayment customers*
- *The total number of prepayment customers that receive an energy concession*
- *The number of prepayment customers removed due to payment difficulties*
- *The total number of prepayment meter self-disconnection events*
- *The total number of prepayment customers self-disconnected*
- *Average duration of self-disconnection events*

SACOSS considers ESCOSA’s proposed indicator on the ‘number and duration of self disconnections’ should be expanded to three indicators in alignment with the AER’s requirements, including:

- *The total number of prepayment meter self-disconnection events*
- *The total number of prepayment customers self-disconnected*
- *Average duration of self-disconnection events.*

This will provide an indication of the *frequency* of disconnection events, the duration of those events and the number of customers disconnected. Noting the frequency may be different from the number of customers disconnected.

In addition, SACOSS supports the inclusion of the following metrics to align with Cowell Electric’s reporting requirements:

- The number of customers on payment splitting arrangements

⁴³ ESCOSA, [Cowell Electric Licence amendment – prepayment by default: Final Decision](#), June 2022, p. 12

- The number of times friendly credit was accessed.

Given prepayment is prohibited for life-support customers, SACOSS considers additional quarterly reporting requirements relating to life support customers should be included in Guideline No. 5 in support of the life support protections contained in the Draft Code (as outlined above).

System testing

Clause 4.13 of the Prepayment Code provides for customers to pay for the checking or testing of the prepayment meter system, including through:

- Checking the metering data
- A check or test of the prepayment meter system
- A check or test of the meter installation at the small customer's connection point.

Clause 4.13.2 provides the small customer must:

*'pay the retailer **in advance** the retailer's (and where appropriate, the small customer's distributor's or metering provider's) reasonable charge (whichever is applicable) for any checks undertaken in accordance with **clause 4.13.1**.'*

SACOSS submits customers *should not* be charged, or to have to pay in advance, for a check of the metering data (clause 4.13.1(a)), or a check or test of the prepayment meter system (clause 4.13.1(b)). Given these customers will have smart meters, these tests can be done remotely at little or no cost to the retailer. In addition, this will be a new system and customers should be permitted to check how the system is operating, without having to pay in advance for that service. SACOSS opposes both the charge for these tests, and the concomitant requirement that customers pay in advance.

SACOSS understands there may be some cost associated with a check or test of the meter installation at the small customer's connection point (4.13.1(c)), but we consider the customer should be permitted to pay for that cost in instalments through a payment arrangement, rather than in advance.

We are therefore seeking the removal of the 'pay in advance' requirement from this clause, and the amendment of clause 4.13.2 to read '*...for any check or tests undertaken in accordance with **clause 4.13.1(c)***' (as opposed to clause 4.13.1).

Conclusion

Thank you for the opportunity to provide feedback in relation to the Draft Decision and Draft Codes. We would welcome the opportunity to expand on any of our submissions through further engagement if required. Please do not hesitate to contact Georgina Morris on 8305 4214, or Georgina@sacoss.org.au, if you have any questions in relation to this submission, or require any further information or clarification.