



4 January 2014

**SUBMISSION ON QCA'S INTERIM CONSULTATION NOTICE ON
REQUESTED AMENDMENTS TO CUSTOMER NOTIFICATION AND
CONSENT PROVISIONS IN THE QUEENSLAND ELECTRICITY
INDUSTRY CODE**

BACKGROUND

The Queensland Consumers' Association (the Association) is a non-profit organisation which exists to advance the interests of Queensland consumers. The Association's members work in a voluntary capacity and specialise in particular policy areas, including energy.

The Association has undertaken advocacy and research on behalf of Queensland's household energy consumers continuously for over 10 years.

The Association is a member of the Consumers' Federation of Australia, the peak body for Australian consumer groups and is represented on the Queensland Competition Authority's Consumer Consultative Committee and the Energy and Water Queensland Ombudsman's Advisory Council. The Association is also a member of the Queensland Council of Social Service's Energy Consumer Advocacy Project's Energy Reference Group and Origin Energy's National Customer Consultative Council.

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GENERAL COMMENTS

The Association welcomes and supports the Minister's request that QCA amend the Code to address the notification and consent issues in the letter of request.

The Association notes also that there are numerous other ways in which the Code should be amended to improve its consumer protection and other provisions and address significant consumer problems. This includes important consumer protection and market enhancing provisions removed from the Code during the last 2 years.

Therefore, a comprehensive public review of the Code should be undertaken as soon as possible taking account also of the current provisions of the National Energy Customer Framework (NECF).

However, the Association does not support the possibility that Queensland may adopt the NECF as a justification for not amending the Code to include desirable provisions not currently in NECF, including those proposed by the Minister.

The Code should be appropriately amended **before** Queensland adopts the NECF because there is no guarantee that NECF will ever include such provisions. If Queensland decides to adopt the NECF any such provisions in the Code can be considered derogations which can be removed later if NECF contains the same provisions. These comments apply to the Electricity and the Gas Codes.

The Association also notes that on numerous occasions over several years, it has drawn attention to, and indicated its concern, about the current regulatory arrangements and retailer practices which result in some consumers on market contracts paying the same, or very similar, prices as consumers on standard contracts who pay regulated prices.¹ The Association has also indicated that many consumers may be unaware that they are in this situation.

Retailers not giving evergreen market contract customers prior notice of a benefit change is one of many ways in which customers can find themselves in this situation, which has several negative effects including reduced consumer welfare.

SPECIFIC COMMENTS

1. Notification of expiry of fixed term benefit

The Association supports the Electricity and Gas Codes being amended to require retailers to give customers on **evergreen or fixed term contracts** prior notice of the expiry of fixed term benefits.

The reasons for this are:

- It is unreasonable to expect customers who may have signed a contract many months ago to know when a fixed benefit period will expire.
- Customers who only become aware of the benefit change after the event will have had lower benefits and thus have paid a higher price for up to 3 months².
- The current situation results in significantly reduced consumer protection, engagement, and informed decision making, and in less competition between retailers.

The amendments should cater for a range of factors that may significantly influence the “price” paid by a consumer, for example changing a % discount/fixed value benefit, a waived charge, and the reference price from which any benefit is calculated.

Prior notification should also be required of any significant change to other terms and conditions eg charges for administration, late payment, dishonoured cheque, failed electronic transfer, or early termination of contract.

To provide an incentive for retailers to comply with requirements and to compensate consumers, non-complying retailers should be required to refund to customers the value of any benefit lost with that retailer between when the benefit ended and the customer was advised of the change. Such a requirement would also assist any consumers who complain to EWOQ about an unsuccessful request to a retailer for a refund.

Any requirements for prior notification of fixed benefits etc should be based on, or involve modification of, Clause 4.4.4 of the Electricity Code, including sub clause (c)³ which requires the retailer to advise the customer of the existence of other contractual options available. For electricity, this requirement should also make clear that “contractual options” includes the standard contract.

2. Explicit informed consent for fixed term benefits

To increase consumer protection, engagement, and informed decision making, and to enhance competition between retailers, the Association supports the Minister’s proposal to require retailers to obtain the customer’s explicit informed consent for a new fixed term benefit as well as at the start of an **evergreen or fixed term contract**. This should apply to electricity and gas contracts.

3. Other matters

¹ The terms and conditions of market contracts may be significantly inferior to the standard contract for some consumers.

² This assumes that the retailer complies with clause 4.12.6(c) and advises of the change no later than date of the next bill. Customers who are not advised at all, or who choose to do nothing in response, will pay the higher price for even longer periods.

³ Not mentioned in QCA’s discussion of the Minister’s intent

To increase consumer protection, engagement, informed decision making, and competition between retailers, the Codes should also be amended as follows regarding contracts, terms and conditions, etc:

- It should be a requirement that any notification of a change to a benefit or price provided by a retailer to a customer be in a form that is easy for the customer to notice, read and understand.
- Retrospective price changes should not be allowed for fixed term or evergreen market contracts.
- Prices should not be able to be changed during the term of a fixed term contract.
- If a retailer changes the terms or conditions of an evergreen or fixed term contract, the customer should have the right to terminate the contract without having to pay an early termination fee.
- Electricity retailers should be required to inform consumers about the availability of a standard contract in a wider range of circumstances than is currently required by the Electricity Code.