



Level 2, 35 Spring St
Melbourne 3000, Australia
Telephone +61 3 9651 0222
 +61 1300 664 969
Facsimile +61 3 9651 3688

RETAILERS' OBLIGATIONS TO CUSTOMERS – ENERGY RETAIL CODE AMENDMENTS

CONSULTATION PAPER

MARCH 2011

An appropriate citation for this paper is:

Essential Services Commission 2011, *Energy Retail Code Amendments, Consultation Paper*, March

CONTENTS

Contents	III
1 Introduction	4
1.1 Purpose of this paper	4
1.2 Regulatory powers of the Commission	5
1.3 Amendments to Energy Retail Code from the Smart Meter Regulatory Review	6
1.4 Consultation to date	6
1.5 Next steps	6
2 Regulatory obligations for review	7
2.1 Obligation to offer more than one instalment plan	7
2.1.1 Mutual responsibility between retailers and customers.....	9
2.1.2 Obligations to apply to small customers.....	10
2.2 Obligation to reconnect customers within a certain timeframe	12
Appendix A - Regulatory provisions	13

1 INTRODUCTION

1.1 Purpose of this paper

The Essential Services Commission (the Commission) has published this consultation paper to identify possible changes to obligations that regulate the way a licensed retailer may disconnect and reconnect a customer.

The Energy Retail Code (the Code) sets out the rights and obligations of the Victorian energy retailers and their small customers in the competitive energy market.¹ Versions of the Code have been applied to the energy market since the onset of competition. It has been subject to review by the Essential Services Commission (the Commission) as often as required by the dynamic nature of the electricity and gas sectors in Victoria.

These reviews have been initiated in response to representations by the energy retailers, consumer representatives or other key parties, or because of Government policy or legislative changes. In 2010 we undertook a major review of all the regulatory instruments, including the Code, to prepare for the operation of smart meters in Victoria. The main regulatory amendments arising from this review will take effect from 1 April 2011.²

The proposed amendments to the Code addressed in this consultation paper are more limited than those in the most recently completed review and were initiated by the energy retailers. This paper sets out these matters, including issues arising in the consultations to date, and seeks comments to inform our draft decision.

The paper considers two regulatory obligations on retailers:

- To offer more than one instalment plan to assist customers with payment difficulties before taking disconnection action; and to meet certain detailed requirements for instalment plans [clauses 11.2(3), 12 and 13.1(a)].
- To reconnect a customer within a certain timeframe, regardless of the fact that it is the distributor's role to perform the reconnection [clause 15.2].

A discussion of the issues arising is set out in Chapter 2. Submissions are invited from interested parties on the issues raised in considering the regulatory obligations.

¹ The code (available on the Commission's website www.esc.vic.gov.au at [Energy > Regulation & Compliance > Codes & Guidelines](#)) applies to all domestic consumers and to small business consumers who consume less than 40MWh of electricity or less than 1000GJ of gas per year.

² Final Decision: Regulatory Review of Smart Meters at [Energy > Regulation & Compliance > Decisions & Determinations > Smart meters regulatory review](#)

1.2 Regulatory powers of the Commission

The structure of the National Electricity Market (the NEM) is complex, with a number of regulatory bodies responsible for different aspects of the market. This complexity will increase for a period as the energy regulation further transitions from state based regulation to nationally based regulation.³

The Commission's relevant powers under the *Essential Services Commission Act, 2001* (ESC Act) are:

- Rule making for the Victorian distribution businesses, but not the enforcement of the rules or the economic regulation of the distribution businesses,⁴ and
- Rule making and rule enforcement for the Victorian electricity retail sector including the licences, codes and guidelines made by the Commission.

The National Consumer Energy Framework (NECF) is being developed under the auspices of the Ministerial Council of Energy (MCE) to protect small customers in the national energy market. The legislation to give effect to the NECF is currently being progressed through the South Australian Parliament. State and Territory MCE Ministers have agreed to work towards a target commencement date of 1 July 2012.

The Commission's approach to regulatory reviews and amendments is to prioritise those matters which have a material or significant impact on retailers or customers and, if not addressed, are likely to cause consumer detriment or negatively impact the efficiency of the market. Reference to the NECF will be considered to the extent that the obligations are addressed within that framework.

We will also consider regulatory issues where retailers indicate significant compliance issues because of reliance on the actions of other parties. This is the case in the matters raised in this consultation paper.

1.3 Amendments to Energy Retail Code from the Smart Meter Regulatory Review

Stakeholders should carefully note the outcomes from Commission's final decision on the Smart Meters Regulatory Review, dated 17 September 2010. That decision altered the Energy Retail Code to accommodate smart meters, with the changes to take effect from 1 April 2011. The changes include amendments to clauses 13 (Grounds for Disconnection) and 15 (Reconnection). In this present Consultation Paper, the Commission is not seeking further comment on those changes, as extensive consultation on them was conducted in 2010. Stakeholders are advised to consider both the present Code text and the revised text which will apply from 1 April 2011. **Appendix A** shows the current wording and the marked-up changes which will come into effect on 1 April.

³ When the national arrangements are complete the Australian Energy Market Commission (AEMC) will be the rule maker and the Australian Energy Regulator (AER) will be the regulator for distribution and retail functions.

⁴ From 1 January 2009, the Australian Energy Regulator (AER) assumed responsibility for economic regulation of the electricity distribution businesses, including setting the distribution prices and charges.

1.4 Consultation to date

The matters on which comment is invited by the present Consultation Paper emanate from a request in late 2009, by the then Minister for Energy and Resources for the Commission to review the statutory wrongful disconnection payment provisions. A draft report was released. In their submissions to the draft report, retailers raised concerns that certain regulatory obligations led the retailers to potential claims of wrongful disconnection despite their best endeavours to engage the customers to avoid disconnection action. The Commission acknowledged these submissions and undertook to review the relevant obligations to ensure that retailers were able to comply with the regulation.

In December 2010, a workshop was conducted with retailers, consumer representatives and the Energy and Water Ombudsman, Victoria (EWOV). This workshop provided the opportunity for retailers to outline their issues in meeting their regulatory obligations, for consumer representatives to provide perspectives on behalf of customers and for EWOV to provide insights from their casework experience.

The workshop discussed the matters addressed in this paper. Relevant views expressed through these consultations are incorporated as appropriate in this paper.

1.5 Next steps

Submissions on this consultation paper are preferred in electronic format and should be provided to the Commission by 22 April 2011 —

By email to:

khayen.prentice@esc.vic.gov.au

Or mailed to:

Khayen Prentice
Regulatory Analyst
Essential Services Commission
Level 2, 35 Spring Street
Melbourne VIC 3000

Or sent by facsimile to (03) 9651 3688.

Any material that is confidential should be clearly marked as such. Publication is subject to the privacy policy available on the Commission's website (www.esc.vic.gov.au).

The Commission then proposes to

- publish a Draft Decision by 20 May 2011
- invite comments by 17 June 2011
- publish a Final Decision by 29 July 2011.

2 REGULATORY OBLIGATIONS FOR REVIEW

This chapter sets out the Code obligations raised by the energy retailers for review. We summarise the relevant obligations,⁵ briefly discuss the issues arising and seek comments on our preliminary views for resolving the concerns. Submissions to these preliminary views will inform the draft decision.

2.1 Obligation to offer more than one instalment plan

There are a number of regulatory obligations covering instalment plans.

Clause 11.2(3) states that, when a domestic customer is identified as having difficulties in paying their bills, the retailer must offer a further instalment plan unless:

- the customer has in the previous 12 months failed to comply with two instalment plans; and
- the customer does not provide reasonable assurance that they will meet the requirements of a further plan.

Clause 12 sets out detailed requirements on the retailers with respect to the nature of the instalment plans. Clause 13.1 prohibits the retailer from disconnecting any customer for failure to pay a bill if the failure relates to a payment under the customer's first instalment plan.

A retailer could disconnect a customer for their non-compliance with an instalment plan under clause 13.1 if it was considered that the customer was not experiencing financial difficulties in paying their bills.

However, clause 13.2 also requires the retailer to comply with clause 11.2 if the domestic customer's failure to pay the bill "occurs through lack of sufficient income". In these circumstances, the retailer is required to offer an instalment plan (unless it would be the third such plan in 12 months) as long as the customer provides "reasonable assurance" that they are willing to meet their payment obligations. The customer is also required to accept the plan within 5 business days of the retailer's offer.

In their submissions, and at the workshop, the retailers outlined a number of steps that they take to engage customers and to meet their regulatory obligations.

⁵ Relevant extracts of the existing regulation are detailed in Appendix A.

Generally, these steps include the following:

- **Customers who identify themselves — or are identified by the retailers — as experiencing payment difficulties are assessed for hardship program entry and/or instalment plan arrangements**
- An initial instalment plan is established
- The customer does not meet their payments under the initial instalment plan
- A variable number of letters are sent and/or phone calls are made (and records are maintained of these approaches):
 - If the customer responds and engages with the retailer, a new instalment plan arrangement or entry to the hardship program is negotiated
 - If the customer does not respond to further written and/or telephone communications:
 - the retailer cannot reassess the customer's capacity to pay and offer another instalment plan
 - the initial instalment plan is cancelled and the customer reverts to their normal billing cycle
- Reminder notices and disconnection warnings are sent if no further communication is received from the customer and no payment is made (sometimes several more telephone calls are also made).

The current regulation means that the retailers cannot disconnect customers for failing to pay bills unless:

- all small customers have had the opportunity to agree to (and fail) two instalment plan arrangements;
- those customers experiencing payment difficulties do not provide reasonable assurance that they will meet the requirements of a third plan within a 12 month period.

There are two concerns for the retailers about this regulation:

1. there is not mutual responsibility between the retailers and their customers in setting instalment plan arrangements
2. retailers are required to apply the obligations to all small customers, irrespective of their financial circumstances.

2.1.1 Mutual responsibility between retailers and customers

The retailers contend that there are no obligations placed on the customers to engage with the retailers in respect to further instalment plan arrangements. That is, there is not mutual responsibility between the retailers and the customers to achieve the regulatory outcomes.

The retailers cited numerous occasions when their phone calls and letters were not answered by the customers to enable a renegotiated instalment plan. They also considered that the regulation under clause 12.2, which requires them to be quite specific about the nature of the instalment plan arrangement, cannot be complied with when the customer refuses to communicate with them. Importantly, they cannot assess capacity to pay without information from the customer as to why the initial payment arrangement failed. Consequently, they cannot detail the instalment plan period and amounts as required under the regulation.

The consumer representatives at the workshop considered that the primary issue is that the initial instalment plan negotiated by the retailer was often unreasonable. The retailers did not meet the other obligations under clause 11.2 and 12.2 to take into account a customer's capacity to pay, as well as arrears and on-going consumption costs, in setting the amount for the instalment plans. It follows therefore that, if customers have not met their initial instalment plan arrangement because they could not afford to do so, they will be too embarrassed or ashamed to re-engage with the retailer.

To overcome this problem, in the consumer representatives' view, if the retailers' first contact with the customers was positive, then the retailers would not experience the problems described above.

The retailers at the workshop acknowledged their responsibility in the first instance to negotiate affordable payment plans, taking into account arrears and on-going consumption costs, and to assess domestic customers for participation in the hardship programs. The Commission considers that both the legislation and the regulation are clear in this regard.

Some consumer representatives agreed that, even if the initial instalment plan was not optimal, it is difficult for the retailers to redress this situation if the customers will not answer the retailers' telephone calls or letters.

The issue therefore is whether the existing regulation should place obligations on customers to respond to their retailers' communications with regard to the offer of further instalment plans — and find the retailers in compliance if they have undertaken reasonable steps to encourage this engagement.

There already is some mutual responsibility between retailers and their customers in the Code. Clause 11.1 requires a customer to contact their retailer if they consider that payment of a bill may not be possible. This contact could apply to the entire bill or to a payment arrangement. However, there is no obligation on the customer to respond to any further communication from the retailer in relation to renegotiating payment arrangements

Issues for comment

Our preliminary view is that the regulation could be amended so that, if the retailer reasonably communicates — or attempts to communicate — with customers about further instalment plans in accordance with their regulatory obligations, they will be deemed to have met their obligations if the customers subsequently do not engage with them.

It is emphasised that this approach does not allow the retailer to set an unreasonable payment plan in the first instance. That is, the retailer must still meet other obligations in the Code [particularly clause 11.2(1)] to be compliant with the regulation.

The retailers' communications to customers in offering further instalment plans are critical. However, a prescriptive set of requirements may not be appropriate in all circumstances.

Comments are sought as follows:

1. What could be reasonably expected of the retailers in communicating to customers after a failed first and second instalment plan?
2. How could the regulation be drafted to provide for minimum, but flexible, communications while allowing for industry best practice?
3. How can retailers communicate and encourage further contact from customers who may be embarrassed because of their financial circumstances? Is regulation appropriate in these circumstances?
4. Should there be an obligation placed on customers to respond to the retailers' communications or would this be simply symbolic regulation?

2.1.2 Obligations to apply to small customers

The Code requires the retailers to offer to domestic customers two kinds of instalment plans:

1. Those which enable customers to make payments in advance towards the next bill – these plans are often referred to as Flexible Payment Plans and more usually offered in market contracts. Customers make monthly payments within the life of the contract [clause 12.1(a)].
2. Those which allow customers to make payments for accounts in arrears, continue consumption and stay connected to supply – these are known as Budget Instalment Plans and are commonly used by customers who experience payment difficulties [clause 12.1(b)].⁶

⁶ The Commission only monitors the number and proportion of customers on Budget Instalment Plans as this provides an indication of how many customers with payment

One retailer submitted that Flexible Payment Plans required to be offered under clause 12.1(a) of the Code should not be viewed as instalment plans for the purposes of other regulation. That is, a retailer should not be required to comply with clause 11.2(3) (obligation to offer a further instalment plan within a 12 month period) and clause 13.1(a) (no disconnection if failure relates to the first instalment plan) prior to disconnection if a customer on such a Flexible Payment Plan does not make payments towards their bill. The reason provided to the Commission for this submission is that there should be no assumption that such customers are experiencing financial hardship.

The additional regulation which applies to instalment plans was designed to protect customers with payment difficulties. There is considerable regulation on retailers to identify and assist domestic customers experiencing payment difficulties. These protections would also apply to domestic customers on Flexible Payment Plan arrangements who experience difficulty in paying their bills – they should be transferred to another arrangement enabling additional protections if this was the case.

Issue for comment

Our preliminary view is that there may be a case to exclude retailers from having to comply with clauses 11.2(3) and 13.1 of the Code for those market contract customers who are on instalment plan arrangements under clause 12.1(a) of the Code. They need not be offered a second Flexible Payment Plan and potentially could be disconnected for failing to make a payment under the first such plan.

This is predicated on the view that these customers will be covered by other regulation which applies if they cannot pay their bills, including the requirement for retailers to take some action if payment difficulties are detected [clauses 11.2(a) and (b), 12.2 and 13.2]. In these circumstances, the instalment plan arrangement under clause 12.1(a) would no longer apply; the customer would be offered a plan under clause 12.1(b).

Comments are sought as follows.

1. Are there risks for small customers in excluding the retailer from having to comply with clauses 11.2(3) and 13.1 of the Code for customers who enter an instalment plan arrangement under clause 12.1(a) of the Code?

difficulties are being assisted by the retailers. Retailers reported that in 2009-10, a total of 167,000 residential customers (4.07 per cent of electricity customers and 4.12 per cent of gas customers) were on such plans.

2.2 Obligation to reconnect customers within a certain timeframe

The Code provides certain rights for customers in relation to reconnection, including the right to be reconnected within certain timeframes.

As a general principle, the Code acknowledges that the retailer is not in a position to directly connect, disconnect or reconnect a customer; this is the distributor's role and function. Therefore, reference in the Code to the retailer performing these functions is to be read as the right of the retailer to procure the distributor to carry out the necessary functions (clause 35.1).

Notwithstanding this interpretation, the Code under clause 15.2(b) places the absolute obligation on the retailer to reconnect a customer within certain timeframes. In other words, the Code does not excuse the retailer if it has used its best endeavours to procure the relevant distributor to reconnect the power.

The Distribution Code places the same obligations on the distributor in regard to the timing of reconnection, where the distributor can do this remotely and reasonably believes that it is safe to do so. Therefore, the retailer presumably will meet its obligations because the distributor also must comply with those obligations. Otherwise, where remote reconnection is not possible or safe, the distributor must reconnect on the same or the following business day (depending on the time of the request and subject to additional charges).

Notwithstanding these complementary regulatory obligations, EWOV has advised the Commission that it always takes into account the distributor's role in determining whether the retailer can be held accountable for not meeting the reconnection timeframes. That is, EWOV would normally follow clause 35.1 in its dispute resolution decisions.

Issue for comment

Should clause 15.2(b) be deleted from the Energy Retail Code? Clause 35.1 would apply in these circumstances, as it applies for connection and disconnection. The retailer would therefore be obliged to use best endeavours to procure the reconnection within the prescribed timeframes.

Alternatively, should clause 15.2(b) be retained, keeping the absolute obligation on retailers? The retailers might be expected to settle matters between themselves and distributors as a business to business arrangement. This could include distributors compensating a retailer for breach of clause 15.2(b).

Comments are sought.

APPENDIX A – EXISTING REGULATORY PROVISIONS

NOTE: The following excerpts from the Energy Retail Code provide the current text and also show marked-up changes which will come into effect on 1 April 2011. Words to be deleted are shown in ~~strike through~~. Words to be inserted are underlined.

11. PAYMENT DIFFICULTIES

11.1 Capacity to pay

A customer must contact a retailer if the customer anticipates that payment of a bill by the pay by date may not be possible.

11.2 Assessment and assistance to domestic customers

If:

- (a) a domestic customer so contacts a retailer and they do not agree on an alternative payment arrangement; or
- (b) the retailer otherwise believes the customer is experiencing repeated difficulties in paying the customer's bill or requires payment assistance,

the retailer must:

- (1) assess in a timely way whatever information the customer provides or the retailer otherwise has concerning the customer's capacity to pay, taking into account advice from an independent financial counsellor if the retailer is unable to adequately make that assessment;
- (2) on request, make available to the customer documentary evidence of the retailer's assessment;
- (3) unless the customer has in the previous 12 months failed to comply with two instalment plans and does not provide a reasonable assurance to the retailer that the customer is willing to meet payment obligations under a further instalment plan, offer the customer an instalment plan; and
- (4) provide the customer with details on concessions including the Utility Relief Grant Scheme, telephone information about energy efficiency and advice on the availability of an independent financial counsellor.

...

12. INSTALMENT PLANS

12.1 Options for domestic customers

In offering an instalment plan to a domestic customer, a retailer must offer each of:

- (a) an instalment plan under which the customer may make payments in advance towards the next bill in the customer's billing cycle; and
- (b) an instalment plan under which the customer may pay any amount in arrears and continue consumption.

12.2 Requirements for an instalment plan

A retailer offering an instalment plan must:

- (a) specify the period of the plan and the amount of the instalments (which must reflect the customer's consumption needs and capacity to pay), the number of instalments and how the amount of them is calculated, the amount of the instalments which will pay the customer's arrears (if any) and estimated consumption during the period of the plan;
- (b) make provision for re-calculating the amount of the instalments where the difference between the customer's estimated consumption and actual consumption may result in the customer being significantly in credit or debit at the end of the period of the plan;
- (c) undertake to monitor the customer's consumption while on the plan and to have in place fair and reasonable procedures to address payment difficulties a customer may face while on the plan.

12.3 Business customers

A *retailer* must consider any reasonable request from a *business customer* for, and may impose an *additional retail charge* on the *business customer* if they enter into, an instalment plan.

13. GROUNDS FOR DISCONNECTION

13.1 Non-payment of a bill

A retailer may only disconnect the supply address of a customer, being a customer who fails to pay the retailer by the relevant pay by date an amount billed in respect of that supply address, if:

- (a) the failure does not relate to an instalment under the customer's first instalment plan with the retailer;

- (b) the **retailer** has given the **customer**:
- a reminder notice not less than 14 **business days** from the date of dispatch of the bill. The reminder notice must include a new pay by date which is not less than 20 **business days** from the date of dispatch of the bill. No reminder notice is required if the **customer** is on a shortened collection cycle under clause 9.1; and
 - a **disconnection** warning:
 - (A) if the **customer** is on a shortened collection cycle under clause 9.1, not less than 16 **business days** from the date of dispatch of the bill. The **disconnection** warning must include a new pay by date which is not less than 20 **business days** from the date of dispatch of the bill; or
 - (B) otherwise, not less than 22 **business days** from the date of dispatch of the bill. The **disconnection** warning must include a new pay by date which is not less than 28 **business days** from the date of dispatch of the bill;
- (c) the **retailer** has included in the **disconnection** warning:
- if the **customer** is a **domestic customer** and has a **dual fuel contract**:
 - (A) a statement that the **retailer** may **disconnect** the **customer's** gas on a day no sooner than seven **business days** after the **date of receipt** of the **disconnection** warning and the **customer's** electricity on a day no sooner than 22 **business days** after the **date of receipt** of the **disconnection** warning; and
 - (B) a statement that **disconnection** of the **customer's** gas may result in a variation of the **tariffs** and terms and conditions of the **dual fuel contract** as provided for in the **dual fuel contract**. If no variation is provided for in the **dual fuel contract** and neither does the **dual fuel contract** provide that there is to be no variation, the **tariffs** and terms and conditions of the **dual fuel contract** are to be varied such that on and from then:
 - (i) the timeframe for **disconnecting** the **customer's** electricity is the timeframe stated in the **disconnection** warning;
 - (ii) the supply and sale of electricity otherwise continues at the **tariff**, and on the terms and conditions, that would apply if the **customer** were party to a **deemed contract** under section 37 of the **Electricity Act**; and
 - (iii) the supply and sale of gas otherwise continues at the **tariff**, and on the terms and conditions, that would apply if the **customer** were party to a **deemed contract** under section 44 of the **Gas Act**;
 - in any other case, a statement that the **retailer** may **disconnect** the **customer** on a day no sooner than seven **business days** after the **date of receipt** of the **disconnection** warning; ~~and~~

- for a *customer* with a *smart meter*, that the *disconnection* could occur remotely; and
 - a telephone number for payment assistance enquiries; and
- (d) the *customer* has called the telephone number referred to in paragraph (c) and the *retailer* has responded to the *customer's* enquiry and has provided advice on financial assistance;
- (e) the *customer* is a *domestic customer* and has a *dual fuel contract* with the *retailer* and the *customer's* electricity is to be *disconnected*, the *retailer* has given the *customer* a further *disconnection* warning no less than six *business days* before the electricity is *disconnected*; and
- (f) the *customer* is on a shortened collection cycle under clause 9.1 and the *retailer* has contacted the *customer* in person or by telephone to advise of the imminent *disconnection*,

and, before *disconnection*, the *customer*:

- (1) does not provide a *reasonable assurance* to the *retailer* that the *customer* is willing to pay the *retailer's* bills; or
- (2) does so, but then:
 - does not pay the *retailer* the amount payable by the pay by date on the relevant *disconnection* warning. This does not apply if the *retailer* and the *customer* have agreed to a new payment arrangement;
 - does not agree to a new payment arrangement within five *business days* after the *date of receipt* of the *disconnection* warning; or
 - does not make payments under such a new payment arrangement.

To avoid doubt, if the *customer* does not agree to such a new payment arrangement or does not so make payments under such a new payment arrangement, the *retailer* may *disconnect* the *customer* without again having to observe this clause 13.1.

13.2 Domestic customers without sufficient income

~~Despite clause 13.1, a retailer must not disconnect a domestic customer if the failure to pay the retailer's bill occurs through lack of sufficient income of the customer until the retailer has also complied with clause 11.2, using its best endeavours to contact the customer in person or by telephone, and the customer has not accepted an instalment plan within five business days of the retailer's offer.~~

- (a) Despite clause 13.1, a *retailer* must not *disconnect* a *domestic customer* (other than by a remote *disconnection*) if the failure to pay the *retailer's* bill occurs

through lack of sufficient income of the *customer* until the *retailer* has:

- (i) also complied with clause 11.2; and
- (ii) used its *best endeavours* to contact the *customer* in person or by telephone; and
- (iii) the *customer* has not accepted an instalment plan within five *business days* of the *retailer's* offer.

(b) Despite clause 13.1, a *retailer* must not *disconnect* supply to a *domestic customer's supply address* by de-energising the *customer's supply address* remotely if the failure to pay the *retailer's* bill occurs through lack of sufficient income of the *customer* until the *retailer* has:

- (i) also complied with clause 11.2;
- (ii) contacted the *customer* in person or by telephone, or, in the case of a remote *disconnection*, after unsuccessfully attempting to contact the *customer* once in person or twice by telephone, contacted the *customer* by mail, email or SMS; and
- (iii) when contacting the *domestic customer*, set out all the options for the *customer*, and
- (iv) the *customer* has not accepted an instalment plan within five *business days* of the *retailer's* offer.

...

15. RECONNECTION

...

15.2 Time for reconnection

(a) If a customer makes a request for reconnection under clause 15.1:

- before 3 pm on a business day, the retailer must reconnect the customer on the day of the request; or
- after 3 pm on a business day, the retailer must reconnect the customer on the next business day or, if the request also is made before 9 pm and the customer pays any applicable additional after hours reconnection charge, on the day requested by the customer.
- where the *retailer* is able to *reconnect* the *customer* by re-energising the *customer's supply address* remotely and reasonably believes that it can do so safely, subject to the above bullet points, the *retailer* must use its *best endeavours* to *reconnect* the *customer's supply address* within two hours.

A retailer and a customer may agree that later times are to apply to the retailer.

- (b) Despite clause 35.1, the obligation of a retailer to reconnect a customer under clause 15.2(a) is absolute. If reconnection does not occur by the relevant time, it is not sufficient to discharge the retailer's obligation that the retailer may have used best endeavours to procure the relevant distributor to reconnect the electrical system or natural gas installation at the customer's supply address to the distributor's distribution system.

35. INTERPRETATION

35.1 Connection, disconnection and reconnection

A retailer is not in a position to connect, disconnect or reconnect the electrical system or natural gas installation at a customer's supply address to a distributor's distribution system. In this Code unless the context otherwise requires, a reference in a term or condition to a retailer:

- (a) having a right or not having a right to disconnect a customer is to be construed as a reference to the retailer having a right or not having a right to procure the distributor to disconnect; or
- (b) being obliged to connect, disconnect or reconnect a customer is to be construed as a reference to the retailer being obliged to use its best endeavours to procure the distributor to connect, disconnect or reconnect,

the electrical system or natural gas installation at the customer's supply address to the distributor's distribution system.