Essential Services Commission of South Australia (ESCOSA)

Off-grid energy consumer protection framework review

Prepayment Meter System Code review—Update

Submission by email: <escosa@escosa.sa.gov.au>

25 March 2022

Submission in response to:

Consultation paper: Off-grid energy consumer protection framework review

Prepayment Meter System Code review—Update paper

Submission by:

Brad Riley at the Australian National University's Centre for Aboriginal Economic Policy Research https://researchers.anu.edu.au/researchers/riley-b

Dr Lee White at the Australian National University's School of Regulation and Global Governance https://researchers.anu.edu.au/researchers/white-lx

Sally Wilson at the Australian National University's School of Regulation and Global Governance https://regnet.anu.edu.au/our-people/academic/sally-wilson

Dr Thomas Longden at the Australian National University's Crawford School of Public Policy https://researchprofiles.anu.edu.au/researchers/thomas-longden

Dr Simon Quilty at the Australian National University's Research School of Population Health https://researchers.an.edu.au/researchers/quilty-s

Michael Klerck, Social Policy and Research Manager at Tangentyere Council; University of Newcastle https://researchers.uon.edu.au/researchers/klerck-m

Vanessa Davis, Senior Aboriginal Researcher at Tangentyere Research Hub; Tangentyere Council https://tangentyere/researchers/davis-vn

Norman Frank Jupurrurla, Julalikari Council Aboriginal Corporation, Tennant Creek NT https://julalikari.org.au

Brad Riley, Dr Lee White and Dr Thomas Longden are Research Fellows working on the Australian National University's *Grand Challenge: Zero Carbon Energy for the Asia-Pacific*

Thank you for the opportunity to make a submission in response to the Essential Services Commission of South Australia (ESCOSA) *Consultation paper: Off-grid energy consumer protection framework review* ('off-grid review') and *Prepayment Meter System Code review—Update paper* ('PMSC review') both dated November 2021. Our submission provides a response to selected issues in both reviews. In making this submission, we refer ESCOSA to our previous submission to the Prepayment Meter

System Code review dated 29 April 2021 ('previous submission') and to our supplementary materials attached.

1 General

The off-grid and PMSC reviews provide a timely opportunity to strengthen consumer protections for South Australia's off-grid customers and to better align protections with National Energy Customer Framework (NECF) benchmarks that apply to grid-connected customers in the state. In view of this opportunity, it is important to note that since the release of the consultation papers in November 2021, regulatory changes have been introduced in South Australia which will likely impact off-grid residential electricity customers in the Anangu Pitjantjatjara Yankunytjatjara (APY) Lands, Yalata and Oak Valley, and the context of both reviews. Specifically, we refer to the *Electricity (General) (Payment Condition) Variation Regulations 2021* gazetted on 9 December 2021 (No. 80 p. 4331) ('regulatory changes'). The regulatory changes add a new section 17A to the *Electricity (General) Regulations 2012* (SA) as follows:

> *17A—Prescribed condition—use of prepayment meter system*
>
> *(1) In accordance with section 21(2) of the Act, the Commission is required to impose on the relevant licence the condition that the holder of the licence only sell electricity to prescribed customers using a prepayment meter system.*
>
> *(2) This regulation applies in relation to the relevant licence despite the fact that it was issued before the commencement of this regulation.*

'Prescribed customers' are small customers in the APY Lands, Yalata and Oak Valley not previously paying for electricity i.e., Aboriginal residents of public housing in these communities. The regulations enable the Minister to grant a licence holder an exemption from compliance with section 17A (1) for an individual or specific class of prescribed customers (sections 17A (3)-(4)).

The regulatory changes mean that from 1 July 2022 households in the Remote Area Energy Supply (RAES) Aboriginal Communities (AC) Scheme will for the first time prepay for access to electricity via mandatory prepayment metering. Effectively, residential customers in South Australia's remote Aboriginal communities will pay for their electricity differently to other off-grid and grid-connected customers—conditions which apply to them exclusively and on a mandatory basis. The changes planned for these communities underscore the timeliness of the opportunity represented by the off-grid and PMSC reviews.

As ESCOSA, the South Australian Department for Energy and Mining (DEM) and relevant stakeholders have each made clear, and we acknowledge, the staged introduction of electricity charging is complex and the potential for unintended consequences notable. ESCOSA, DEM, relevant communities and their stakeholders each deserve recognition, as there is much to commend in the current approach to the Remote Area Energy Supply (RAES) Aboriginal Communities (AC) Scheme, particularly the time taken to gain a better understanding of the realities facing many off-grid remote-living residents, who are too often disadvantaged by location, inadequate and energy inefficient housing, low incomes and challenging access to thin labour markets (Tregenza 1998, Willis 2006, Bushlight 2013).

We also note that DEM intends to implement the user pays system in RAES AC communities using a discounted introductory tariff lower than the standard RAES tariff. Although this feature of the plan is not yet apparent in the regulatory changes (DEM 2021a), we do agree that refraining from implementing the full tariff in the context of the regulatory changes repositions energy policy in a way that goes further than a narrow economic lens, to consider the broader implications of the distribution of socio-economic risk and costs for affected communities.

We are very pleased to note that the PMSC review proposes reporting on the number and duration of self-disconnections as a key indicator of prepay customers experiencing hardship, and as a means of obtaining insights into customer behaviour and the effectiveness of consumer protections (PMSC review, p. 4).

We refer ESCOSA to the supplementary materials provided, referencing recent quantitative research by members of our team published in December 2021 and January 2022, regarding the frequency of disconnection for prepayment customers, and the greater likelihood of these customers facing disconnection at times of extreme temperatures when electricity can be most critical for health and comfort:

- Longden, T, Quilty, S, Riley, B, White, LV, Klerck, M, Davis, VN & Frank Jupurrurla, N 2021, 'Energy insecurity during temperature extremes in remote Australia', *Nature Energy*.

  Available at: https://www.nature.com/articles/s41560-021-00942-2.epdf

- Longden, T, Quilty, S, Riley, B, White, LV, Klerck, M, Davis, VN & Jupurrurla, NF, 2022, 'Temperature extremes exacerbate energy insecurity for Indigenous communities in remote Australia', *Nature Energy*, pp.1-2.

  Available at: https://www.nature.com/articles/s41560-021-00968-6.epdf

- Davis, VN, White, LV & Riley, B, 2021, 'Temperature extremes exacerbate energy insecurity – Australia needs to better support remote Indigenous communities to prepare now', *Nature Sustainability Community*.

  Available at: go.nature.com/31WxDNn

We acknowledge and accept that some people may prefer to have the choice to prepay for household access to electricity. Our submission here focuses on the critical need for customer choice of payment system and for protections preventing prepay customers, many of whom have limited capacity to pay and struggle with household energy costs, from experiencing frequent involuntary 'self-disconnection', events which can negatively impact on health and wellbeing.

Relevant to ESCOSA's off-grid review and updated prepayment review, we saw (based on 1,674,786 daily observations) that remote living customers on prepayment meters can experience very high rates of involuntary self-disconnection from energy services in the home. In the Northern Territory, 91% of 3,300 households in 28 communities utilising prepayment metering experienced disconnection from electricity at least in the 2018-2019 financial year. 74% of homes were shown to disconnect more than 10 times in a 12-month period (Longden et al. 2021).

Furthermore, analyses found that remote living customers on prepayment meters are most likely to experience disconnection when temperatures are very hot or very cold (Longden et al. 2021). Temperature extremes increase reliance on the services that access to energy provides, while simultaneously increasing the risk of prepay customers experiencing involuntary self-disconnection of those services. This could foreseeably exacerbate risks for residents with underlying health conditions, and cause discomfort even for otherwise healthy residents. It should be noted that customer protections for households within the scope of our research derive from an off-grid regulatory framework, similar in many respects to existing arrangements in South Australia.

Contemporaneous research by Klerck (2020a) shows involuntary disconnection is a common experience also for urban households utilizing prepay in the Northern Territory, as reported in Tangentyere Council's submission to the Commonwealth's Inquiry into Homelessness in Australia (Klerck 2020a), shown below.

	Smart Prepayment Meters (PPM) April-June 2019				
	PPMs	PPMs Disconnecting		Mean Duration	
	#	#	%	Minutes	Hours
Darwin	457	331	72%	454	8
Katherine	834	413	50%	460	8
Alice Springs	570	420	74%	455	8
Tennant Creek	513	316	62%	480	8
Total	2374	1480	62%		

Table 1: Prepayment customer involuntary self-disconnection data from Klerk (2020), p 11.

Research by Klerck (2020b) using data provided by Jacana has shown that residents of households in Alice Springs town camps, experience 51 involuntary self-disconnections lasting a total of 238 hours per annum. Involuntary self-disconnection is a ubiquitous feature of prepayment metering across jurisdictions. Corroborating this research documenting experiences from the Northern Territory, we draw ESCOSA's attention to disconnection data and reporting published by the Economic Regulation Authority in Western Authority (ERA). During 2020-21:

- WA government-owned utility Synergy had 11 prepayment households, but 249 disconnections across these households
- WA government-owned remote energy utility Horizon Power had 1,348 prepayment households, but 30,307 disconnections across these households in 2021, which was down slightly on 31,969 disconnections in 2020, and 34,468 involuntary disconnection events during 2019
- For Synergy's prepayment customers, there were 21 instances where disconnections longer than 120 minutes occurred twice or more within any 1-month period
- For Horizon Power's pre-payment customers, there were 2,454 instances where disconnections longer than 120 minutes occurred twice or more within any 1-month period (ERA 2022).

The above data, covering regional and remote communities utilizing prepayment metering, demonstrates that disconnection from household energy services is common among prepayment customers—a situation the PMSC review identifies as being '*a key indicator of customers experiencing hardship'* and a *'valuable insight into the effectiveness of consumer protections',* as mentioned above.

Percentage disconnection rates for prepayment customers in each of the Western Australian utility service areas show that prepayment households are disconnecting multiple times each year, in some

instances more than twice in a month and for extended periods. This data is consistent with the frequency and duration of disconnection events evidenced in the Northern Territory, highlighted in our recent research (attached in supplementary materials).

Again, we acknowledge that some people may prefer to have the choice to prepay for household access to electricity. We accept that for many customers 'prepaying' for power may represent an improvement over post-pay billing, and that the trade-offs required by prepay may be preferred to the accrual of unsustainable debts to maintain energy services in the home.

However, we draw attention to involuntary self-disconnection as a chief risk inherent in the way prepayment operates currently. New regulatory and policy solutions are needed to prevent remote-living residents and families from experiencing frequent de-energisation of the home and the attendant failure of refrigeration and lighting, and the spoiling of vital food and medicines (Bushlight 2013, Longden et al 2021).

In framing the off-grid review, ESCOSA observes that "[o]ff-grid energy service provider performance data has not highlighted any major problems with the current consumer protection framework" (ESCOSA 2021, p. 1). Yet, we note that in relation to prepayment customers, there is no performance data for key metrics relating to prepayment meters specifically because off-grid retailers have not previously been approved to offer prepayment arrangements to date. Therefore, a significant gap in the evidence base exists upon which it can be reasonably expected to inform, firstly, the decision to implement mandatory prepayment selectively in remote Aboriginal communities and, consequently, the new circumstances relevant to ESCOSA's review of the PMSC and off-grid consumer protection framework.

Evidence from comparable jurisdictions highlights a range of potential hardships foreseeably faced by Aboriginal communities within South Australia's RAES AC Scheme. Moreover, such issues may only become evident over time, as the electricity tariff for RAES AC consumers transitions from the discounted introductory tariff of 10c/kWh to the standard RAES tariff (currently 32c/kWh), as anticipated by DEM (2021c, p. 2). It is unclear from publicly available documents over what timeframe and in what manner the tariff increases are proposed to occur, a factor which will likely have a substantive impact for customers in affected communities, having implications for 'free, prior and informed consent' upon which any changes are to be made. Consistent with our previous submission, we recommend that people in communities where prepay is to be rolled-out on a mandatory basis should be directly engaged in the design of measures to alleviate the harms of involuntary self-disconnection events, based on bottom-up policy interventions and consumer protections shaped to address the specific needs of residents.

We address issues raised in the off-grid and PMSC reviews below.

2. Off-grid energy consumer protection framework review

2.1 Proposed protections

We commend ESCOSA for its proposal to better align consumer protections across South Australia's off-grid electricity and gas frameworks. We note the protections bring consistency in the areas of:

- Contractual information disclosure
- Price disclosures
- Billing
- Billing reviews and dispute resolution
- Minimum payment methods for small customers.

2.2 Payment methods and billing

As currently framed, the proposed changes for off-grid electricity regulation address minimum payment methods for post-payment customers only. Given the regulatory changes introducing mandatory prepayment metering in remote Aboriginal communities, there is a need for diversity of payment methods for both post payment and prepayment customers. This is particularly the case for remote customers where internet connectivity may be unreliable or at times inaccessible. We draw ESCOSA's attention to DEM's assurance that there "[w]ill be range of payment methods including direct debit, BPay and Centrepay (direct from customer's Centrelink payment)" available to customers where mandatory prepayment metering will be implemented (DEM 2021c, p. 1). Additionally, Centrepay and an option for in-person bill payment or credit purchase (as applicable) should be available to both post-payment and prepayment customers. Most customers in remote communities where prepay is used in Western Australia and Northern Territory buy credit from community stores. This is an important option to have available in those circumstances where online purchase methods are disrupted or present other challenges for community members.

Addressing billing changes, we note that ESCOSA's proposal is that off-grid "licensees must use best endeavours to issue bills at least quarterly" for post payment customers (p. 3). While we support the minimum information requirements for customer bills, quarterly bills may entrench or amplify the potential for financial hardship and debt accumulation amongst some remote off-grid customers, as demonstrated by the experience of customers in Coober Pedy (Ombudsman SA 2021). As ESCOSA is aware, in this case the off-grid retailer allowed customers to accumulate considerable debts sometimes in the order of $10,000 and upwards. This situation has the potential to be most acute in remote and disadvantaged communities; in the absence of adequate financial hardship protections;

and/or where hardship protections are not monitored or implemented effectively by licensed electricity retailers. We acknowledge that service providers in remote areas of South Australia are typically small operations with limited administrative resources, however this should not prevent the long-term interests of South Australian consumers being recognised and appropriately served. Indeed, the use of smart metering technology is suggestive of the possibility for much greater flexibility in billing arrangements. For example, an option for shorter minimum billing intervals is one mechanism which may assist customers in managing household electricity costs, alongside effective financial difficulty and customer hardship programs.

2.3 Off-grid electricity retail code

ESCOSA's proposal for the development and implementation of an off-grid electricity retail code would do much to ensure consistency of consumer protections across licensed service areas where different retailers operate, increasing clarity for off-grid customers by providing a consolidated and easily accessible document outlining retailer obligations and customer rights and protections. Examples of off-grid electricity retail codes include the Tasmanian Electricity Code, which applies to customers in the Bass Strait Islands, and the Western Australian Code of Conduct for the Supply to Electricity to Small Use Customers 2018, which applies to grid-connected and off-grid customers.

Involving key stakeholders such as the South Australian Council of Social Service (SACOSS) and other community- based and First Nations organizations, representing the interests of remote area electricity customers across the state, would be of utility in guiding and informing the development of the proposed code in consultation.

2.4 Off-grid hardship protections

ESCOSA has identified key differences between protections available to grid-connected customers experiencing payment difficulties and hardship under the NECF and National Energy Retail Rules (NERR) and those offered to off-grid customers in South Australia. Generally, off-grid licence requirements, and any future off-grid electricity retail code, should aim to align customer protections for off-grid customers with the national standard where practicable and based on feedback from community-based organizations. In relation to specific proposals:

- *Off-grid retailers should be required to develop and maintain an approved hardship policy that addresses the rights and obligations of consumers experiencing payment difficulties and hardship*

  This policy should be easily accessible and visible to consumers and, as a minimum, prominently published on the retailer's website. Preferably, retailers would have an obligation to communicate their hardship policy to customers consistent with the NECF standard (NERR,

rule 71). Experiences of off-grid customers in Coober Pedy demonstrate the importance of hardship policies requiring retailers to proactively identify hardship customers and procedures and staff trained to manage customer needs appropriately and respectfully. In Western Australia, the Economic Regulation Authority (ERA) has recently proposed extending assistance measures offered to customers experiencing payment difficulties to all residential customers who request them (ERA 2021), and we recommend consideration of a similar approach for South Australian residential, off-grid customers.

- *As part of the requirements for a hardship policy, there should be an explicit requirement for off-grid retailers to have hardship programs and processes*

  As in section 2.2 above, the requirement for a hardship policy must be supported by robust programs and processes to ensure the hardship policy is effectively implemented for the benefit of customers. Ultimately, proactive identification of customers experiencing hardship is equally in the interests of off-grid retailers to avoid the burden of retailers carrying significant levels of electricity arrears.

- *Off-grid retailers must be required to proactively identify hardship customers, consistent with NECF standards*

  This requirement is essential to support the effective implementation of hardship policy by off-grid retailers. There remains a risk that customers experiencing hardship will be missed if the onus is solely on the customer to self-identify their needs. This is particularly the case for remote-living customers who are necessarily located at considerable distances from their off-grid retailer's customer service office (e.g., customers from APY Lands and Cowell Electric, which is headquartered in Cowell and Adelaide) and in those circumstances where customers face barriers because their primary language is other than English.

- *Centrepay must be available as a payment option*

  Customers in parts of South Australia supplied by off-grid retailers are amongst the most disadvantaged[1] in Australia (ABS, 2016). Making Centrepay available as a payment option recognises the circumstances faced by these customers and provides them with payment options equivalent to customers who are connected to the national grid.

- *Off-grid retailers' relating to payment plans and information disclosures must be aligned to the NECF standards*

[1] For example, we note that the median weekly personal income for people aged 15 years and over in the APY Lands is $283 while the poverty line in Australia for a single person is $471 p/week (Melbourne Institute 2021).

As noted above, many off-grid customers experience socioeconomic disadvantage and retailers' requirements concerning payment plans and related information disclosures must align with NECF standards and recognise customer's specific circumstances, including requirements for information provision to customers clearly describing their payment obligations under any agreed payment plan and the basis upon which instalments have been calculated.

- *Late payment fees should be waived for customers on instalment plans, or using a flexible payment arrangement*

  The application of late payment fees in the circumstances contemplated has the potential to amplify existing financial and energy stress being experienced by customers. As we understand it, off-grid retailers are not currently required to report numbers of hardship customers or customers on payment plans and therefore the number of customers affected is not known. We urge ESCOSA to consider hardship as an additional key metric for performance reporting by off-grid retailers under the licence requirements. Publicly available data on this issue would be of utility to communities themselves and would assist stakeholders and decisionmakers to better identify areas where policy interventions are required.

2.5 Disconnection protections

ESCOSA identifies four key differences between disconnection protections available under the NECF and those offered to off-grid customers. Off-grid customer protections should wherever possible be aligned with the national standard.

The definition used in South Australia's off-grid licence framework is currently narrower than the definition used in the NERR (rule 3) and does not permit a customer's registered medical practitioner to certify equipment as essential for a person residing at the customer's premises. Consistency with the NERR definition of 'life support equipment' and the way equipment can be recognised as life support equipment under that framework would benefit off-grid consumers. By way of illustration, the Northern Territory Electricity Retail Supply Code adopts the NERR definition, and life support provisions in this code apply to off-grid retailers. We note that the disconnection protections discussed in the off-grid consultation paper focus on post-payment and life support customers.

Typically, prepayment customers remain an exception to the widely accepted principle in the national energy market that disconnection from household energy services is only ever 'a last resort'. For many prepay customers disconnection is effectively routinized, and their vulnerability to household de-energisation has been largely overlooked by government reporting in most jurisdictions until now. Under the proposed mandatory system of prepayment, involuntary disconnection from electricity is

likely for many low-income customers, especially over time, as the electricity tariff for RAES AC consumers shifts from the discounted introductory tariff to the standard RAES tariff as discussed above.

Disconnection protections should consider the need for specific and innovative safeguards from involuntary self-disconnection for prepayment customers, in consultation with communities themselves, and particularly given that regulatory changes mandating prepayment metering in remote Aboriginal communities have been introduced while ESCOSA's review was in progress. Mandatory implementation of prepayment metering pre-empts the review processes underway by imposing an outcome on an issue currently the subject of active independent review.

Disconnection protections should be expanded to include consideration of the role that solar photovoltaic (PV) systems installed in support of vulnerable public housing tenants and households (including those using prepayment metering) might feasibly play in support of off-grid customers to reduce the frequency and duration of disconnection events.

3. Prepayment Metering System Code review—proposals

We commend ESCOSA for expanding the scope of its prepayment review. Generally, we submit that use of prepayment metering should be a voluntary and informed decision by the customer, rather than mandated under any circumstance and we note that the mandatory basis of prepayment metering roll-out is incompatible with the existing Prepayment Metering System Code ('prepayment code'), including as it does a requirement for individual customer's explicit informed consent to entry into a prepayment meter contract (clause 2.2) and a minimum 3-month trial period within which customers can switch back to post payment metering without penalty (clause 2.5.1(a) and (b)). The special circumstances of customers with life support needs in affected communities are addressed vaguely by the regulatory changes (c.f. clause 2.5.1(h)-(j) inclusive) and mandatory prepayment is generally inconsistent with requirements that off-grid retailers must offer to switch a prepay customer to post payment metering where they self-identify as experiencing payment difficulties or are identified by the retailer according to specific disconnection metrics (clause 3.4.2).

We address specific matters raised by ESCOSA within the PMSC review below.

3.1 Emergency credit facilities

While emergency credit facilities form a part of the protections offered to prepayment customers under the NECF, they delay disconnection rather than address the systemic factors which lead to higher disconnection rates experienced by prepayment meter customers. Emergency credit is necessarily limited to a defined amount and typically repaid when a customer next tops up their

prepay meter, before service is recommenced. The limits to the benefits of emergency credit highlight the need for detailed consideration of additional protections for prepayment customers, in order to avoid instances of involuntary self-disconnection from energy services.

There are potential problems with the proposal for retailers to offer prepayment customers discretionary loans to customers. Firstly, the circumstances where loans might be contemplated are covered by the existing code requirement for retailers to offer to switch prepayment customers to post payment arrangements (clause 3.4.2). Secondly, the introduction of loans adds administrative demands for the retailer and the potential to exacerbate financial vulnerability and debt levels in already disadvantaged households.

While not an ideal position, we do agree that the existing emergency credit requirements are likely preferable to discretionary loans. Existing emergency credit requirements could be strengthened by additional protections designed in partnership with people from communities where use of prepayment meters is contemplated or mandated (as is the case for remote Aboriginal communities). One potential mitigation strategy might be to consider developing a specific health and safety circuit ensuring access to a specified limited number of appliances - such as refrigeration - providing a minimum service level upon the expiry of emergency credit and as an alternative to complete de-energisation of the home.

3.2 Support for customers experiencing payment difficulties

We note the proposal to remove the trial period currently contained in clause 2.5.1(a) and (b) of the code, on the basis that "customers can switch metering modes at any time and that there are no penalty, exit, termination or meter reversion fees for switching between modes" (DEM 2021b, p. 5). However, the ability to switch freely between modes does not seem explicitly available to customers in communities where prepayment metering is to be mandatory. We note DEM's submission (27 April 2021) was made prior to the decision on mandatory prepayment (8 December 2021) so may need to be reconsidered in light of these new circumstances. We note the removal of this protection is inconsistent with NECF benchmarks which prioritise consumer choice and safeguards.

We support the proposal to develop a new standard customer contract covering prepay and post-payment arrangements, provided that both categories of customers are afforded equivalent protections including in respect of disconnection, hardship, financial difficulties, life support protections and COVID-19 hardship protections. These contractual provisions would need to reflect protections for prepayment meter customers integrated into the prepayment code and any future retail code developed by ESCOSA.

Further, we note that in South Australia:

- The connection of customer solar PV systems in RAES micro-grid locations cannot occur without prior written approval from DEM;
- RAES customers may submit a proposal regarding solar PV connection, however connection will not be considered unless the customer can demonstrate that the proposal will not impact on the stability of the existing grid or the security of electricity supply to all customers (SA Govt 2020).

As in other jurisdictions, community and public housing residents typically have few options to make energy efficiency changes to housing without having to navigate complex regulatory burdens. Rooftop solar is currently almost wholly absent from public housing in the relevant communities and we note that there is currently no solar feed-in or zero export tariff structured for off-grid households in South Australia outside of the conditions stipulated above, including for those customers soon to commence prepayment metering, factors which could serve to 'lock-out' these customers from realizing the benefits of rooftop solar PV. The burden of having to submit a proposal demonstrating that a customer connection "will not impact on the stability of the existing grid or the security of electricity supply to all customers" (SA Govt 2020, p. 2) in the RAES area is likely one of numerous barriers making rooftop solar prohibitive for many off-grid customers, including those where prepay is to be implemented.

We wish to highlight that the situation faced by off-grid customers is occurring within a broader context where renewable energy generation in South Australia commonly supplies 100% of grid-based energy demand, many times each week and during the year, and where residential rooftop solar uptake is driving down household energy costs for many consumers. Removing regulatory and technical barriers to rooftop solar for community and public housing in the affected communities is likely beneficial in supporting those experiencing payment difficulties, and in reducing the frequency and duration of involuntary self-disconnection.

3.3 Retailer public reporting requirements

We support the proposal for retailers to have mandatory public reporting obligations on a quarterly basis for specified metrics relevant to prepayment customers (i.e., number of times emergency credit was accessed; number and duration of self-disconnections; number of times the minimum requirements for retailer follow up with customers following disconnection were met, and the reasons for any disconnection). We also encourage ESCOSA to consider reporting requirements for off-grid retailers specifying:

- numbers of prepayment customers

- numbers of prepayment customers self-reporting or identified as experiencing hardship
- numbers of customers who have requested to revert to post payment metering
- numbers of customers who have reverted from prepayment to post payment metering
- numbers of registered life support customers
- numbers of complaints received from prepayment meter customers
- proportion of disconnections above and below temperature thresholds specified in consultation with climate experts and/or epidemiologists.

Existing reporting requirements identify the number of complaints received by off-grid retailers and distributors as being a key metric for determining off-grid licensee performance (ESCOSA 2022). Obviously, this does not yet provide insights about historic performance of the service provider in communities where prepayment metering is yet to be mandated. As we understand it, Aboriginal customers in public housing within the RAES AC scheme have not previously paid for the electricity they consume, they are therefore not considered 'customers' and cannot make complaints. Mandatory reporting requirements should be supported by obligations to off-grid retailers to proactively monitor occurrence of disconnections, and durations of disconnection, for prepay customers. Additionally, quarterly reported data should be made publicly available and published by ESCOSA on its website, at a level of aggregation that avoids potential privacy concerns. This would support the advocacy work of community-based organisations and provide a foundation for evidence-based policymaking while, importantly, making the data visible to consumers themselves.

Given the implementation of prepayment metering in Aboriginal communities it is important to note that energy services networked to information technology introduce novel ways of generating value through data. Internationally the movement to secure local ownership and control of data relating to Indigenous peoples is known as Indigenous data sovereignty (Yu 2012, Kukatai and Taylor 2016). In Australia research is needed to ensure that the energy data rights and interests of Aboriginal communities are secured and leveraged for Aboriginal benefit. The Council of Australian Governments 'Closing the Gap in Partnership: Priority Reform Four' (COAG 2019) calls for the greater sharing of, and access to, data and information at a regional level, noting that "disaggregated data and information is most useful to Aboriginal and Torres Strait Islander organisations and communities to obtain a comprehensive picture of what is happening in their communities and to support decision making" (NACG 2020).

Greater capacity building and sharing of energy data, particularly relating to the frequency and duration of household disconnection events, can do much to support community and service provider efforts to improve energy security for pre-pay customers within remote off-grid communities.

3.4 Prepayment System Customer Consultation Groups

We note the proposal to change existing requirements for each retailer approved to offer prepayment arrangements to establish a consultation group, in favour of groups of retailers establishing an umbrella consultation group (e.g., RAES licensed retailers). We note that there is a need for mechanisms to support fair and equal representation of consumers and consumer advocates from all communities covered by the umbrella group. Additionally, we suggest implementing formal requirements around the conduct and regularity of meetings and processes for decision-making based on community and stakeholder input, particularly as mandatory prepayment is due to commence this year in remote Aboriginal communities within the RAES Scheme. In relation to these communities, the requirement in the prepayment code (clause 3.1.3) that the consultation group continue for at least 3 years is a positive one. It is our view, that if it remains the intention of DEM to transition communities from an introductory tariff to the standard RAES tariff (32c/kWh), it would be both fair and beneficial for the consultation group to continue for a period (potentially 3 years) allowing close monitoring of community impacts, and for ongoing community and stakeholder input.

3.5 Information provision: information provided prior to gaining explicit informed consent

The Essential Services Commission of Victoria observes:

> Increased rates of disconnections are not the only barriers facing First Nations consumers. It was found that for Aboriginal and Torres Strait Islander communities accessing support and information remains a significant barrier to interacting with the market (ESC Victoria 2021, p. 45).

We note ESCOSA and DEM's proposal for the development of a standard explicit informed consent document. There is a need for further monitoring to ensure that retailer compliance processes meaningfully engage consumers about their choices. In particular, the process of obtaining consent needs to acknowledge and serve the diverse linguistic and sociocultural contexts of remote customers. We recommend better aligning the standard consent document which has been developed (DEM 2021b, Annexure 2) with the intent and purpose of explicit informed consent established by clause 2.2 of the code.

As stated in 3 above, mandatory prepayment metering in Aboriginal communities is antithetical to the concept of explicit informed consent under the prepayment code. A standard consent document is convenient for retailers obtaining customer 'consent' retrospectively where prepayment metering is already mandated but does not address the fundamental requirement for consent to be based on choice in the first place. In this context it is incumbent upon the utility to understand consent as an

expression of trust both in the utility provider, and in the South Australian government to protect consumers from known and potential harms.

3.6 Limitation on the recovery of debt

There is a proposal to amend the prepayment code to enable off-grid retailers to recover debts owed by prepayment customers (e.g., under a previous post payment contract), by allocating meter credit between the debt and electricity consumption on an agreed basis. Managing carry-over debt in this manner erodes existing consumer protections contained in the prepayment code and diverges from the standard established in the NERR (rule 133). Debt recovery arrangements that introduce additional stressors on daily household energy access are likely to further increase the risk of disconnection for already disadvantaged consumers. Amendments to the prepayment code should focus on the potential for smart-meter technologies to be leveraged to reduce the frequency and duration of families disconnecting from household energy services.

3.7 Life support system definition

We support the submission made by SACOSS to amend the definition of life support equipment in the prepayment code for consistency with the NERR definition.

4. Conclusions

Thank you for the opportunity to make this submission to the off-grid and PMSC reviews. This review offers a timely opportunity to strengthen consumer protections for South Australia's off-grid customers and to better align protections with National Energy Customer Framework (NECF) benchmarks. We hope by detailing areas of remaining risk and highlighting areas where further improvements might be considered that we have contributed to the aims of the reviews. We would be pleased to discuss any aspects of our submission with you or provide further information to assist the review process. Our respective contact details are available above.

Supplementary materials

- Longden, T, Quilty, S, Riley, B, White, LV, Klerck, M, Davis, VN & Frank Jupurrurla, N 2021, 'Energy insecurity during temperature extremes in remote Australia', *Nature Energy*.

  Available at: https://www.nature.com/articles/s41560-021-00942-2.epdf

- Longden, T, Quilty, S, Riley, B, White, LV, Klerck, M, Davis, VN & Jupurrurla, NF, 2022, 'Temperature extremes exacerbate energy insecurity for Indigenous communities in remote Australia', *Nature Energy*, pp.1-2.
  Available at: https://www.nature.com/articles/s41560-021-00968-6.epdf

- Davis, VN, White, LV & Riley, B, 2021, 'Temperature extremes exacerbate energy insecurity – Australia needs to better support remote Indigenous communities to prepare now', *Nature Sustainability Community*.

  Available at: go.nature.com/31WxDNn

References

Australian Bureau of Statistics (ABS) (2016) Index of Relative Socio-economic Advantage and Disadvantage (IRSAD), https://www.abs.gov.au/ausstats/abs@.nsf/Lookup/by%20Subject/2033.0.55.001~2016~Main%20Features~IRSAD%20Interactive%20Map~16.

Bushlight (2013) Demand management community education program, Final Report, July 2013

Council of Australian Governments (2019) Partnership Agreement on Closing the Gap 2019-2029, https://www.coag.gov.au/sites/default/files/agreements/partnership-agreement-closing-thegap_2.pdf.

Department for Energy and Mining (DEM) (2021a) Consultation on proposed amendments to customer payment under the Remote Area Energy Supply (RAES) Scheme: Issues Paper July 2021, https://energymining.sa.gov.au/__data/assets/pdf_file/0007/389914/Proposed_Amendment_to_Customer_Payment_Regulation_Issues_Paper.pdf.

— (2021b) Submission to the Prepayment Meter System Code Review dated 27 April 2021, https://www.escosa.sa.gov.au/ArticleDocuments/21797/ 20211122-Energy-PMSC-IssuesPaperSubmission-DeptEnergyMining.pdf.aspx?Embed=Y.

— (2021c) Proposed amendments to customer payment under the RAES Scheme – Response to Stakeholder comments on Issues Paper, https://www.energymining.sa.gov.au/__data/assets/pdf_file/0020/402815/RAES_Prepayment_Issues_Paper_-_Submissions_Summary_Table.pdf.

Economic Regulation Authority WA (ERA) (2021) Draft decision – Repeal and replacement of the Code of Conduct for the Supply of Electricity to Small Use Customers 2018, https://www.erawa.com.au/cproot/22338/2/Draft-decision---Electricity-Code-review-2019-to-2022.PDF.

ERA (2022) Annual data – Energy retailers 2020-21, https://www.erawa.com.au/energyreports.

ESCOSA (2022) Off-Grid Energy Networks Regulatory Performance Report 2020-21, https://www.escosa.sa.gov.au/ArticleDocuments/21812/20220218-Energy-Off-gridNetworksPerformanceReport-2020-21.pdf.aspx?Embed=Y.

ESC Victoria (2021) Getting to Fair: Breaking down barriers to essential service, Draft dated 6 May, https://www.esc.vic.gov.au/other-work/regulating-consumer-vulnerability-mind.

Government of South Australia (SA Govt) (2020) Remote Area Energy Supply (RAES)—Connecting customer owned solar PV systems, https://www.energymining.sa.gov.au/__data/assets/pdf_file/0008/357236/13-Fact_Sheet-Connecting_customer_owned_PV_to_RAES_grid.pdf.

Klerck, M. (2020a) Submission to the House of Representatives Inquiry into Homelessness in Australia. Alice Springs. Tangentyere Council Aboriginal Corporation https://www.aph.gov.au/Parliamentary_Business/Committees/House/Social_Policy_and_Legal_Affairs/HomelessnessinAustralia/Submissions

Klerck, M. (2020b). Tangentyere Council, Supplementary Submission to the House of Representatives Inquiry into Homelessness in Australia. Alice Springs, NT: Tangentyere Council Aboriginal Corporation.

Kukutai, T., Walter, M. (2015) Recognition and indigenizing official statistics: reflections from Aotearoa New Zealand and Australia. *Statistical Journal of the IAOS* 31 p. 321 – 326.

Longden, T, Quilty, S, Riley, B, White, LV, Klerck, M, Davis, VN & Frank Jupurrurla, N 2021, 'Energy insecurity during temperature extremes in remote Australia', *Nature Energy*.

Melbourne Institute (2021) Applied Economic & Social Research. *Poverty Lines: Australia, March Quarter 2021.* Melbourne: The University of Melbourne.

MoneyMob Talkabout (2021) Response to the Department for Energy and Mining's proposed amendments to customer payment under the Remote Area Energy Supply (RAES) Scheme.

NACG (2020) National Agreement on Closing the Gap in Partnership, Reform Priority 4: Shared access to data and information at a regional level, https://www.closingthegap.gov.au/priorityreforms.

Ombudsman SA (2021) Investigation of the management of financial debts for the sale and supply of electricity and water to members of Coober Pedy's Aboriginal Community - July 2021, https://www.ombudsman.sa.gov.au/publication-documents/investigation-reports/2021/District-Council-of-Coober-Pedy-2018-04687.pdf.

Tregenza, J.D., Tregenza, E. (1998) Anangu Pitjantjara Services resource management project 1998: Including use and care of household appliances, budgetting and household resources, Anangu Pitjantjara Corporation p.1-31

Willis, E., Pearce, M., McCarthy, C., Jenkins, T., Ryan, F. (2006) Utility stress as a social determinant of health: Exploring the links in a remote Aboriginal community, Health Promotion Journal of Australia 17 p.255- 259

Yu, P. (2012) The power of data in Aboriginal hands. Topical Issue 4. *Centre for Aboriginal Policy Research,* Australian National University.