Gas Codes Issues Paper

Review of the Tasmanian Gas Retail and Gas Distribution Codes

March 2013

The Department of Infrastructure, Energy and Resources

Tasmanian Government

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1 Introduction

Following the commencement of the National Energy Retail Law in Tasmania on 1 July 2012, the Government is reviewing the regulation of the sale and supply of reticulated gas for small customers.

The Office of Energy Planning and Conservation (OEPC) has prepared this Issues Paper to provide a comparison between the customer protection features of the Tasmanian regulatory arrangements and the National Energy Retail Law (NERL).

The NERL provides a nationally uniform regulatory regime governing the relationships between customers and the distributors and retailers who supply energy. Specific customer protection measures under the NERL are provided in the National Energy Retail Rules (the Rules). The customer protection arrangements in the NERL replaced existing state based schemes. In Tasmania, the NERL has been adopted for electricity, but not for gas at this stage. This is because the gas market in Tasmania has developed more recently than in other jurisdictions, having commenced in 2003.

It is timely to review the current regulatory arrangements contained in the Tasmanian Gas Codes, to consider whether the gas market in Tasmania has developed to the point where the existing customer protection arrangements continue to provide adequate customer protection.

The scope of this review is limited to a consideration of the existing level of customer protection in place under the Gas Retail Code (GRC) and the Gas Distribution Code (GDC) compared with the level of customer protection for gas customers found in the Rules. Appropriate solutions to address any significant gaps in customer protection for Tasmanian natural gas customers will also be considered.

Comparison with the customer protection features of the NERL will be used as a starting point for this review.

Among other matters, specific attention will be given to:

- contractual models and mandatory minimum conditions;
- billing and collection cycles;
- disconnection provisions; and
- hardship, payment difficulties, payment plans and security deposits.

The focus of this Review is on those customers defined under the Codes as small retail customers – those who consume up to 10 terajoules (TJ) per annum. To give some idea of scale, a typical residential gas customer might use around 50 gigajoules (or 0.05 of a terajoule of gas per year).

This Paper is the first stage in the Review. After consideration of submissions, a Draft Recommendations Paper will be released, and will form the basis of a second round of consultation. Following consideration of the submissions on the Draft Recommendations Paper, final recommendations will be made to Government.

2 How to Use this Paper

2.1 Regularly-used terms

Throughout the Paper, references are made to the National Energy Retail Law (NERL) in several contexts. References can be made to the Law itself. However, most references to the NERL in fact relate to subordinate legislation, including the National Energy Retail Rules (NERR) which provide much of the detail of the regulatory framework.

When direct references to individual Rules are being made, the Paper uses a convention of discussing what customer protections the NERL is designed for, and uses footnotes at appropriate junctures to refer the reader to the precise Rule number. This has been done for ease of reading, as well as to provide a discrete reference for readers wanting to follow up on the source documentation.

There are several other acronyms regularly used in the Paper, and these are provided below.

2.2 Glossary

ACL	*Australian Consumer Law 2011*
AER	Australian Energy Regulator
GDC	*Tasmanian Gas Distribution Code*
GJ	Gigajoule
GRC	*Tasmanian Gas Retail Code*
MRC	Market Retail Contract
NERL	*National Energy Retail Law*
NERR	*National Energy Retail Rules* (the Rules)
OEPC	Office of Energy Planning and Conservation
OTOS	Obligation to Offer Supply
OTTER	Office of the Tasmanian Economic Regulator
SRC	Standard Retail Contract
TJ	Terajoule (equivalent to 1000 gigajoules)

2.3 Links

For more information on the NERL and consequential and implementation information, see http://www.dier.tas.gov.au/energy/nerl

For more information on the Gas Codes, see http://www.economicregulator.tas.gov.au/domino/otter.nsf/gas-v/007

3 Submissions

The Office of Energy Planning and Conservation (OEPC) invites submissions or comments from interested parties on any matter within the scope of this issues paper. To assist with the preparation of submissions, the paper contains 16 questions of particular interest; these are located at strategic points throughout the paper.

To promote discussion, the OEPC intends to publish all submissions on the OEPC website unless the author of the submission wishes to exercise confidentiality in relation to the submission (or any part thereof). Those parts of a submission that are requested to be confidential should be submitted as an attachment to that part suitable for publication.

To facilitate the publication of submissions on the OEPC website, submissions should be electronic where possible.

Enquiries concerning this paper should be directed to:

The Office of Energy Planning and Conservation on (03) 6233 2009.

Submissions should be lodged by Friday 5 April 2013 and may be emailed to:

energy@dier.tas.gov.au

or posted to:

Gas Codes Submissions
Office of Energy Planning and Conservation
GPO Box 936
Hobart, Tasmania, 7001

4 Current Regulatory Framework

4.1 Arrangements for Customer Protection

The *Gas Act 2000* establishes a head of power for the Minister or the Director of Gas to make codes to regulate the relationship between customers, gas retailers and distributors, as outlined below.

Table 1.

Code	**Relationship**
Gas Retail Code	Customers and Retailers
Gas Distribution Code	Customers and Distributors
Gas Customer Transfer and Reconciliation Code	Retailers and Distributors

The Codes provide for the Regulator or the Minister for Energy and Resources to amend the Codes if either reasonably determine that the proposed amendment will better achieve the objectives of the Gas Act.

The objectives of the Gas Act are to:

- assist in facilitating the development of a gas supply industry in Tasmania;
- promote efficiency and competition in the gas supply industry;
- promote the establishment and maintenance of a safe and efficient system of gas distribution and supply;
- establish and enforce proper standards of safety, reliability and quality in the gas supply industry;
- establish and enforce proper safety and technical standards for gas installations and appliances; and
- protect the interests of gas consumers.

In summary, the Tasmanian gas customer protection framework comprises three elements to protect small customers[1]:

1. Performance monitoring of gas network and retailer behaviour to protect customers from sub-standard service by distributors and retailers;
2. Customer protection, through the three Codes; and
3. An Energy Ombudsman, who is responsible for hearing complaints against gas retailers and distributors.

These elements are managed by the Economic Regulator and the Energy Ombudsman, and the Office of Energy Planning and Conservation.

[1] In the Tasmanian context customer using less than 10 TJ of gas per year.

4.2 Developments in Customer Protection

In 2007, Nine Lives Systems Pty Ltd was commissioned by the Director of Gas (the Regulator) to review the Codes. The *Gas Codes Review* from Nine Lives Systems (Nine Lives Report) provided a range of recommendations as well as a number of suggestions for further consideration plus commentary on the Codes.

Following the Nine Lives Report, the Director of Gas established a working group to make recommendations for adjustments to the Codes. The Director considered the working group's recommendations and proposed amendments to the three Codes in the *Gas Codes Review Consultation Paper* which was circulated to stakeholders for comment in late 2008. Based on these investigations, the Director of Gas proposed certain amendments to the Retail and Distribution Codes relating to the code amendment process and reporting requirement. The determination made to amend the Codes was published in March 2009 in *Notification of Determination Amendments to: Gas Retail Code, Gas Distribution Code, Gas Customer Transfer and Reconciliation Code.*[2]

Subsequently, the National Energy Retail Law (NERL) was developed, providing a single, uniform legislative framework for energy retailing.[3] The NERL commenced in Tasmania on 1 July 2012. However, it currently applies only to electricity, and not to gas in Tasmania. The degree to which the protection for gas customers differs between the existing arrangements, and the arrangements under the NERL, is discussed below.

4.3 Customers

This Paper raises issues and questions about customer protection for gas customers in Tasmania, and discusses similarities and differences between the NERL and the Tasmanian gas Codes. The purpose of the comparison is to highlight differences, to be followed by considering whether differences have a significant impact on the appropriate level of customer protection.

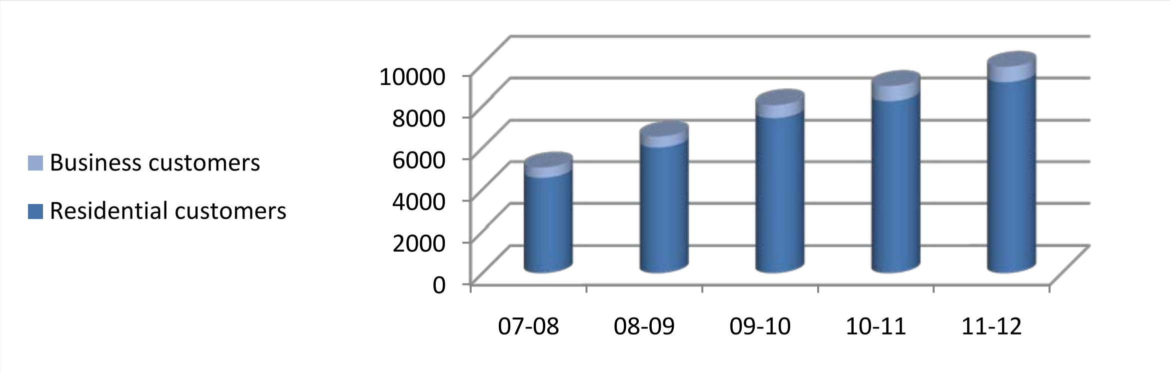
In order to place the above comparison between the Codes and the NERL in the appropriate context it is important to consider the development of the market in Tasmania, including the nature of the customer base.

The number of connections to the natural gas network has grown at a steady rate over the past 5 years. Currently there are around 10,000 customers, as shown in Figure 1. Of this number, approximately 7% are business customers, with the remaining 93% being residential customers.

[2] http://www.economicregulator.tas.gov.au/domino/otter.nsf/gas-v/publications

[3] The NERL commenced in Tasmania and ACT on 1 July 2012, and in South Australia on 1 February 2013. Other States are at different stages in completing or commencing legislation, but it is expected that all participating jurisdictions will have implemented the NERL by 1 January 2014.

Figure 1: Gas Customer Numbers.



The natural gas distribution network currently runs past 38,500 residential and business customers in Tasmania, and is managed by Tas Gas Networks.[4] This means that around 25% of the properties which have access to natural gas in Tasmania have chosen to connect to the distribution network.

It is worth noting that while there is currently the potential for around 40,000 gas customers in Tasmania, there are around 225,000 residential electricity customers, and around 40,000 business electricity customers.[5]

4.4 Complaints as an indicator

The rate of complaint from gas customers directly to retailers and distributors in Tasmania, while varying from year to year, averages below 1 per hundred customers per annum.

However, it is instructive to compare complaints to retailers and distributor with complaints that have been made to the Energy Ombudsman. Over the past four financial years, the Energy Ombudsman has received between one and four complaints per year relating to natural gas. Some of these complaints are outside the jurisdiction of the Energy Ombudsman, because the complaints related to the provision, or installation, of gas equipment.

The few complaints received by the Energy Ombudsman have covered several matters:

- The application of a fee of around $100 for the disconnection of natural gas after a customer moves from a residence.
- Several complaints about the distributor refusing to transfer a customer between gas retailers until arrears on the account has been settled.[6]
- Disputed accounts.

Of significance here, in addition to the low number of complaints, is that there were no complaints during the four year period about disconnections per se, security deposits or payment plans. This suggests at least that such complaints are generally being dealt with satisfactorily by retailers and the distributor.

[4] http://www.tasgas.com.au/networks/

[5] OTTER – Tasmanian Energy Supply Industry Report 2010-11, p. 126

[6] This is currently covered by the Tasmanian Gas Customer Transfer and Reconciliation Code, which governs the relationship between retailers and the distributor in Tasmania. While consideration of this Code is outside the scope of this Review, the specific issue raised by this bullet point is relevant to the important matter of the obligation to offer supply covered in section 8.1 of this Paper.

5 Issues

5.1 Thresholds

In the GRC a "small retail customer" means a customer whose gas consumption (actual or anticipated) is less than 10 TJ per annum. In contrast, the upper threshold for the NERL for small customers is 1 TJ per annum. A typical residential customer might use only 5% of a TJ of gas per year. While the GRC makes special provision for customers using less than 1 TJ per annum, it treats all gas customers using less than 10 TJ as small customers, thus covering a larger proportion of business customers than does the NERR under small customer arrangements.

Question 1 Is this threshold still the appropriate level to distinguish between small customers, who are afforded a greater level of customer protection, and large customers?

5.2 Retail Contracts

An essential element of the NERL is that retailers must offer a Standard Retail Contract (SRC), on closely regulated terms.[7] Retailers may also offer a Market Retail Contract (MRC), which is subject to certain specified minimum requirements, but provides more flexibility for retailers and customers to have a range of different conditions.

There is currently no provision in the GRC requiring retailers to offer a prescribed standard retail contract to small gas customers, but instead a range of minimum conditions are listed, noting that some may be varied by negotiation. In this sense, the contracts offered are more similar to Market Retail Contracts under the NERL.

The SRC covers important contractual matters, such as (but not limited to):

- the term of the agreement;
- the scope of the contract;
- customers' general obligations;
- retailer liability;
- price for energy and other services;
- GST;
- billing;
- undercharging and overcharging;
- security deposits;
- disconnection and reconnection;
- wrongful and illegal use of energy; and
- dispute resolution. [8]

A number of these contractual elements are currently covered in Tasmania, such as security deposits, undercharging and overcharging, disconnection and reconnection, complaints, and billing.

However, the GRC is silent on matters dealing with the term of agreements, and what events, other than any that may be specified in the contract, are taken to bring the contract to an end.

[7] Schedule 1 of the NERR
[8] Schedule 1 of the NERR

5.3 Interpreter services

The NERL requires[9] that the distributor must provide referral to an interpreter service if one is reasonably needed (but only in the case of residential customers). There is no mandated requirement under the GRC or GDC. Currently, gas retailers in Tasmania refer customers to appropriate organisations, for example, Translating and Interpreting Service National, to provide translation services.

Question 2 Is there a need to require information on a bill about referrals to an interpreter service, or more visible or accessible information about the availability of these services?

5.4 Complaint handling

There is no requirement in the GRC for a complaints phone number to be provided on the bill. However, it is worth noting that the Customer Charter under the GRC must contain information pertaining to a customer's right and entitlements,[10] including how to go about making an enquiry or complaint.[11]

Section 7 of the GRC requires that any complaints are dealt with by retailers in accordance with the relevant Australian Standard for complaints. In addition the gas framework in Tasmania provides for the Energy Ombudsman to hear complaints from gas customers.

Complaints and dispute resolution procedures for SRCs are covered in the NERL,[12] which also provides for a minimum complaints/dispute resolution regime for MRCs.[13] Under the Australian Energy Regulator's *Retailer Authorisation Guideline* it is clear that retailers are required to offer a regime consistent with AS-ISO 10002-2006.[14]

The Standard referred to in the GRC is AS 4269. In 2006 Australia adopted AS-ISO 10002-2006 as the replacement for AS 4269. ISO 10002 embodies much of AS 4269 but extends it.

The provisions for complaints and dispute handling, in both the NERL and the GRC are, therefore, equivalent.

Question 3 Is there any advantage in adopting any of the requirements for complaints and disputes found in the NERL, in addition to the requirements already in place under the GRC?

Question 4 Are there any minimum terms and conditions in the NERL that are not currently included in the GRC which ought to be included? If so, which ones?

[9] NERR Rule 87
[10] GRC 11(a)(viii)
[11] GRC 11 (a)(x)
[12] NERR Schedule 1, section 12.3
[13] NERR Rule 50
[14] Australian Energy Regulator – *Retailer Authorisation Guideline- July 2011*, section 2.1 Organisational and technical capacity criterion, p.10

5.5 Billing and collection cycles

Both the GRC[15] and the NERL[16] have similar provisions about the information on which bills are based. That is, they both require that bills are based on gas consumption as indicated by meter readings, or on estimation in certain circumstances. However, the NERL includes additional requirements when it comes to proportionate billing in situations where tariffs change during the course of a normal billing cycle[17] and also to bill smoothing[18]. While the Rules do not require bill smoothing to be offered, they outline conditions that are to apply if bill smoothing is offered. On the other hand, the GRC stipulates no requirements in relation to proportionate billing in situations where tariffs change, nor the conditions under which bill smoothing may be offered. The GRC therefore allows for extra billing flexibility with some conditions.

In terms of the frequency of billing the NERL and GRC are broadly equivalent. Both stipulate that bills must be issued at least quarterly, although billing may be more frequent by agreement between retailer and customer. The GRC does not require the customer's consent for more frequent billing.

The largest number of contrasts between the billing requirements of the NERL and GRC occurs with the requirements around the contents of bills. Some of these differences are significant while others may be unimportant in practical terms. For example, whereas the NERL requires a customer's name and account number to be on a bill,[19] the GRC does not. However, in practice, gas retailers in Tasmania currently display both customer names and account numbers on bills. So while this gap in the GRC may seem to be an omission in billing requirements, it would appear that a basic accounting requirement is a name and account number, and that gas retailers' billing systems already include these items. The need to regulate this aspect of billing may therefore be unnecessary.

However, there are many other examples of billing information not required under the GRC which are required under the NERL.[20] These are:

- the address of the customer's premises for the sale of energy and the customer's mailing address (if different);
- the meter identifier;
- the billing period;
- the values of meter readings (or, if applicable, estimations) at the start and end of the billing period;
- particulars of the average daily consumption during the billing period;
- the estimated date of the next scheduled meter reading (if applicable);
- any amount deducted, credited or received under a payment plan;
- details of the available payment methods;
- a telephone number for complaints (which may be the same as that for account enquiries), the charge for which is no more than the cost of a local call;
- contact details of interpreter services in community languages; and
- any proportionate billing information in accordance with Rule 22.

[15] GRC 8.4(b)
[16] NERR Rule 20
[17] NERR Rule 22
[18] NERR Rule 24
[19] NERR Rule 25(1)(a)
[20] NERR Rule 25 (1)

It is worth noting that there are obligations on retailers under the GRC to provide certain information under their Customer Charter (section 11), and that the customer must be informed of the billing period and time allowed for payment are both required information under the Charter.

The issue is, when taken as a whole, whether the differences in billing requirements in the GRC ought to be amended to reflect the level of detail of the Rules.

Question 5 Is there a need to regulate for the inclusion of any of the above details on a regular account? And if so, which details?

Question 6 What customer advantages would be achieved by this?

Question 7 Would there be an additional cost associated with requiring the above information to be provided?

5.6 Disconnection

The GRC gives some protection to customers against disconnection if they are on a payment plan. However, there is no hardship trigger prescribed in the GRC for the necessity of a payment plan because of the absence of a formal hardship policy.

Under the GRC a retailer may request the distributor to disconnect a customer for non-payment of an account by the pay-by date, provided that the customer has been given a reminder notice, and also has been given notice of the intention to ask the distributor to disconnect the relevant premises. The steps and timelines involved are broadly equivalent to provisions under the NERL.

Both the NERL and the GRC specify circumstances in which the retailer must not request a distributor to arrange for disconnection. These circumstances are expressed differently, and are not amenable to direct comparison, however some key features are listed below.

Under the NERR a retailer must not request disconnection:

- If life support equipment is involved
- If a relevant complaint remains unresolved.
- If the customer is a hardship/residential customer and is complying with a payment plan.
- If the customer is seeking government relief
- For non-payment of an amount not related to the supply of energy.
- During a protected period.

Under the GRC a retailer must not request disconnection

- Within 5 business days after the date on which the retailer complied with all of its obligations under clause 4.2 of the GRC
- If the customer has paid the gas account.
- If the customer has entered into a payment plan with the retailer or has made some other arrangement with the retailer to pay the gas account.
- If the retailer has already requested disconnection the retailer must use reasonable endeavours to prevent disconnection occurring if the customer pays the account or enters into a payment plan or makes other arrangements to pay the gas account.

- It is worth noting that gas customers in Tasmania cannot be disconnected during a restricted time. However, this protection is found in the GDC rather than in the GRC.[21]

In addition, the NERL requires the particulars included in a disconnection warning notice to be issued before disconnection.

The NERL contains a detailed set of pre-conditions to de-energisation for non-payment. The requirements and timeframes for reminder notices and disconnection warning notices prior to disconnection are specified in detail. The retailer must also use its best endeavours to contact the customer to seek resolution of the payment default.

In addition, a retailer may arrange for de-energisation if a customer fails to pay a security deposit and if the retailer has given both a notice of its intention and a disconnection warning notice.

Question 8 Is there a need to further regulate or extend provisions relating to when a gas customer's premises may or may not be disconnected?

5.7 Payment Plans and Hardship

The NERL includes an obligation for retailers to have a formal hardship policy, developed in accordance with guidelines and approved by the Australian Energy Regulator.[22] The NERL also requires retailers to offer payment plans to hardship customers, and also to customers who contact a retailer to report that they have difficulty paying their account.[23] The NERL, in addition to setting the requirements of a payment plan, also requires that late payment fees be waived for customers on hardship plans, and provides that customers may use Centrepay as a payment option.

Under the NERL, a retailer must inform a hardship customer of the retailer's hardship policy as soon as possible after the customer is identified as a hardship customer. The retailer must provide a copy of the hardship policy on request, at no expense.

By contrast, under the GRC there is no formal requirement for a retailer to have a hardship policy, or to recognise certain customers as hardship customers. Under the GRC gas retailers must offer a payment plan to a gas customer before proceeding to disconnection for non payment[24] and a retailer must not unreasonably refuse a customer a payment plan.[25] However there is less prescription on the detail of payment plans in the GRC.[26]

Question 9 Is there a need for regulatory obligations to be imposed on gas retailers in relation to hardship customers in Tasmania?

Question 10 What additional level of protection for customers with payment plans and for customers prior to disconnection is appropriate in the Tasmanian context?

[21] GDC 3.2
[22] NERR Rules 71 – 74
[23] NERR Rule 33
[24] GRC 4.2(c)
[25] GRC 4.3(c)
[26] NERR Rules 73 and 74

5.8 Security deposits

The underlying principle for payment of security deposits is that the retailer may generally require the payment of a deposit where there is:

1. either the risk that the customer may not pay an account when it falls due; or
2. uncertainty as to whether the customer will be able to pay the account when it falls due.

Regulatory arrangements under both the NERL and the GRC provide certain limitations on the capacity for the retailer to require a security deposit, the amount that may be required, the manner in which it is held, and the use or return of the deposit.

The NERL prescribe a range of requirements with regard to security deposits.[27] The GRC deals with security deposits in section 12. Both have customer protection provisions which are broadly equivalent as outlined below.

Table 2: Security deposit – equivalent provisions

Provision	NERL	Gas Codes
The amount of a security deposit [28]	Sets security deposit at 1.5 times the average bill for a gas customer with a similar consumption profile.	The method of calculation is expressed differently in the GRC, but the amount is the same for quarterly bills, although amount can be twice average monthly consumption if bills are issued more frequently than quarterly.
Interest on a security deposit [29]	A retailer must arrange for interest on the security deposit to be paid at a specified rate.	Accrued interest is to be repaid, but no particular interest rate specified.
When a retailer may use the security deposit[30]	Retailer may use the security deposit if a customer has failed to pay a bill and this has resulted in disconnection, or where a customer has failed to pay a final bill having requested disconnection.	There is no significant difference between the two schemes.
When a retailer must return a security deposit [31]	Retailer must repay a security deposit after one year of satisfactory payment of gas accounts, or when the retailer stops being the customer's gas supplier if the customer has paid their account.	There is no significant difference between the two schemes.

[27] NERR Rules 39 to 45
[28] GRC 12.2 (a) & (b); Rule 42
[29] GRC 12.3; Rule 43
[30] GRC 12.4 (a) & (b); Rule 44
[31] GRC 12.4 (c); Rule 45

The NERL is more prescriptive in outlining circumstances in which a security deposit may be required. Under the NERL, before a retailer can decide whether or not a customer has an unsatisfactory credit history and require a customer to pay a security deposit, the retailer must ask permission of a customer to check their credit history and take that information into account.[32] There is no such requirement on a retailer under the GRC. There are some more detailed differences regarding security deposits. The NERL sets conditions under which a retailer can require a security deposit, including where:

- The customer has refused or failed to provide acceptable identification to the retailer.
- A customer owes money to that retailer in relation to the sale and supply of energy to any premises, unless the bill relating to the amount owed is under review by the retailer or under consideration by the Energy Ombudsman.
- The customer has fraudulently acquired or used energy in the past two years.
- The retailer reasonably considers that the customer has an unsatisfactory credit history.
- For business customers, when the customer has no history of paying energy accounts.

In contrast the GRC has no such limitations, and whether a security deposit is required of a customer is at the retailer's discretion. It is informative to consider the information in Section 6.1 of this Paper when assessing whether this gap is a significant factor in customer protection for Tasmanian gas customers.

A similar situation exists around when a retailer may not ask for a security deposit to be paid. Under the NERL, a customer who is identified as a hardship customer by the retailer, or who advises the retailer that they were identified as a hardship customer[33] by another retailer, may not be asked to provide a security deposit.[34] Under the GRC there is no such protection. Again, it is helpful to look to Section 6.1 when assessing the significance of this difference.

Question 11 Is the lack of regulatory limitations on the ability of gas retailers to require security deposits a significant gap in the customer protection regime?

Question 12 Have any specific problems arisen, and if so, what restrictions on the ability of retailers to require security deposits would be appropriate?

5.9 Obligations on the Distributor

The GDC regulates the obligations of gas distributors in Tasmania. The provisions in the GDC relating to customer protection include: connection, disconnection and reconnection, reliability of supply and complaints. As is the case for the GRC the regulatory approach of the GDC is light handed relative to the NERR.

However, in both cases the regulatory relationship between the distributor and customer arises because of the customer's relationship with the retailer. Under the GDC, the result of this is that the protection afforded to customers, in terms of their relationship with the distributor, is regulated by reference to the distributor's obligations to both the customer and the retailer. Notwithstanding

[32] NERR Rule 36
[33] The issue of a formal hardship policy, as applying under the NERL, is discussed below at p [x]
[34] NERR Rule 40

this, there is already alignment of various provisions between the two schemes for customers' relationship with distributors. Both have customer protection provisions which are broadly equivalent as outlined below.

Table 3. Distributor Obligations

Provision	NERL	Gas Codes
Connection arrangements [35]	Distributors are to use their best endeavours to connect customers as soon as possible.	Under the GDC this is within one day for premises with existing supply, and 20 days for new supply. Distributors are to rely on advice from retailers as to when to connect customers.
Service standards [36]	Distributors must comply with certain service standards. The NERL requires a distributor to comply with any applicable distributor service standards, including those under a GSL scheme.	The GDC requires distributors to make Annual Returns to the Regulator, including the amount of unaccounted for gas, the benchmark quantity for which is 2.5%. There are no GSL obligations.
Supply interruption [37]	Distributors may interrupt supply at any time in case of emergency or necessary maintenance. Provision is made for notice to be given for planned interruptions, and for information to be available when unplanned interruptions occur. There is also a requirement that an information line be available via a 24 hour telephone service, to inform customers of supply issues in the event of unplanned interruptions. Distributors must restore supply as soon as practicable.	There is no significant difference between the two schemes.
Fault reporting [38]	Distributors must maintain a 24 hour telephone service to allow for fault information and reporting.	There is no significant difference between the two schemes.
Complaints [39]	Distributors must deal with complaints according to established the provisions in contracts under the NERL.	Complaints to be handled in accordance with Australian Standard (AS 4269).[40] There is no significant difference between the two schemes.

[35] GDC 3.1(b); NERR Rule 79
[36] GDC 6.1; NERR Rule 84
[37] GDC 4.1; NERR Rule 89
[38] GDC 4.2; NERR Rule 85
[39] GDC 5.1; NERR Rule 82
[40] See Section 6.1.6 of this Paper on the replacement of AS 4269 by AS-ISO 10002-2006.

In a similar vein, there may appear to be more protections in place under the GDC than the NERL when it comes to distributors' obligations for reconnections. Under the NERL, these obligations are provided in the form of a retailer's commitments in the SRC,[41] whereas there are similar provisions provided for in the GDC with obligations directed at the distributor. These provisions centre around the rectification of any matters which led to the disconnection – eg failure to pay an account. So while the instruments used to cover reconnections are directed differently (one to the retailer, one to the distributor), the effect of both schemes as a whole are closely aligned and the impact on the customer is essentially the same.

Another apparent point of difference is found in the provisions about disconnections. In general this difference can be found in the fact that the Tasmanian arrangements for disconnection are mostly found in the GRC,[42] whereas the NERL stipulates provisions specific to distributors with regard to these matters.[43] Notwithstanding this, the GDC contains a prohibition against distributors disconnecting customers at a restricted time, and this is broadly equivalent to disconnections during a prohibited period in the NERL.[44] However, the NERL provides additional protection for customers against disconnection. If a complaint has been made by the customer about the disconnection to the Energy Ombudsman or the distributor then a distributor must not disconnect the customer until the complaint is resolved.[45] In this way the NERL offers more protection than the GDC, though it is worthwhile considering the information in Section 6.1 before deciding how significant a difference this is.

More straightforward differences between the schemes are found in the lack of any provision in the GDC (or the GRC) for interpreter services, whereas the NERL requires distributors to offer these.[46] There is also no requirement in the GDC for the provision of information to customers, whereas there is such a provision in the NERL,[47] and while the Customer Charter under the GRC[48] does provide for information to customers provided by the retailer, this does not cover several matters. For example, an obligation for the distributor to provide energy consumption and distributor charges information found in the NERL[49] is not required under the Tasmanian regime. There are other information requirements under the NERL,[50] but these largely apply to contracts and negotiations which are dealt with by the retailer in Tasmania.

Question 13 Are there any specific differences in the treatment of disconnections that require any additional protections that are provided in the NERL to be included for gas customers?

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[41] NERR Schedule 1, Section 15
[42] See this Paper section 6.1.8
[43] NERR Rules 118 & 199
[44] NERR Rule 118(e)
[45] NERR Rule 118(b)&(c)
[46] NERR Rule 87
[47] NERR Rule 86
[48] GRC 11
[49] NERR 86
[50] NERR 80

6 Other Considerations

6.1 Obligation to Offer Supply (OTOS)

The obligation to offer supply usually relates to the provision of "essential services". Essential services usually include water, sanitation and energy. The obligation to offer supply is one of the central elements of the NERL.

The purpose of the obligation to offer supply is to ensure that a small customer is guaranteed at least one retailer who cannot refuse to supply the customer with energy. This protection is particularly important for those small customers who may be seen as being of high risk to the retailer, usually because of poor credit history.

Under the NERL as applied in Tasmania, the concept of the obligation to offer supply is already in place for electricity. However, under the GRC, it would be possible for a customer who had a history of bad debts to be denied supply by any gas retailer.

When the gas network was first established, this was not considered to be an issue, because gas was seen as a "product of choice". However as the market has become somewhat more mature, it is possible that there are customers, particularly those in rental accommodation[51], who have not deliberately chosen gas as their major energy source. These customers are in accommodation where they may be reliant on gas for one or more of hot water, heating or cooking.

In such circumstances, if no retailer is prepared to supply that customer with gas, that customer's accommodation could, particularly in relation to the supply of hot water, be regarded as substandard.[52]

Given this, it is reasonable to ask whether the absence of an obligation to offer supply for gas customers meets community expectations about what sort of protection ought reasonably to apply to energy supplies on which people rely for the provision of such basic services.

Question 14 Have there been any situations where no retailer has been prepared to supply gas to a customer?

Question 15 Should the concept of "obligation to offer supply" be included in the regulatory arrangements for gas in Tasmania?

[51] It is important to note that residential customers are made up of both customers who are owner occupiers of property, and customers who are tenants. Tenants include those in private rental accommodation, and also those in public housing. While there is reliable information on total customers numbers, OEPC has not been able to determine what proportion of residential customers are in tenanted accommodation.

[52] There is no statutory definition of "essential service" in energy legislation but, in relation to residential accommodation, guidance can be found in Section 3 of the *Residential Tenancy Act (1997)*

"Essential service means any of the following services:

(a) water, sewerage, electricity or heating supplied to or within the premises, excluding electrical fuses, light globes, tubes or tap washers; or

(b) a cooking stove or hot-water service installed within the premises, excluding any electrical fuses or tap washers;"

6.2 Marketing

The NERL includes provisions governing marketing activities, generally applicable to Market Retail Contracts (MRCs).

Under the NERL, retailers are required to provide specific information to small customers in connection with MRCs. Required information must be provided to small customers in relation to MRCs before the contract is formed or as soon as practicable after it is formed. In addition there are minimum disclosure requirements that must be met by retailers with regard to marketing activities.

Other Rules provide for a process allowing customers to opt out of being contacted by energy marketers, called 'no-contact lists', and requiring retailers to comply with non-marketing signs at a customer's premises.

In addition, the NERL requires retailers to keep detailed records of their marketing activities, as well as being responsible for ensuring compliance by an associate of the retailer (such as a contractor) with the marketing requirements.

To protect customers from direct marketing, the NERL requires a cooling off period for small customers in the case of MRCs.[53] No such specific requirement exists under the GRC or GDC. However, small customers still have similar protection under the *Australian Consumer Law 2011* (ACL). The difference is that while the NERL protects all small customers on MRCs, the ACL protects customers who have signed up to unsolicited contracts. So the ACL will effectively protect only small gas customers who have signed up to unsolicited contracts. This leaves the target customers of the NERL potentially uncovered in Tasmania.

Question 16 Is there a need to regulate for the inclusion of provisions relating to retailers' marketing activities? Would there be an additional cost associated with requiring any of the marketing provisions contained in the NERL?

[53] Rule 47

7 Next Steps

Once submissions have been considered, OEPC will develop a Draft Recommendations Paper to put forward ways of making sure the most appropriate customer protection measures are put in place in Tasmania.

The Draft Recommendations Paper will take into account the content of stakeholder submissions and feedback, with a view to proposing the most appropriate mechanism for delivering customer protection to natural gas customers in Tasmania. The Draft Recommendations will be released for comment. Following consideration of this second round of consultation, recommendations will be made to Government.

8 Appendix I – Background to the Natural Gas Industry in Tasmania

8.1 Objectives

In 1997 the Tasmanian Government sought find a major transmission company to run a natural gas pipeline from Victoria into Tasmania.

The main objectives were to:

- Facilitate the development of an efficient and competitive natural gas industry in Tasmania;
- Maximise the coverage of reticulated gas services in Tasmania in an economically efficient manner;
- Minimise costs to gas consumers;
- Minimise ongoing risk for the State and consumers;
- Establish appropriate standards of safety, reliability and quality in the natural gas supply industry; and
- Establish a regulatory framework that maximises the long term growth of the natural gas market in Tasmania, and providing sufficient regulatory certainty to attract investment and maintain the financial viability of the natural gas industry.

To underpin the development of the Tasmanian natural gas supply industry with the above objectives, the Tasmanian Government developed a number of principles to underpin its natural gas framework. These principles were:

- no regulation of distribution prices;

- no retail price regulation for natural gas supply;

- the provision of retail and distribution codes to facilitate industry co-ordination and outline customer protection standards, but customers may make such contractual arrangements as are most apt to their needs;

- the Minister for Energy and the 'Director of Gas' have the power to develop industry arrangements through Codes or other guidance to ensure the efficient and effective development and operation of a competitive market - noting the strong preference of the government for 'light handed' regulation; and

- efforts to ensure minimum standards of technical and safety regulation in the gas industry.

These principles are still embodied in the *Gas Act (2000)*, the Gas Codes, and in the Offices of the Ombudsman and the Economic Regulator.

The natural gas framework principles were designed to allow for a light handed regulatory approach to the gas supply industry in Tasmania, and it is in the light of these principles that the current review is being undertaken.

8.2 Distribution Rollout

In December 2002, the Government selected Powerco Ltd as its preferred developer of distribution networks in Tasmania and signed a Memorandum of Understanding in relation to the development of the project and the negotiation of legally binding Development Agreements (DAs), with the project to be progressed in two stages. The Government and Powerco signed a binding DA for Stage One of the project on 30 April 2003.

Stage One involved a network rollout to up to 23 major industrial and commercial customers in five to 10 areas around the State. Construction of the Stage 1 network commenced in August 2003 with natural gas flowing to Hobart, Launceston, Devonport, Burnie, Wynyard, Longford, Westbury and Bell Bay. Construction of Powerco's residential gas network across the state entailed more than 60km of natural gas pipes being laid in Devonport, Launceston and Hobart.

Stage Two of the network rollout in Tasmania was completed in 2008. At the completion of Stage Two, natural gas became available to over 38,000 of the State's smaller commercial and residential customers.

8.3 Natural Gas Retailers

Prior to 2008, the Director of Gas issued only two retail licences for entities to supply gas in Tasmania. They were to Option One Pty Ltd (license previously held by Powerco Energy Services Pty Ltd), and Aurora Energy Pty Ltd. In January and March 2008, the Director of Gas issued gas licences to TRUenergy Pty Ltd and to Country Energy respectively.

Currently, the only retail licences for natural gas are held by Aurora Energy Pty Ltd and Tas Gas Retail Pty Ltd.

Tasmania was the third state, behind NSW and Victoria, to have a fully contestable natural gas market. This means that there is full and open competition within the natural gas market as well as with other energy options including coal, electricity, liquid fuels, waste products, renewable energies and Liquid Petroleum Gas (LPG).

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