



**Power to the people: Energy supply and
improving the governance of residential
parks in NSW**

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Energy + Water Consumers' Advocacy Program

The Public Interest Advocacy Centre

The Public Interest Advocacy Centre (PIAC) is an independent, non-profit law and policy organisation that works for a fair, just and democratic society, empowering citizens, consumers and communities by taking strategic action on public interest issues.

PIAC identifies public interest issues and, where possible and appropriate, works co-operatively with other organisations to advocate for individuals and groups affected. PIAC seeks to:

- expose and redress unjust or unsafe practices, deficient laws or policies;
- promote accountable, transparent and responsive government;
- encourage, influence and inform public debate on issues affecting legal and democratic rights; and
- promote the development of law that reflects the public interest;
- develop and assist community organisations with a public interest focus to pursue the interests of the communities they represent;
- develop models to respond to unmet legal need; and
- maintain an effective and sustainable organisation.

Established in July 1982 as an initiative of the (then) Law Foundation of New South Wales, with support from the NSW Legal Aid Commission, PIAC was the first, and remains the only broadly based public interest legal centre in Australia. Financial support for PIAC comes primarily from the NSW Public Purpose Fund and the Commonwealth and State Community Legal Services Program. PIAC also receives funding from the Industry and Investment NSW for its work on energy and water, and from Allens Arthur Robinson for its Indigenous Justice Program. PIAC also generates income from project and case grants, seminars, consultancy fees, donations and recovery of costs in legal actions.

Energy + Water Consumers' Advocacy Program

This Program was established at PIAC as the Utilities Consumers' Advocacy Program in 1998 with NSW Government funding. The aim of the program is to develop policy and advocate in the interests of low-income and other residential consumers in the NSW energy and water markets. PIAC receives policy input to the program from a community-based reference group whose members include:

- Council of Social Service of NSW (NCOSS);
- Combined Pensioners and Superannuants Association of NSW;
- Park and Village Service;
- Ethnic Communities Council NSW;
- Rural and remote consumers;
- Institute of Sustainable Futures, University of Technology Sydney; and
- the Physical Disability Council NSW.

Introduction

PIAC welcomes the opportunity to provide comment on NSW Fair Trading's discussion paper, *Improving the Governance of Residential Parks*. PIAC's comments in this submission focus on comparing existing rules governing the supply of electricity to long-term residents of residential parks with the arrangements that will come into effect under the National Energy Consumer Framework (NECF). In particular, PIAC highlights a number of provisions of the NSW *Customer Service Standards for the Supply of Electricity to Permanent Residents of Residential Parks*¹ (CSS) that are absent or comparatively weakened in the relevant class of exemption in the Australian Energy Regulator's Exempt Selling Guideline (AER Guideline), released in December 2011.²

Under the NECF, the Australian Energy Regulator (AER) is required to develop the Guideline as 'the framework for retail exemptions which are required for the sale of energy without a retailer authorisation'.³ The aim of the NECF is the 'harmonisation of State-based regulatory frameworks...for the retail energy market and energy distribution sector'.⁴ However, PIAC strongly believes that permanent residents of residential parks should not lose any energy consumer protections as a result of the introduction of the NECF.

PIAC is also extremely concerned about the link that exists between residents' debts to park owners for electricity and the possibility of eviction, due to park owners crediting rent payments against an energy debt. PIAC therefore makes a number of recommendations in this submission for the *Residential Parks Act 1998* (NSW) and associated regulations to be amended to retain those protections that are not in the new AER Guideline. It is worth noting that in relation to price, the AER Guideline states that its own provisions 'do not apply where alternative pricing requirements apply under existing State or Territory legislation'.⁵ PIAC further notes that the NSW Government has previously made a commitment that there will be no erosion of the integrity of NSW's existing consumer protection arrangements in the transition to the NECF.⁶

As part of the preparation of this submission, PIAC has conducted a detailed comparative analysis of the CSS and the AER Guideline. The results of this analysis are in the table at *Appendix 1*. The analysis highlights a number of areas in which consumer protections under the AER Guideline are stronger than the CSS. As these issues do not require any further government action beyond the introduction of the NECF, PIAC has not addressed them in this submission.

¹ NSW Office of Fair Trading, *Customer Service Standards for the Supply of Electricity to Permanent Residents of Residential Parks*, 2006.

² The relevant class from the AER's Exempt Selling Guidelines is *Registrable class 4 – Persons onselling metered energy to residents for use in premises within the limits of a caravan park, residential park or manufactured home estate site that they own, occupy or operate, where the premises are the principal place of residence for the resident* (115-124).

³ Australian Energy Regulator, *Exempt Selling Guideline*, 2011, 1.

⁴ Department of Industry and Investment NSW, *NSW Implementation of the National Energy Consumer Framework – Policy Paper for Consultation*, September 2010, 1.

⁵ The Australian Energy Regulator (AER), *Exempt Selling Guideline*, December 2011, condition 7.5 (119).

⁶ NSW Government, *NSW Government Response to the Unsworth Consultative Reference Committee's Impact Statement*, 10 April 2008, 14.

Compensation

The CSS currently requires residents to be compensated for a lack of access to electricity. If a park owner⁷ fails to connect supply to a resident by the agreed date, the park owner shall pay the resident \$60 compensation per day up to a maximum of \$300.⁸ In addition, if a park owner fails to provide residents with at least two business days' notice of a planned interruption, or the interruption lasts longer than advised, they must pay compensation of \$20 to each affected resident.⁹ These compensation provisions have no equivalent in the AER Guideline under the NECF.

PIAC believes that the value of these provisions does not lie in the fact that residents receive payment as prescribed by the CSS, but rather that park owners have an incentive to ensure that supply is connected as agreed and that interruptions are not longer than anticipated in order to avoid paying compensation. PIAC is concerned that the removal of this provision could result in slower resident connections or extended disconnections. PIAC therefore recommends the compensation provisions under the CSS be incorporated into an amended *Residential Parks Act 1998* (NSW) in order to guard against any reduction in the quality of service given to residents.

Recommendation 1

PIAC recommends that the Residential Parks Act 1998 (NSW) and associated regulations be amended to require park owners to pay residents compensation of:

- *\$60 per day, up to a maximum of \$300, where electricity is not connected by the agreed date; and*
- *\$20 to each affected resident when residents do not receive two business days' notice of a planned interruption in supply, or the interruption lasts for longer than advised.*

Late fees

The CSS prohibits the charging of any late fees on 'an electricity account that is not paid in full by the due date'.¹⁰ This blanket prohibition on late fees is stronger than the provision under the AER Guideline, which states that late fees can be charged, but are limited to 'the recovery of reasonably incurred costs as a result of the [resident's] late payment'.¹¹ Under the AER Guideline, late fees are also 'prohibited in instances where the [resident] informs the [park owner] that they cannot pay their bill due to financial difficulty'.¹²

PIAC has concerns about allowing park owners to charge residents late fees in order to recover 'reasonably incurred costs' stemming from late payment of a resident's bill. Given that it will initially fall to park operators to decide what constitutes reasonably incurred costs, PIAC sees a risk of residents being charged significant late fees. Residents would also be less protected in

⁷ The CSS defines 'park owner' as a person who enters into an agreement to supply energy to a permanent resident of a residential park, including administrative staff appointed to act on the owner's behalf (9). The AER Guideline uses the term 'exempt person' to refer to operators of residential parks who fit the requirements for a registrable exemption under the AER Guideline (115). To avoid confusion, PIAC uses the term 'park owner' in this submission, including in reference to the AER Guideline.

⁸ NSW Office of Fair Trading, *Customer Service Standards for the Supply of Electricity to Permanent Residents of Residential Parks*, August 2006, cl 2.1.1 (3)

⁹ Ibid cl 2.1.2 (3).

¹⁰ Ibid cl 3.1.3 (5).

¹¹ The Australian Energy Regulator (AER), *Exempt Selling Guideline*, December 2011, condition 7.4 (119)

¹² Ibid condition 8.1c (120).

this regard under the AER Guideline than currently under the CSS—an outcome PIAC believes should be avoided. PIAC therefore recommends that the existing resident protection be retained, in the form of a blanket ban on the charging of late fees for late payment of electricity bills in residential parks.

Recommendation 2

PIAC recommends that the Residential Parks Act 1998 (NSW) and associated regulations be amended to prohibit residential park owners from charging residents late fees on their electricity accounts under any circumstances.

Confidentiality and access to account details

Under the CSS, park owners are prohibited from disclosing any resident account information, unless they receive written consent to do so or as required by law.¹³ In contrast, the AER Guideline does not impose any requirement on park owners to keep account information confidential. PIAC is concerned that the loss of this provision could potentially result in details of individual accounts being disclosed to third parties. This could occur deliberately or as the result of an oversight, for example as part of negotiations between a park owner and a retailer for a new supply contract to a residential park. Given the increasing emphasis on keeping personal information private, PIAC believes that an explicit requirement for account information to be kept confidential is an important protection for energy account holders who are permanent residents of residential parks.

The CSS also states that ‘a park owner must provide a resident with any of that resident’s account information, free of charge, within a reasonable time of being asked’.¹⁴ There is no equivalent provision in the AER Guideline. PIAC believes that such a provision is important to ensure not only that residents’ account information is provided in a timely fashion, but also as a safeguard against park owners charging residents a fee for doing so. PIAC therefore recommends that provisions to this effect be included in an amended Residential Parks Act.

Recommendation 3

PIAC recommends that the Residential Parks Act 1998 (NSW) and associated regulations be amended to require residential park owners to:

- *keep details of residents electricity accounts confidential, except as required by law; and*
- *provide residents with any of their account information in a reasonable time of being asked and free of charge.*

Capacity of supply

Under the CSS, a park owner may charge residents a Service Availability Charge (SAC) at a rate no higher than the Standard Contract in that distribution area.¹⁵ This provision is largely mirrored in the AER Guideline, which states that a resident cannot be charged any fees that could not be charged by the relevant local retailer under their Standard Contract for new connections.¹⁶

However, under the CSS, the SAC is limited in cases where electricity is supplied at less than 60 amps. The limit is 70 per cent of the local standard retail supplier’s SAC when supply is 30-59

¹³ NSW Office of Fair Trading, *Customer Service Standards for the Supply of Electricity to Permanent Residents of Residential Parks*, August 2006, cl 3.4.1 (6).

¹⁴ Ibid.

¹⁵ Ibid cl 3.1.2 (4).

¹⁶ The Australian Energy Regulator (AER), *Exempt Selling Guideline*, December 2011, condition 7.3 (119).

amps, 50 per cent of the local standard retail supplier's SAC when supply is 20-29 amps and 20 per cent of the local standard retail supplier's SAC when supply is less than 20 amps.¹⁷ As part of enforcing this provision, park owners are required to keep a record of the supply to a resident in amps, in order to allow the SAC to be calculated.¹⁸ Under the AER Guideline, the percentage of the full SAC that park owners can charge residents is not limited according to the number of amps supplied and there is no requirement for owners to keep a record of this aspect of supply.

PIAC believes that this provision in the CSS gives residents strong protection against receiving a poor quality of supply. Such protections are more important for residents of residential parks than other residential customers, as they are less exposed to competition and may not be able to take their business elsewhere if they are unhappy with the service they receive.

Recommendation 4

a) PIAC recommends that the Residential Parks Act 1998 (NSW) and associated regulations be amended to include a limit on the amount of the Service Availability Charge (SAC) that residential park owners can charge residents when supply is less than 60 amps to:

- 70 per cent of the local standard retail supplier's SAC when supply is 30-59 amps;*
- 50 per cent of the local standard retail supplier's SAC when supply is 20-29 amps; and*
- 20 per cent of the local standard retail supplier's SAC when supply is less than 20 amps.*

b) PIAC recommends that the Residential Parks Act 1998 (NSW) and associated regulations be amended to require park owners to keep a record of the amps supplied to each resident of a residential park for the purposes of calculating the SAC.

Requirements to inform residents of disconnection in writing

Both the CSS and the AER Guideline impose requirements on park owners to inform an individual account holder of their impending disconnection, or to inform all residents that supply to the residential park as a whole will be disconnected. However, in both instances the CSS mandates what PIAC believes is more effective provision of information than the AER Guideline.

The CSS and the AER Guideline both outline an extensive process which must be undertaken before a resident can be disconnected, including circumstances under which disconnection is prohibited (for example while the resident has an existing application for hardship assistance or a life support system is in use at the premises).¹⁹ However, once the point of disconnection has been reached, the CSS requires that a resident be given at least 14 days' written notice of the intention to disconnect and the reason for doing so.²⁰ There is no equivalent provision in the AER Guideline, meaning residents can be disconnected as soon as all other requirements have been met. PIAC holds the view that the existing requirement to give residents 14 days written notice of the intention to disconnect should be retained. This requirement gives residents a final opportunity to remedy their debt and avoid a potentially highly disruptive interruption to their power supply.

¹⁷ NSW Office of Fair Trading, *Customer Service Standards for the Supply of Electricity to Permanent Residents of Residential Parks*, August 2006, cl 3.1.2 (4).

¹⁸ *Ibid* cl 3.3.2 (5).

¹⁹ *Ibid* cl 3.5 (6), AER Guideline condition 8, 9 (120-121).

²⁰ NSW Office of Fair Trading, *Customer Service Standards for the Supply of Electricity to Permanent Residents of Residential Parks*, August 2006, cl 3.5 (6).

The CSS also requires residential park owners to immediately inform all affected residents if the park itself is to be disconnected. The CSS states that when the park owner learns of impending disconnection from the distribution system, they must 'immediately [within 12 hours] give written notice of this, including the intended time and date of disconnection, to all residents of the park who will be affected'.²¹ While the equivalent provision in the AER Guideline states that residents must be informed immediately if a residential park owner expects to be disconnected, it does not specify that notice must be in writing.²² Due to significant impact of a power disconnection on residents and the importance of ensuring that all residents are informed of the details of such an occurrence, PIAC recommends that park owners be required to inform all affected residents of such a disconnection in writing.

Recommendation 5

PIAC recommends that the Residential Parks Act 1998 (NSW) and associated regulations be amended to require residential park owners to:

- *provide residents with 14 days' written notice of disconnection and the reasons for disconnection; and*
- *provide all affected residents with written notice as soon as the park owner becomes aware that power to the residential park will be disconnected, including details of the expected length of the disconnection.*

Estimating meter readings

The AER Guideline allows for meter readings to be estimated for residents' bills,²³ which is not expressly permitted under the CSS. The AER Guideline does, however, place a number of restrictions on the use of estimates, including that they must not be used for a first or last bill and that 'best endeavours' must be made to gain a reading. Nonetheless, PIAC has concerns about the use of estimated meter readings. PIAC believes there is a danger, for example, that residents will receive consecutive bills based on an underestimation of usage, followed by a higher than anticipated bill to offset the underestimations once the meter has been read. In some cases, residents will experience difficulty paying these unexpectedly larger bills. To minimise this risk, PIAC recommends that park owners not be allowed to use estimates as the basis for consecutive energy bills.

PIAC also notes that many of the reasons meter readings for residential customers may need to be estimated, such as access to meters being prevented by a locked gate or the presence of a dangerous dog, are much less common in residential parks than in the general community. As a result, PIAC believes that park owners should need to estimate meter readings extremely rarely.

Recommendation 6

PIAC recommends that the Residential Parks Act 1998 (NSW) and associated regulations be amended to prohibit park owners from using an estimated meter reading as the basis for consecutive electricity bills.

Rent payments to be credited towards rent only

PIAC considers one of the most significant vulnerabilities faced by residents of residential parks to be the possibility that money paid to a park owner for rent is credited against an outstanding

²¹ Ibid cl 6.2 (8).

²² The Australian Energy Regulator (AER), *Exempt Selling Guideline*, December 2011, condition 16.1 (123)

²³ Ibid condition 4 (118).

electricity bill, resulting in a rental arrears that can lead to eviction. PIAC believes that the *Residential Parks Act 1998* (NSW) should protect residents more strongly from this possibility.

The Residential Parks Act 1998 (NSW) currently states that:

It is a term of every residential tenancy agreement that any amount paid by a resident by way of rent is to be applied to rent arrears or rent in advance and not to any other outstanding charges payable by the resident, unless the residential tenancy agreement specifically provides otherwise or the resident otherwise agrees.²⁴

While the intention of this provision is to avoid the scenario outlined above, PIAC is concerned that it contains the possibility of this protection being bypassed through agreement between a park owner and resident. PIAC believes there is a danger that residents may not fully understand that they are agreeing to surrender protection under this section of the *Residential Parks Act 1998* (NSW) as part of a residential tenancy agreement; or will do so because they are desperate to find accommodation and feel they have no choice but to agree. As outlined in Appendix 1 of this submission, both the CSS and AER Guideline contain detailed steps that must be followed before a resident who has failed to pay their bill can be disconnected. These steps offer consumers some protection from disconnection and time to repay their debt before they are cut off, whereas eviction proceedings due to rental arrears can commence much more quickly.

Where consumers buy their electricity from a licensed retailer, both within and outside residential parks, there is no relationship between disconnection and eviction. As a matter of equity, residential park residents should not be subject to increased risk of eviction if they are keeping up to date with their rent.

PIAC also believes that the AER Guideline is intended to offer residents protection against this scenario by stipulating that a park owner must provide residents with a receipt for any energy payment (except when the payment is made by direct debit or credit card over the phone),²⁵ or a separate receipt when payment is made with rent and not separately identified on the rental receipt.²⁶ However, PIAC does not think this provision can operate with complete effectiveness unless the *Residential Parks Act 1998* (NSW) is amended to remove the option for residents to agree for rental payments to be credited to other outstanding charges.

Consumer protections for residents of residential parks are also important as those residents who do not pay their electricity bills directly to a licensed retailer (and instead paying them to, for example, a park owner) cannot access the Energy Account Payment Assistance (EAPA) scheme. While there is limited data regarding the experience of residential park residents, a recent survey of more than 5300 residents by the Affiliated Residential Park Residents' Association found that 45 per cent of respondents fall into this category and are therefore unable to access EAPA.²⁷ PIAC understands that the NSW Government is currently reviewing the existing EAPA scheme, but the outcomes of this review remain uncertain.

²⁴ *Residential Parks Act 1998* (NSW), s 40(1).

²⁵ The Australian Energy Regulator (AER), *Exempt Selling Guideline*, December 2011, condition 6.1 (118).

²⁶ *Ibid* condition 6.2 (118).

²⁷ Affiliated Residential Parks Residents' Association, *Residential Parks Survey Findings*, 2012, 21.

Recommendation 7

PIAC recommends that section 40(1) of the Residential Parks Act 1998 (NSW) and associated regulations be amended to remove the option for residential park residents to agree for rental payments to be credited towards any other outstanding charges payable by the resident. Thus, the provision should read: 'It is a term of every residential tenancy agreement that any amount paid by a resident by way of rent is to be applied to rent arrears or rent in advance and not to any other outstanding charges payable by the resident'.

Conclusion

In closing, PIAC restates its strong belief that residents of residential parks should not lose any consumer protections as a result of the transition to the NECF. Maintaining and strengthening existing protections is especially important given the close relationship between non-payment of utility bills to park owners and eviction that exists for residents of residential parks. This issue is further complicated by the fact that residents who currently pay their electricity bill to park owners are unable to access payment assistance through the EAPA scheme. As a result, PIAC recommends that the *Residential Parks Act 1998* (NSW) be amended to include those consumer protections that are not included in the AER Guideline, which is currently expected to replace the existing CSS with the introduction of the NECF.

PIAC also recommends that existing provisions in the Act be strengthened as outlined above. The *Residential Parks Act 1998* (NSW) sets out the 'rights and obligations of residents and owners of residential parks'.²⁸ In relation to the purchase and sale of energy, PIAC would like to see these rights and responsibilities operate in a way that provides equitable service, pricing and protections to permanent residents of residential parks.

²⁸ *Residential Parks Act 1998* (NSW), 1.

APPENDIX 1

Comparison of the NSW *Customer Service Standards for the Supply of Electricity to Permanent Residents of Residential Parks 2006* (CSS) and the Australian Energy Regulator's (AER) *Exempt Selling Guidelines – Class registrable 4: Persons onselling metered energy to residents for use in premises within the limits of a caravan park, residential park manufactured home estate site that they own, occupy or operate, where the premises are the principal place of residence for the resident 2011* (AER Guideline).

Note on terminology

The CSS uses the term 'park owner' to refer to the person with who enters into an agreement to supply energy to a permanent resident of a residential park, including administrative staff appointed to act on the owners behalf. The AER Guideline uses the term 'exempt person' to refer to owners and operators of residential parks who meet the criteria under registrable exemption 4, and the term 'exempt customer' to refer to residents who purchase their electricity from the park operator. To avoid confusion, this table uses the term 'park owner' and 'resident', including with reference to the AER Guideline.

COMPENSATION
<p>CSS:</p> <ul style="list-style-type: none"> • If a park owner fails to connect supply to a dwelling by the agreed date, they shall pay the resident \$60 compensation per day, up to a maximum of \$300 (cl 2.1.1). • If a park owner fails to provide customer with at least two business days notice of a planned interruption or the interruption lasts longer than advised, they will pay compensation of \$20 to each affected customer (cl 2.1.2).
<p>AER Guideline:</p> <p><i>No provisions regarding customer compensation</i></p>
<p>Current provisions under the CSS are stronger</p>
OBLIGATION TO SUPPLY
<p>CSS:</p> <p><i>No provisions regarding obligation to supply</i></p>
<p>AER Guideline:</p> <ul style="list-style-type: none"> • A park owner cannot refuse to sell energy to a customer who meets the criteria for this exemption class, except in accordance with relevant disconnection provisions (condition 1.1). • A park owner cannot refuse to sell energy to a customer on the basis that the customer owes the park owner outstanding amounts from a previous account. The park owner can include in a new account any outstanding amounts owed on a previous account (except where the unpaid amounts are for other premises for which the customer has an ongoing contract with the park owner) (condition 1.2).
<p>New provisions under AER Guideline are stronger</p>
PROVISION OF INFORMATION
<p>CSS:</p> <ul style="list-style-type: none"> • A park owner will provide residents at the commencement of their tenancy or on request, information regarding: <ul style="list-style-type: none"> ○ dispute resolution procedures provided for under the CSS, including the resident's right to access to the Energy and Water Ombudsman of New South Wales; ○ any payment arrangements for electricity, operated by the park owner including payment plans such as payment by instalments in cases of arrears or payment difficulty; and

- how to obtain information on Government rebate schemes (cl 2.3).
- The park owner will advise the resident at or before the commencement of the tenancy agreement of the level of power available to the site (cl 3.2).

AER Guideline:

- The park owner must advise residents, in writing, at the start of their tenancy/residency of the following:
 - any right of the resident to elect to purchase energy from a retailer of their choice and information on the options for metering that would allow this choice (condition 2a);
 - that the park owner is not subject to all the obligations of an authorised retailer, and the resident will not receive the same protections as they would if they were purchasing from an authorised retailer (condition 2b);
 - the resident's rights in relation to dispute resolution including:
 - the park owner's procedure for handling disputes and complaints; and
 - any right that the resident has to access the energy Ombudsman scheme or any other relevant external dispute resolution body in the state or territory in which the exempt customer is located (condition 2c);
 - the conditions applicable to the exemption that the park owner is operating under (condition 2d);
 - the availability of relevant government or non-government energy rebates, concessions and relief schemes (condition 2e);
 - the forms of assistance available if the resident is unable to pay energy bills due to financial difficulty, as well as the process the resident should follow to seek these forms of assistance (condition 2f);
 - the energy tariffs and all associated fees and charges that will apply to the resident in relation to the sale of energy (condition 2g);
 - the flexible payment options that are available to the resident in relation to the sale of energy, such as arrangements for payment by periodic instalments (bill smoothing) (condition 2h); and
 - contact numbers in the event of a gas or electricity fault or emergency (condition 2i).

New provisions under the AER Guideline are stronger

PRICE

CSS:

- The maximum price for consumption, expressed as a price per kilowatt hour (kWh), can be no more than the standard or default regulated retail tariff that would have been charged by the local standard retail supplier under a standard form contract for the same level of consumption (cl 3.1.1).

AER Guideline:

- A park owner must not charge a customer tariffs higher than the standing offer price that would be charged by the relevant local area retailer for new connections, if the local area retailer were to supply that quantity of energy directly to the premises of the customer (condition 7.1).
- A park owner must not impose any charges on an exempt customer that could not be charged by the relevant local area retailer for new connections under a standard retail contract (condition 7.2).

Tariff provisions effectively equal. AER Guideline contains extra provision regarding other charges.

MAXIMUM SERVICE AVAILABILITY CHARGE (SAC)

CSS:

- Where a park owner supplies electricity to the customer, the park owner may charge the SAC at a rate no greater than that charged by the standard retail supplier in whose supply district the premises are located, except where electricity is supplied to the resident's site at a rate of less than 60 amps. In these instances, the maximum rate for the SAC is:
 - 70% of local standard retail supplier's SAC for 30-59 amps;
 - 50% of local standard retail supplier's SAC for 20-29 amps; and
 - 20% of local standard retail supplier's SAC for less than 20 amps (condition 3.1.2).

AER Guideline:

No provision regarding the maximum SAC that can be charged subject to the rate of supply.

Current provision under the CSS is stronger

LATE FEES

CSS:

- Charging a late fee for an electricity account that is not paid in full by the due date is not permitted (cl 3.1.3).

AER Guideline:

- A park owner must limit any late fee charged to a resident to the recovery of reasonably incurred costs as a result of the resident's late payment (condition 7.4).
- Late fees are prohibited in instances where the resident informs the park owner that they cannot pay their bill due to financial difficulty (condition 8.1c).

Current provision under the CSS is stronger

CHANGES TO THE TARIFF

CSS:

- Increases in the tariff paid by residents are only possible if the park owner has provided residents with advance notice of the increase. Notice may be given by affixing the relevant information to the park notice board (cl 3.1.5).
- Where there is a change in the regulated retail tariff of the local standard retail supplier during a metering period, the amount payable for the period is to be calculated using the formula in clause 35 of the Electricity Supply (General) Regulation 2011 (NSW) (cl 3.1.5).

AER Guideline:

- A park owner must provide notice to a resident of any changes to customer's tariff as soon as practicable, and no later than the customers' next bill (condition 7.2).

Current provisions under the CSS are stronger

REMEDYING UNDERCHARGING AND OVERCHARGING

CSS:

No provisions regarding remedying undercharging and overcharging

AER Guideline:

- Where a resident has been undercharged, the park owner can recover this amount subject to the conditions that:
 - where the under charging was not the result of the resident's fault of unlawful act of omission, the park owner is limited to recovering the amount undercharged in the 9 months before the date on which the customer is notified of the undercharging (condition 7.6a);
 - the park owner cannot charge interest on the undercharged amount

- (condition 7.6b); and
- the park owner must offer the resident time to pay the undercharged amount by instalments, over a period nominated by the customer (up to 12 months, but no longer than the period of the undercharging (condition 7.6c).
- When a resident has been overcharged, the park owner must inform them within 10 business days of becoming aware of the overcharging and repay the amount:
 - through a refund, if requested, for amounts over \$25, or if not request is made through crediting the customer's bill if no request is made. If the resident no longer purchases electricity from the park owner, the park owner must use best endeavours to refund the amount within 10 business days (condition 7.7a); or
 - if the amount is under \$25, through crediting the customer's bill (condition 7.7b); and
 - no interest is payable on the overcharged amount (condition 7.7c).

New provisions under the AER Guideline are stronger

BILLING ARRANGEMENTS and ESTIMATING CONSUMPTION

CSS:

- It is preferable that the meter for each permanent site should be read and bills issued residents no more frequently than rent is paid and no less frequently than quarterly, unless alternative arrangements are agreed upon by both parties (cl 3.3.1).
- Within seven days of the end of the agreed meter-reading period the park owner will provide each permanent site occupant with an account for that meter-reading period (as stipulated in section 37(3) of the *Residential Parks Act 1998* (NSW)) (cl 3.3.2).

No provision explicitly addressing estimating meter readings for billing purposes.

AER Guideline:

- A park owner must ensure that bills are issued to each exempt customer at least once every 3 months (condition 3.1).
- Regarding estimating consumption, a park owner:
 - must use best endeavours to ensure that the meter for each exempt customer is read and used as the basis for any bill issued (condition 4.1);
 - cannot rely on an estimation of the meter value at the start of an energy supply arrangement with resident, or for the purposes of issuing a final bill to a resident (condition 4.2);
 - may base a resident's bill on an estimation of the resident's consumption of energy where the park owner is not able to reasonably or reliably base the bill on an actual meter reading (condition 4.3);
 - must, where an estimation is used as the basis for a resident's bill, base the estimate on:
 - historical metering data for the resident reasonably available to the park owner (condition 4.5a); or
 - where this is not available, the average usage of energy by a comparable customer over the corresponding period (condition 4.4b); and
 - must, if basing a resident's bill on an estimation, ensure that this is clearly stated on the resident's bill (condition 4.5).

Provisions regarding estimating consumption are more explicit in the AER Guideline. The NSW Government has not indicated whether section 37(3) of the *Residential Parks Act 1998* (NSW) will be amended or removed as part of the transition to the National Energy Consumer Framework.

RECORD KEEPING AND ACCOUNT INFORMATION

CSS:

- For each permanent site the park owner shall maintain record of:
 - site number;
 - name of the permanent resident;
 - date of the account;
 - the date of the meter reading;
 - present meter reading (in kWh);
 - previous meter reading (in kWh);
 - days in the meter reading period;
 - calculation of charges showing the total consumption and appropriate rates; and
 - capacity of supply to the site in amps (cl 3.3.2).
- The park owner will also maintain records in respect of any other fees (such as security deposit) charged in relation to the supply of electricity (cl 3.3.2).

AER Guideline:

- A park owner must maintain records of the following for each resident:
 - their name (condition 18.1a);
 - the address of resident's premises (condition 18.1b);
 - the identifier of the meter for the resident's premises (condition 18.1c);
 - the date that the account was created (condition 18.1d);
 - copies of any bills issued in the previous 12 months (condition 18.1e);
 - the date of the most recent meter read for the resident (condition 18.1f);
 - the basis for determining any estimates of consumption for the purpose of billing where a meter could not be obtained (condition 18.1g).

Differences between the two are derived from other differences between the CSS and AER Guideline (for example, the provision in the CSS related to the maximum SAC; the explicit provisions in the AER Guideline surrounding estimating consumption for bills). The requirement in the AER Guideline to retain bills for 12 months is stronger.

CONFIDENTIALITY AND ACCESS TO ACCOUNT DETAILS

CSS:

- Except as required by law, a park owner may not disclose any information relating to a resident's electricity account to any person other than the resident, unless the park owner receives the resident's written consent (cl 3.4.1).
- A park owner must provide a resident with any of that resident's account information that is held by the park owner, free of charge, within a reasonable time of being asked (cl 3.4.2).

AER Guideline:

No provisions regarding confidentiality of account details and access to account information.

Current provisions under the CSS are stronger

RECEIPTS

CSS:

- A park owner shall provide to each permanent resident a receipt for any amount paid to the park owner for electricity. Either a separate receipt must be provided or payment for electricity must be identified separately on the rent receipt (cl 3.3.3).

AER Guideline:

- A park owner must provide each resident to whom they supply electricity with a receipt for any amount paid for energy, except where payment has been made by direct debit, or by credit card over the phone and a receipt number has been

provided (condition 6.1).

- A park owner must provide residents to whom they supply electricity with a separate receipt if payment for energy was made together with a rent payment but has not been separately identified on the rent receipt (condition 6.2).

Provisions are effectively equal

PROVIDING INFORMATION TO HARDSHIP CUSTOMERS

CSS:

Only provision is a requirement to provide customers with information regarding Government rebate schemes when they are first connected (see PROVISION OF INFORMATION, page1).

AER Guideline:

- When a resident informs the park owner that they are unable to pay their bill due to financial difficulty, the park owner must:
 - direct the resident to the Australian Government energy efficiency website or another information resources with energy efficiency advice (condition 8.1a);
 - ensure that the customer is aware of relevant government or non-government energy rebates, concessions and relief schemes (condition 8.1b);
 - not charge the customer a late payment fee (condition 8.1c); and
 - not charge the customer a security deposit (condition 8.1d).

New provisions under the AER guideline are stronger

WHEN DISCONNECTION IS PROHIBITED

CSS:

- A park owner can only become authorised to disconnect or discontinue supply to a park resident who is supplied electricity under a residential tenancy agreement by order of the Consumer, Trader and Tenancy Tribunal (CTTT) to do so. Should a park owner become authorised to disconnect electricity supply to a resident, the park owner cannot proceed with disconnection unless the specific provisions of Clause 71 of the *Electricity Supply (General) Regulation 2001*, namely:
 - the park owner cannot disconnect supply unless the resident has been given at least 14 days written notice of the intention to disconnect and the reason for disconnection (cl 3.5);
 - disconnection is prohibited while any application made by the customer for assistance under any Government funded rebate or relief scheme, or any payment plan operated by the park owner, is pending (cl 3.5a);
 - disconnection is prohibited while any life support system that relies on electricity for its operation is in use at the premises (cl 3.5b); and
 - disconnection is prohibited on a Friday, Saturday or Sunday; on a public holiday or day immediately proceeding a public holiday; or, after 3 pm on any other day (cl 3.5c).

AER Guideline:

- A park owner must not proceed with disconnection or cessation of energy supply to a resident unless the following requirements have been met:
 - the resident has not paid their bill by the pay-by date or has not adhered to the terms of a payment plan (condition 8.2c);
 - following non-payment by the pay-by date, the park owner has given the resident a reminder notice requesting payment by a date at least 6 business days from the date of issue of the reminder notice, has offered the resident more flexible payment terms to pay any amount outstanding and has restated the forms of assistance available if the non-payment is due to financial difficulty (condition 8.2d);

- following non-payment by the date specified in the reminder notice, and failure to comply with more flexible payment terms, the park owner has given the resident a disconnection warning notice informing them that disconnection may occur if payment of the outstanding bill is not made by a date at least 6 business days from the date of issue of the warning notice (condition 8.2e);
 - the park owner has, after issuing the disconnection warning notice, used their best endeavours to contact the resident in person or by telephone in connection with the failure to pay (condition 8.2f); and
 - the resident has, by the date specified in the disconnection warning notice, refused or failed to take any reasonable action towards settling the debt (condition 8.2g).
- Disconnection is prohibited where a person residing at the resident's premises requires life support equipment that depends on energy for its operation (condition 9.1a).
 - Disconnection is prohibited when an application has been made by or on behalf of the resident for assistance to an organisation responsible for a rebate, concession or relief available under any government or non-government funded energy charge rebate, concession or relief scheme and a decision on the application has not been made (condition 9.1b)
 - Disconnection is prohibited when the resident has made a complaint directly related to the proposed reason for disconnection or cessation of supply, to the park owner, the energy Ombudsman or another relevant external dispute resolution body and the complaint remains unresolved (condition 9.1c).
 - Disconnection is prohibited where the cessation of supply would occur on: a business day before 8 am or after 3 pm; a Friday or the day before a public holiday; a weekend or a public holiday; between 20 December and 31 December (condition 9.1d).

The two sets of provisions are roughly equivalent, noting that:

- **the AER Guideline contains stronger provisions regarding the dates when a customer cannot be disconnected;**
- **the AER Guideline has a stronger provision prohibiting disconnection when a complaint to the Ombudsman has not been resolved; and**
- **the CSS has a stronger provision regarding the need for park owners to give residents 14 days written notice of disconnection.**

CUSTOMERS WITH LIFE SUPPORT EQUIPMENT

CSS:

- Park owners will keep records of residents who have life support devices connected to the park's network (cl 6.1.2).
- Disconnection is prohibited while any life support system that relies on electricity for its operation is in use at the premises (cl 3.5b).

AER Guideline

- Where a resident provides a park owner with confirmation from a registered medical practitioner that a person residing at the exempt customer's premises requires life support equipment, the park owner must:
 - advise the person whose embedded distribution network the sale of energy is occurring within (if different from the exempt person) that a person residing at the premises requires life support (condition 15.1a);
 - advise the park owner's authorised retailer and distributor that a person residing at the premises requires life support equipment (condition 15.1b); and
 - provide the exempt person's authorised retailer and distributor with any relevant information about the premises for the purposes of updating their records and registers (condition 15.1c).

- A park owner must maintain records of any residents who have life support equipment that depends on energy for its operation on their premises (condition 15.2).

New provisions under the AER Guideline are stronger

INFORMING RESIDENTS OF PARK DISCONNECTION

CSS:

- A park owner must, on receiving notice that the residential park is to be disconnected from the distribution system, for whatever reason, must immediately (within 12 hours) give written notice of this, including the intended time and date of disconnection, to all residents of the park who will be affected by the disconnection (cl 6.2).

AER Guideline:

- A park owner must notify their residents and the AER immediately if they are (or expect to be) disconnected, or there is any likelihood that they will be unable to continue onselling energy (condition 16).

Current provision under the CSS is stronger (includes requirement for residents to be informed in writing).