



**GAS INDUSTRY GUIDELINE NO. 1-**

**CREDIT ASSESSMENT**

**PUBLIC VERSION**

*(Issued pursuant to section 13 of the Essential Services Act, 2001)*

May 2002

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## PREFACE

This guideline on credit assessment guidelines is the result of extensive negotiations between retailers and customers facilitated by the Commission and forms part of the consumer protection framework for full retail competition.

Under clause 8.1 of the Gas Retail Code, a retailer may require a customer to pay a refundable advance if the retailer has decided that the customer has an unsatisfactory credit rating. The retailer must comply with any relevant guideline and offer the customer an instalment plan, and have it refused, before requiring a refundable advance in these circumstances.

In the competitive market, customers can transfer retailers and in some cases, may do so without settling their accounts for previous gas consumption. The Retail Gas Market Rules [for the Principal Transmission System]<sup>1</sup> provide that retailers can only object to transfers on the basis of outstanding debts for amounts greater than \$100. In this market, therefore, retailers seek to mitigate potential bad debts of new customers and have access to credit assessment tools.

Credit reporting and access arrangements are regulated under the federal *Privacy Act* where credit reporting agencies are generally only entitled to give access to personal credit information to “credit providers”. The Office of the Privacy Commissioner’s view, outlined in a credit reporting advice summary issued on 4 April 2002, is that utilities are generally credit providers on the basis that a substantial part of their business involves the provision of “loans”.<sup>2</sup>

Against this background, retailers are required to comply with the credit reporting provisions of the *Privacy Act*. In establishing this guideline, the Commission has decided to complement the federal provisions so that customers can only be assessed as having an unsatisfactory credit rating for outstanding debts which relate to their electricity, gas and water consumption and that appropriate other mitigating circumstances should be taken into account in the assessment. It also sets minimum amounts of outstanding debt which must apply for crediting reporting or disconnection purposes.

In setting these limitations the Commission is acting in accordance with its objectives under section 8.2(e) and (f) of the *Essential Services Commission Act 2001*.

The Commission also encourages retailers to take the principles underpinning this guideline into account in relation to other interactions with customers, including whether or not to offer a market contract to any domestic customer or business customer.

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<sup>1</sup> Retail Gas Market Rules for the Western Transmission System are yet to be developed.

<sup>2</sup> Under the *Privacy Act*, the concept of a “loan” is defined to include a contract under which a person is permitted to defer payment of a debt, or to incur a debt and defer its payment.

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## DELETION OF CERTAIN INFORMATION

Details of

- (a) the minimum amount a *domestic customer* who has left a previous *supply address* or who has *transferred* to a *retailer* must owe the *retailer* or former *retailer* (as the case may be), if the *retailer* is to be able to require the *domestic customer* to provide a *refundable advance*; and
- (b) the minimum amount payable by a *customer* for a *retailer* to have any right to *disconnect* the *customer* for non-payment of a bill,

have been deleted from the copy of this guideline released to members of the public. Disclosure of this information would be likely to expose *retailers* to disadvantage.

A person who is concerned whether a *retailer* has complied with or otherwise observed this guideline may raise the issue with the Energy and Water Ombudsman (Victoria) (*EWOV*). *EWOV* may be contacted on 1800 500 509 for this purpose. *EWOV* holds a copy of the confidential version of this guideline.

## 1 BACKGROUND

### 1.1 Purpose and scope of guideline

1.1.1 This guideline is a relevant *gas guideline* for the purposes of clauses 8.1 and 8.3 of the *Gas Retail Code* (the Code).

1.1.2 It requires *retailers* to:

- only have regard to *relevant defaults* when deciding to require a *domestic customer* to provide a *refundable advance* in accordance with the Code; and
- provide certain information to *customers* and credit reporting agencies in dealing with credit management issues.

1.1.3 The guideline also sets the minimum outstanding amount payable:

- for which a *domestic customer* can be required to pay a *refundable advance* under clause 8.1(a) of the Code; or
- for which a retailer may proceed to *disconnect* a *customer* under clause 14(a) of the Code.

### 1.2 Commencement of guideline

This guideline applies on and from 2 July 2002. From this date, it takes the place of Guideline 1 issued by the Office of the Regulator-General, Victoria with respect to the gas industry.

### 1.3 Copies of this guideline

Each *retailer* must:

- (a) publish a copy of the public version of this guideline, and details of the policies and procedures the *retailer* has adopted in relation to this guideline, on its web-site;
- (b) give a copy of the public version of this guideline to any person, on request by that person; and
- (c) refer to this guideline in its customer charter.

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## 2 RELEVANT DEFAULTS

### 2.1 Meaning of relevant default

A *relevant default* in respect of a *domestic customer* means:

- (a) **default:** a failure by the *domestic customer* within the past five years to pay a bill for the *domestic customer's* water, electricity or gas consumption, where:
- (1) the amount outstanding is or is more than the amount specified in item A of the schedule;
  - (2) the payment is at least 60 calendar days<sup>3</sup> overdue; and
  - (3) the water, electricity or gas provider has taken steps to recover the whole or any part of the amount of credit outstanding.

An amount is not overdue in respect of a gas bill on the pay by date included in the bill if the *retailer* offers, or the *domestic customer* and the *retailer* enter into an agreement or arrangement, for the *domestic customer* to pay the amount or an instalment on a new date later than the pay by date. If the amount or the instalment is not paid by the new date then whether the amount or the instalment is overdue is to be determined from the new date;

- (b) **address vacated without notice:**<sup>4</sup> a failure by a *domestic customer* to give a *retailer* notice of the date on which the *domestic customer* intends to vacate their *supply address* and a forwarding address to which a *final bill* may be sent, where:
- (1) that failure continues for at least 10 *business days* after the date the *final bill* for the vacated *supply address* is issued;<sup>5</sup> and
  - (2) the *domestic customer* has not paid the *final bill* within 10 *business days* after the date the *final bill* for the vacated *supply address* is issued.
- (c) **court judgment:** a court judgment within the past five years against the *domestic customer* in relation to a debt;
- (d) **bankruptcy:** the bankruptcy of the *domestic customer* where the bankruptcy order against the *domestic customer* has not been discharged; or

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<sup>3</sup> The period is expressed in calendar days so as to accord with section 18(b)(vi) of the *Privacy Act 1988* (Cth).

<sup>4</sup> This clause reflects what constitutes a “serious credit infringement” under section 18E 1(b)(x) of the *Privacy Act 1988* (Cth).

<sup>5</sup> If a *domestic customer* notifies the retailer within 10 business days but does not pay the *final bill* within this time because of an incapacity to pay, the *retailer* must act in accordance with clause 11.2 of the *Gas Retail Code*.

- (e) **dishonoured cheque:** a cheque provided by the *domestic consumer* in payment of a bill for their water, electricity or gas consumption for an amount not less than the amount specified in item A of the schedule has twice been presented and dishonoured and the second dishonouring of the cheque occurred within the past five years.

2.2 Despite clause 2.1, if a *domestic customer* is discharged from bankruptcy and therefore has been released from a debt which is the subject of a *relevant default*, that *relevant default* is deemed not to have occurred.

### 3 CREDIT ASSESSMENT OF DOMESTIC CUSTOMERS BY RETAILERS

#### 3.1 Unsatisfactory credit rating

In deciding whether a *domestic customer* has an unsatisfactory credit rating, a *retailer* may only have regard to any *relevant default* by that *customer*.

#### 3.2 Domestic customer dealing with the relevant default

Despite clause 3.1, a *retailer* must not require a *domestic customer* to provide a *refundable advance* if the *retailer's* decision that that *customer's* credit rating is unsatisfactory is based on a *relevant default*:

- (a) where the *domestic customer* has made a complaint in good faith about the *relevant default* and the complaint has not been resolved;
- (b) relating to that portion of a gas bill which the *domestic customer* has requested the relevant *retailer* to review; or
- (c) relating to a gas bill where:
- the *retailer* has not undertaken an assessment of, or provided assistance to, the *domestic customer* as contemplated by clause 11.2 of the Code; or
  - in respect of the gas bill, the *domestic customer* has formally applied for a Utility Relief Grant and a decision on the application has not been made.

### 4 INFORMATION ABOUT AN UNSATISFACTORY CREDIT RATING

If a *retailer* requires a *refundable advance* from a *customer* because it has decided that the *customer* has an unsatisfactory credit rating, the *retailer* must inform the *customer*:

- (a) that the *retailer* has decided that the *customer* has an unsatisfactory credit rating;
- (b) the reasons for the decision under clause 2.1;
- (c) of their rights to raise a complaint in accordance with clause 28.2 of the *Gas Retail Code*;

- (d) if the decision:
- was based wholly or partly on information provided by a credit reporting agency, the name and address and telephone number of the credit reporting agency and that the *customer* has the right to obtain access to the credit information file maintained by the credit reporting agency; and
  - was based wholly or partly on information in the possession, custody or control of the *retailer*, that that is so and that the *customer* has the right to obtain relevant details of the information.

## 5 COMPLAINTS ABOUT THE UNSATISFACTORY CREDIT RATING

- 5.1 A *customer* may make a complaint about a matter dealt with in this guideline to a *retailer*, which must handle the complaint in accordance with clause 28 of the *Gas Retail Code*.
- 5.2 The *EWOV* Charter sets out its functions in receiving, investigating and facilitating the resolution of billing disputes and the administration of credit and payment services. *EWOV* may consider any complaint made by a *customer* in relation to a matter dealt with in this guideline.

## 6 REPORTING OF DEFAULTS TO A CREDIT REPORTING AGENCY

- 6.1 A *retailer* may only provide information about a *relevant default* by a *domestic customer* to a credit reporting agency if the *relevant default* relates to a gas bill issued by that *retailer*.
- 6.2 If a *domestic customer* remedies the *relevant default* the *retailer* must inform the credit reporting agency immediately of that fact.
- 6.3 Despite clause 6.1, a *retailer* must not provide information about a *relevant default*:
- (a) where the *domestic customer* has made a complaint in good faith about the *relevant default* and the complaint has not been resolved;
  - (b) relating to that portion of a gas bill which the *domestic customer* has requested the relevant *retailer* to review; or
  - (c) relating to a gas bill where:
    - the *retailer* has not undertaken an assessment of, or provided assistance to, the *domestic customer* as contemplated by clause 11.2 of the *Gas Retail Code*; or
    - in respect of the gas bill, the *domestic customer* has formally applied for a Utility Relief Grant and a decision on the application has not been made.
- 6.4 Where a *domestic customer* with a *relevant default* under clause 2.1(b) remedies, or enters into an agreement or arrangement with the *retailer* to remedy the *relevant default* after it was reported to the credit reporting agency, and demonstrates to the

*retailer* that extenuating circumstances<sup>6</sup> meant that a forwarding address could not be provided and that the *final bill* could not be paid within the 10 *business day* period in accordance with clause 2.1(b), the *retailer* must request the credit reporting agency to remove the information about that *relevant default* from the *domestic customer's* record.

## 7 DOMESTIC CUSTOMER LEAVES SUPPLY ADDRESS OR TRANSFERS WITHOUT PAYING

For the purpose of clause 8.1(a) of the *Gas Retail Code* the amount owing to a *retailer* or former *retailer* (as the case may be) must be more than that specified in item A of the schedule to this guideline.

A *retailer* must offer an instalment plan before requiring a *refundable advance*.

## 8 MINIMUM DISCONNECTION AMOUNT

A *retailer* must not *disconnect* a *customer* for non-payment of a bill where the amount payable is less than the approved amount specified in item A of the schedule to this guideline.

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<sup>6</sup> The *Commission* is of the view that the following situations, amongst others, could constitute extenuating circumstances:

- (a) the *domestic customer* is a tenant evicted from the *supply address*;
- (b) the *domestic customer* is seriously ill and unable to look after his or her affairs; or
- (c) the *domestic customer* is a victim of domestic violence, leaves the *supply address* and is afraid to collect the mail and give a forwarding address to the *retailer*.

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## DEFINITIONS AND INTERPRETATION

In this guideline:

- (a) terms which appear *like this* and which are not otherwise defined in this glossary have the same meaning as in the *Gas Retail Code*; and
- (b) *Gas Retail Code* means the Code of that name setting out terms and conditions relevant to contracts for the supply or sale of gas first determined by the *Commission* under the *Gas Industry Act* on 14 May 2001.

*EWOV* means Energy and Water Ombudsman (Victoria) Limited or any other entity which replaces Energy and Water Ombudsman (Victoria) Limited as the ombudsman which investigates and resolves complaints between *customers* and their gas company.

*Commission* means the Essential Services Commission under the *Essential Services Commission Act* 2001.

*final bill* means a bill issued to a *customer* following a final meter read for the purpose of closing the *customer's* account.

*relevant default* has the meaning given in clause 2.1 of this guideline.

## **SCHEDULE**

### **PUBLIC VERSION**

Item A referred to in this guideline, is included in the *Gas Industry Guideline 1 – Credit Assessment, Confidential Version*.