

# Gas Distribution System Code of Practice review

Issues Paper

21 March 2023

## Acknowledgement

We acknowledge the Traditional Owners of the lands and waterways on which we work and live.

We acknowledge all Aboriginal and Torres Strait Islander communities, and pay our respects to Elders past and present.

As the First Peoples of this land, belonging to the world's oldest living cultures, we recognise and value their knowledge, and ongoing role in shaping and enriching the story of Victoria.

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# Summary

The Parliament of Victoria has reformed the enforcement framework that the commission operates under. The new enforcement framework was implemented via the *Essential Services Commission (Compliance and Enforcement Powers) Amendment Act 2021*. As a result, our existing energy codes have transitioned to 'codes of practice'. This means that the current codes are now subordinate legislative instruments and no longer applied only as a condition of licences or exemptions. We are now reviewing each of our energy codes as a consequence of this change.

## Remaking the code

The purpose of this review is to remake the Gas Distribution System Code of Practice to:

- make obligations fit for purpose, allowing effective compliance monitoring and enforcement
- align the code with recent changes to the National Gas Rules (NGR) and remove duplication and inconsistencies
- support policy developments and the Victorian Government's Gas Substitution Roadmap.

This paper highlights the key areas of the code to be reviewed. We seek feedback from stakeholders to inform the new code.

## Indicative timeline

The key dates for this review are as follows:

- Issues Paper consultation: 21 March to 4 May 2023
- Draft decision: expected August 2023
- Final decision: expected November 2023
- New code to take effect: May 2024 (pending stakeholder feedback).

## Structure of this paper

The [introduction](#) highlights our key considerations and proposed approach to this review.

We then propose an [assessment framework](#) against which we will consider changes to the code.

The following chapter highlights the [key issues](#) in the code which we intend to review. We explain our review and proposals related to these key issues.

We then explain our intention to review compliance and performance [reporting obligations](#) together with remaking the code. We also explain our intention to specify civil penalty requirements to enable the enforcement of obligations.

We are also proposing to update gas distribution [licences](#) as part of this review.

Finally, we consider which [consequential amendments](#) to other commission instruments may be required, including our intention to repeal Gas Industry Guideline No. 17.

## Summary of questions for stakeholders

Topic	Questions for stakeholders
Scope of our review	<ol style="list-style-type: none"><li>1. Overall, do you support the scope of our proposed review of the code?</li><li>2. Are the proposed criteria in our assessment framework appropriate?</li></ol>
Gas connections	<ol style="list-style-type: none"><li>3. Do you consider the current connections framework for gas retail customers appropriate? Why or why not?</li><li>4. What options should we consider when reviewing the connections framework for gas retail customers?</li></ol>
Information about changes in the type of gas supplied	<ol style="list-style-type: none"><li>5. Do you agree with the introduction of obligations to provide information to customers about changes in the type of gas supplied?</li><li>6. Are there other options to introducing equivalent obligations proposed for the National Energy Retail Rules that we should consider?</li></ol>
Metering obligations	<ol style="list-style-type: none"><li>7. Should we remove the overlap of metering obligations in the code and in Part 19 of the National Gas Rules?</li><li>8. What options to the regulation of metering requirements for non-declared distribution systems should we consider?</li></ol>
Customer obligations	<ol style="list-style-type: none"><li>9. Do you consider that the current arrangements for deemed distribution contracts and customer obligations results in uncertainty for customers and industry that is burdensome or harmful?</li><li>10. Should we include customer obligations and prohibitions in the code?</li></ol>
Removing duplication with other regulatory instruments	<ol style="list-style-type: none"><li>11. Do you have any views on the removal of Part D of Schedule 1 from the code?</li><li>12. Do you have any views on the removal of Schedule 3 from the code?</li></ol>

Disconnections and reconnections	13. Are any clarifications needed in relation to disconnection and reconnection obligations?
Guaranteed Service Levels	14. Should we specify clearer timeframes for when Guaranteed Service Levels payments must be made?
Distribution connected facilities	15. Are there any further consequential changes to the code required due to the recent amendments to the National Gas Rules relating to distribution connected facilities?
Unaccounted for gas benchmarks	16. What factors should we account for when considering our role in the framework for setting unaccounted for gas benchmarks in Victoria?
Civil penalty requirements	17. What factors should we consider when assessing whether or not to assign obligations in the code as civil penalty requirements?
Compliance and performance reporting	18. Do you have any views on our proposed approach in relation to compliance and performance reporting obligations?
Consequential changes	19. Can you identify any other changes we may need to make as a consequence of remaking the Gas Distribution System Code of Practice? 20. Are there any other issues we should consider as part of this review?

## How to give us your feedback

Submissions should be made via [Engage Victoria](#) by **5 pm on 4 May 2023**.

Submissions will be published on the commission's website, except for any information that is commercially sensitive or confidential, in accordance with our [Submissions Policy](#). Submissions should clearly identify which information you consider to be sensitive or confidential, and the basis for your claim.

We are also open to meeting with individual stakeholders to discuss specific feedback.

We will continue to proactively engage with the community, industry, government departments and agencies through individual meetings as this review progresses.

There will be more opportunities to be involved in our consultation process once we release our draft decision in August 2023.

If you have any questions or would like to arrange a meeting, please contact us at [energyreform@esc.vic.gov.au](mailto:energyreform@esc.vic.gov.au).

# Introduction

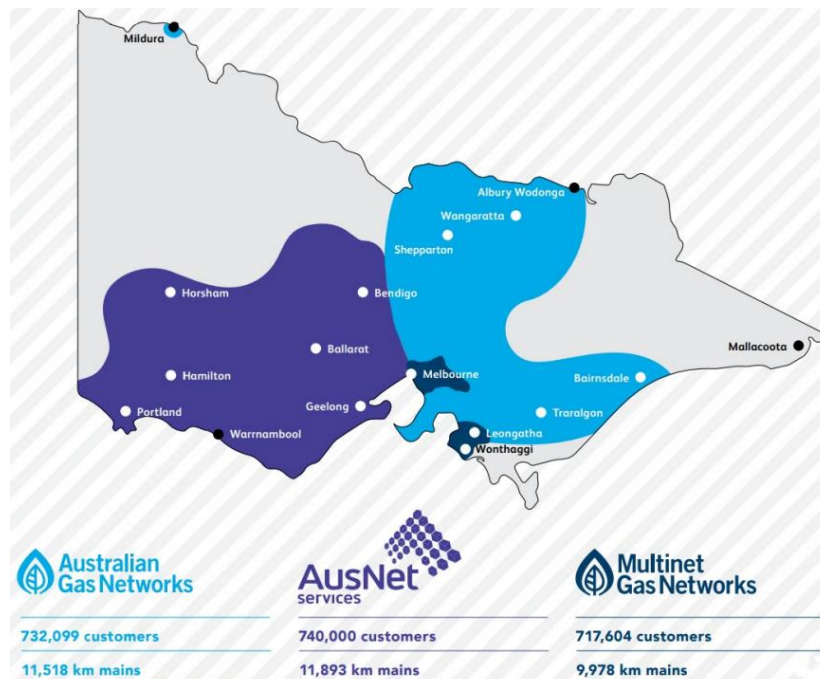
The purpose of this paper is to seek feedback from stakeholders on the key issues associated with the Gas Distribution System Code of Practice review.

## What is the Gas Distribution System Code of Practice?

The code sets out consumer protections and obligations gas distributors must follow in operating distribution systems in Victoria. It regulates:

- the operation of the distribution system
- connections and augmentation
- curtailment, disconnection and reconnection
- metering requirements
- life-support equipment
- deemed distribution contract requirements
- customer complaint handling.

Gas distributors own and manage the pipelines which deliver gas to homes and businesses. Each handles a separate geographic region of Victoria.



Source: AGIG, Victorian Gas Networks Stakeholder Roundtable [slides](#), 3 March 2022.



The following gas distributors are currently licenced by the commission:

- AusNet Services
- Multinet
- Australian Gas Networks<sup>1</sup>
- Gas Networks Victoria.<sup>2</sup>

This review will remake the code to align it with our new enforcement framework.<sup>3</sup> In 2021–2022 we remade the Energy Retail Code of Practice and the Electricity Distribution Code of Practice. This is the third code of practice we are remaking.

The code must be remade before the end of 2025, when it would be automatically revoked.<sup>4</sup> However, we intend to complete this review in time for the new code to come into effect in May 2024, when [recent changes](#) to Victoria’s Declared Wholesale Gas Market (DWGM) will commence.<sup>5</sup> These changes will allow facilities which produce, store or blend gases to connect directly to distribution systems and to participate in Victoria’s gas market. Currently, such facilities can only connect to the gas transmission system.

## **Our role in regulating gas distribution**

The regulatory arrangements applying to gas pipeline services in Victoria are complex, involving multiple regulators at the State and Commonwealth levels.

Through the code, we impose and oversee obligations gas distributors must follow related to the:

- operation of distribution systems and reliability of gas supply
- connection of new customers
- disconnection and reconnection of existing customers
- interruption or curtailment of gas supply
- protection of customers who require life-support equipment
- compensation of customers for outages or poor service levels.

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<sup>1</sup> Australian Gas Networks has a separate licence for the distribution system serving Mildura and surrounding area. Australian Gas Networks and Multinet are part of the Australian Gas Infrastructure Group (AGIG).

<sup>2</sup> Gas Networks Victoria is a subsidiary of Tas Gas and distributes gas to households and businesses across 11 locations in regional Victoria.

<sup>3</sup> See *Essential Services Commission (Compliance and Enforcement Powers) Amendment Act 2021*.

<sup>4</sup> Section 76(3) of the *Essential Services Commission Act 2001*.

<sup>5</sup> AEMC, ‘DWGM distribution connected facilities, Rule determination’, 8 September 2022.

In summary, we regulate the way distributors must operate the gas distribution network, according to certain technical requirements and customer protections.

Other regulators oversee other functions related to gas distribution in Victoria, which are outside the code, as follows:

- **Economic regulation of Victorian gas distribution networks.** The Australian Energy Regulator (AER) is responsible for the economic regulation of distribution pipeline services. Regulated pipeline service providers are required to submit an access arrangement to the AER every five years. Access arrangements set out the terms and conditions under which third parties can access a pipeline, including tariffs for specific services. The AER also assesses expenditure by pipeline businesses and the revenues needed to cover their efficient costs and provide a commercial return on capital.
- **Management and operation of the gas transmission system.** The Australian Energy Market Operator (AEMO) controls the security and operation of the gas transmission system and manages the scheduling of Victoria's wholesale gas market. In addition, AEMO operates the Victorian gas retail market and provides metering services to distribution systems. Its functions also include gas quality and emergency management, and reviewing the adequacy of gas supply and pipeline capacity for the declared transmission system.
- **Rule-making relating to access to gas transmission and distribution pipelines.** The Australian Energy Market Commission (AEMC) makes and amends the NGR. These include rules that provide the basis for third party access to transmission and distribution pipelines and that govern the wholesale gas markets in eastern States. The AEMC also conducts independent reviews and provides advice to governments on the development of gas markets.
- **Safety regulation of Victorian gas distribution networks.** Energy Safe Victoria (ESV) regulates the safety of gas infrastructure and gas company pipelines in Victoria. Its role is to protect the public from environmental, health and safety risks resulting from gas infrastructure and licensed pipelines, and for ensuring the safe conveyance, sale, supply and use of gas.

## Key considerations

Since the code was first made, there have been progressive changes in the wider legislative and regulatory framework for gas distribution services. There have also been recent policy developments and shifts in consumer sentiment in relation to the consumption of natural gas.<sup>6</sup>

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<sup>6</sup> For example, the proportion of AusNet's customers who think it unlikely they will be using their gas connection in 10 years' time has more than doubled in the last year, see: AusNet, 'Gas access arrangement review 2024-2028, Addendum to proposal', 2 September 2022, p. 24.

## The code's legal framework

The commission's powers to make, amend or revoke codes of practice are provided by Part 6 of the *Essential Services Commission Act 2001*. The current code was deemed to be a code of practice by section 76(1)(g) of the Act. We must review the code before the end of 2025 and thereafter at least once every ten years.<sup>7</sup>

The code exists within the broader national energy market framework established by the Australian Energy Market Agreement. The framework includes the National Gas Law and the National Gas Rules (NGR). Part 19 of the NGR sets out the rules for Victoria's Declared Wholesale Gas Market (DWGM).

Until 1 July 2008, economic regulation of gas distribution services was administered by the commission. It has since been a responsibility of the AER. Gas distributors must periodically submit an access arrangement to the AER for approval.

Victoria has not adopted the National Energy Customer Framework nor Part 12A of the NGR (gas connection for retail customers). Other consumer protections for gas distribution customers are contained in the commission's Energy Retail Code of Practice.

The code also includes requirements set out in legislation such as the *Gas Industry Act 2001* and the *National Gas (Victoria) Act 2008*.

## Our new enforcement framework

The Parliament of Victoria reformed our enforcement framework in 2021.<sup>8</sup> As a result, our energy codes transitioned to 'codes of practice'. This means they are now subordinate legislative instruments and no longer applied only as licence or exemption conditions.

We are now reviewing and remaking our energy codes of practice. As part of this process, we are identifying provisions to be specified as civil penalty requirements. Code provisions specified as civil penalty requirements will enable the commission to utilise the enforcement framework at Part 7 of the Essential Services Commission Act in aid of promoting the long-term interests of Victorian consumers.

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<sup>7</sup> See sections 50 and 76(3) of the *Essential Services Commission Act 2001*.

<sup>8</sup> *Essential Services Commission (Compliance and Enforcement Powers) Amendment Act 2021*.

## Relevant Victorian policy developments

The Victorian Government published its [Gas Substitution Roadmap](#) (Roadmap) in July 2022. The Roadmap outlines policies and paths to decarbonise the gas sector by supporting:

- energy efficient appliances
- electrification
- hydrogen usage
- biomethane usage.

The Roadmap recognises that fossil gas contributes significantly to Victoria's greenhouse gas emissions. Government's analysis from 2019 indicates that the gas sector contributes about 17 per cent of the State's net emissions.<sup>9</sup> Around two million Victorian households and businesses use gas for heating, cooking and hot water – more than any other state or territory in Australia.<sup>10</sup>

Victorian gas distributors have revised their access arrangement proposals for 2023–2028 as a result of the Roadmap. The AER's draft decision on those access arrangements was released in December 2022. Gas distributors' revised proposals were published in January 2023.

This review will take these developments into account. We aim to remove barriers to the aims of the Roadmap in the code, and to align it with the expectations and long-term interests of Victorian consumers.

## Recent changes to the national framework

In October 2022, [Energy Ministers](#) agreed to amendments to the National Gas Law to bring hydrogen, biomethane and other renewable gases under the national gas regulatory framework.

The Australian Energy Market Commission (AEMC) has also recently concluded two reviews related to gas distribution in Victoria:

- The DWGM distribution connected facilities [rule change](#). The final rule amends the NGR to allow the participation of distribution connected facilities in the Victorian gas market.
- The [review](#) into extending the regulatory frameworks to hydrogen and renewable gases. The final rules report was provided to Energy Ministers in November 2022.

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<sup>9</sup> Department of Environment, Land, Water and Planning, *Gas Substitution Roadmap*, July 2022, p. 20; and Department of Environment, Land, Water and Planning, 'DELWP analysis of National Greenhouse and Energy Reporting scheme data and Australian National Greenhouse Accounts', 2019.

<sup>10</sup> For the latest numbers of gas customers in Victoria see our [Victorian Energy Market Dashboard](#).

## Addressing the changes

The current review aims to align the code with those changes and proposed amendments to the national energy framework. We also aim to remove inconsistencies and duplication with that framework.

We note that any changes to the code will not affect the responsibility of other regulators in relation to gas quality standards.<sup>11</sup> The Victorian Government would also need to make the necessary regulatory changes to allow the supply of gas blends or of renewable gases prior to them becoming subject to the code.<sup>12</sup>

Our aim is that where the supply of gas blends or of renewable gases has been allowed, the code does not present a barrier and continues to operate as intended. However, we will consider any impacts that gas blends or renewable gases may have on consumers related to code obligations.

## Our proposed approach

We propose that our main focus in remaking the code will be to:

- review the connections framework for gas retail customers
- consider the requirements relating to provision of information to customers about changes to the type of gas supplied
- remove inconsistencies, redundant provisions and duplication with other instruments
- update definitions, terminology, and provide the code with an improved structure
- specify civil penalty requirements for the application of our new enforcement framework.

Making a new code will require changes to other regulatory instruments. Therefore, as part of this review we are also proposing to:

- update gas distribution licences<sup>13</sup>
- review gas distributors' reporting requirements in the Compliance and Performance Reporting Guideline<sup>14</sup>

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<sup>11</sup> See section 33 of the *Gas Safety Act 1997* and sections 45 and 46 of the *Gas Safety (Safety Case) Regulations 2018*.

<sup>12</sup> The [Order in Council](#) under section 8 of the *Gas Industry Act 2001* which currently declares that a gaseous fuel other than natural gas (as defined in that Act) is not to be gas for the purposes of Parts 3 and 4 of that Act will need to be amended if renewable gases and gas blends are to be subject to the code.

<sup>13</sup> In 2022, we updated energy retail licences and electricity distribution licences (the latter as part of the [remaking](#) of the Electricity Distribution Code of Practice). Gas distribution licences will need to be updated to align them with the remaking of the code.

<sup>14</sup> Essential Services Commission, 'Compliance and Performance Reporting Guideline – Version 7', 16 February 2022.

- repeal outdated instruments<sup>15</sup>
- make consequential amendments to other codes of practice.

We note that the proposed national reforms to extend gas regulatory frameworks to hydrogen, biomethane and other renewable gases may require amendments to other commission instruments. In particular, we may need to amend the Energy Retail Code of Practice to provide additional consumer protections in relation to renewable gases and gas blends. We propose to address issues related to other codes of practice separately.

The following chapters explain our proposed approach in more detail.

### Questions for stakeholders

1. Do you support the scope of our proposed review of the code?

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<sup>15</sup> In particular, Gas Industry Guideline No. 17 – Regulatory Accounting Information Requirements. See the chapter on [consequential amendments](#) to other instruments.

# Assessment framework

This chapter outlines the decision-making framework we must apply when making a code of practice and our proposed assessment framework for this review.

## Our objectives

In exercising our powers to make, amend or revoke codes of practice, our objective is to promote the long-term interests of Victorian consumers. In seeking to achieve this objective, we must have regard to the price, quality and reliability of essential services.<sup>16</sup>

The Essential Services Commission Act requires us to consider the following matters to the extent that they are relevant to the obligations in the code:<sup>17</sup>

- efficiency in the industry and incentives for long-term investment
- the financial viability of the industry
- the degree of, and scope for, competition within the industry, including countervailing market power and information asymmetries
- the relevant health, safety, environmental and social legislation applying to the industry
- the benefits and costs of regulation (including externalities and the gains from competition and efficiency) for consumers and users of products or services (including low income and vulnerable consumers) and regulated entities
- consistency in regulation between States and on a national basis
- any matters specified in an empowering instrument.

Further objectives we must seek to achieve are specified in the Gas Industry Act:<sup>18</sup>

- to the extent that it is efficient and practicable to do so, to promote a consistent regulatory approach between the gas industry and the electricity industry
- to promote the development of full retail competition
- to promote protections for customers, including in relation to assisting customers who are facing payment difficulties.

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<sup>16</sup> Section 8 of the *Essential Services Commission Act 2001*.

<sup>17</sup> Section 8A(1) of the *Essential Services Commission Act 2001*.

<sup>18</sup> Section 18 of the *Gas Industry Act 2001*.

## Assessment framework

We will assess the proposed changes to the code in accordance with our legislative framework, to promote the long-term interests of Victorian consumers.

Based on our legislative requirements, we have identified specific assessment criteria as being particularly relevant for this review, which we will apply when developing any amendments or new obligations in the code. The assessment criteria can be refined during the process of the review, and we welcome stakeholder views on the following criteria.

### Proposed assessment criteria

Promoting the long-term interests of Victorian energy consumers	Assessment criteria
<b>Quality, price and reliability of gas services</b>	<p>Do the proposed code changes provide a clear allocation of roles and responsibilities in relation to the quality and reliability of the supply of gas?</p> <p>Would the proposed code changes have unjustified effects on the price and affordability of gas services?</p>
<b>Incentives for efficiency</b>	<p>Do the proposed code changes promote efficiency in the delivery of gas distribution services?</p> <p>Are the costs and benefits of proposed code changes appropriately allocated between distributors, retailers and consumers?</p>
<b>Appropriate protections for consumers</b>	<p>Do the proposed code changes provide appropriate and effective consumer protections?</p>
<b>Health, safety, environmental and social factors</b>	<p>Do the proposed code changes sufficiently consider any relevant health, safety, environmental and social legislation?</p>
<b>Decarbonisation</b>	<p>Do the proposed code changes support the decarbonisation of the energy market?</p>



Regulatory and implementation considerations	Assessment criteria
<b>Proportionality</b>	Are the proposed code changes targeted, fit for purpose and proportionate to the issues they address?
<b>Clarity</b>	Do the proposed code changes promote clarity for businesses, customers and regulators, supporting effective compliance monitoring and enforcement?
<b>Consistency</b>	Do the proposed code changes promote consistency in regulation between States and between the Victorian and national frameworks, as well as between electricity and gas regulation (where appropriate)?
<b>Flexibility</b>	Are the proposed code changes flexible enough to adjust to changing market conditions and to future policy developments?

### Questions for stakeholders

2. Are the proposed criteria in our assessment framework appropriate?

## Scope and key issues

The code was deemed to be a code of practice under Part 6 of Essential Services Commission Act with effect from 1 March 2022. Before that date, compliance with the code was required as a condition of gas distribution licences.

This review proposes to update provisions in the code to improve clarity and remove any regulatory duplication, so that the obligations on gas distributors are clear and enforceable.

We are also considering existing obligations that may not be aligned with current community expectations, government policies, and updated national regulations. We are seeking initial stakeholder feedback on the following key issues, to inform the scope of our review.

### Proposed key issues for review – summary

- **Obligations on gas distributors to connect new gas customers to the network.** The rules currently require gas distributors to connect new customers when requested (provided they meet some basic requirements). A distributor may refuse to connect a customer if the customer's property is too far from the network to make a new connection economically viable. However, a distributor must connect customers requesting a new connection who live within one kilometre from the nearest main pipeline. The current rules also result in new connections being largely subsidised by the wider Victorian gas customer base as residential customers requesting a new connection are usually not required to contribute any amount for the new connection (which is not the case for electricity connections).
- **New obligations to provide information to customers about changes to the type of gas supplied.** These new obligations would require distributors to notify customers prior to a change in the type of gas supplied and to publish on their websites information about the type of gas that may be supplied through a distribution system. The Australian Energy Market Commission (AEMC) has recently recommended these obligations to be introduced in other states.
- **Retaining metering requirements for non-declared parts of the Victorian gas network.** Recent national rule changes have clarified that the national metering rules (administered by the Australian Energy Market Operator) only apply to declared parts of Victoria's gas distribution network. This means that these national metering requirements do not apply in places such as East Gippsland, South Gippsland, the Grampians, Mildura, and the regional networks operated by Gas Network Victoria. Following these changes, it may be beneficial to clarify the metering requirements in Victoria, including whether the metering requirements in the code should continue to apply to non-declared parts of Victoria's network.

- **Introducing minimum customer obligations when using the gas network.** Under the current framework, unlike for electricity, there are limited obligations for customers to use the gas distribution network in an appropriate manner (such as requirements not to tamper with meters, bypass the gas meter, or to provide safe access for a distributor to inspect or repair parts of the distribution system). Customer obligations could be set out in the code, similar to what is in place for electricity customers.

We have also identified obligations that we consider may require review, either to provide clarity for gas distributors or to remove duplication with other regulations.

The following sections describe these key issues in further detail. We welcome feedback from stakeholders about the possible scope for reform on these issues.

## **Reviewing obligations to connect new gas customers to the network**

### **Current connection obligations**

The code sets out the basic obligations that distributors must follow when a new connection is requested.

These obligations determine that a distributor must connect a customer's gas installation to its distribution system, provided that the customer meets some basic requirements.<sup>19</sup>

A distributor may refuse to connect a customer if the customer's property is in an area where gas is not currently available, or too far from the network to make a new connection economically viable. However, a distributor must connect customers requesting a new connection who live within one kilometre from the nearest main pipeline.<sup>20</sup>

The code also provides timeframes for the completion of connection works and for the provision of information related to requests for new connections or changes to existing connections.<sup>21</sup>

Importantly, the rules for new gas connections in Victoria are separate from the national rules. Part 12A of the NGR, which also regulates the provision of gas connection services between customers

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<sup>19</sup> The customer must have a contract with a retailer for the purchase of gas (or with the distributor for the haulage of gas), comply with regulatory requirements and provide a notice of installation or completion from a gas installer when requested. See clause 3.1(a) of the Gas Distribution System Code of Practice.

<sup>20</sup> See clauses 3.1(c) and 3.1(f)(i) of the Gas Distribution System Code of Practice.

<sup>21</sup> See clause 3.1(b) to (f) of the Gas Distribution System Code of Practice.

and distributors, does not apply in Victoria.<sup>22</sup>

The regulation of charges distributors are allowed to request for new connections is also covered by each distributor's [access arrangements](#) approved by the AER (in particular, the extensions and expansions requirements).

## Reviewing connection obligations

Customers contribute to the cost of works to connect to the gas distribution network only where the costs of connecting them are higher than the revenue expected through future tariffs.<sup>23</sup>

However, in practice, most Victorian residential gas connections occur without any charges to the customer – unlike electricity connections where customers usually pay upfront connection fees. This is, in part, due to how the code may be currently limiting a distributor's ability to include the full incremental operating and maintenance costs and overhead rates when calculating customer contributions for new connections. It also determines specific periods of analysis for these calculations, and prohibits the incremental cost associated with upstream reinforcement of the distribution system being passed on to new residential customer connections.<sup>24</sup>

We also note that the demand for new gas connections may change in the coming years as less houses in new developments connect to the gas network, and houses that do connect may connect fewer gas appliances, leading to lower consumption per house.<sup>25</sup>

We propose to review these obligations on distributors to connect new customers to the network, and the method for calculating how much customers are to contribute for new connections.<sup>26</sup>

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<sup>22</sup> Part 12A and Part 21 of the NGR were inserted into the NGR by the National Gas (National Energy Retail Law) Amendment Rule 2012. That rule was made by the South Australian Minister under section 294C of the National Gas Law (NGL). Section 294C of the NGL was inserted by the *Statutes Amendment (National Energy Retail Law) Act 2011* (SA). These amendments to the NGL by that Amending Act do not enter into force in Victoria until Victoria becomes a participating jurisdiction in the National Energy Retail Law (NERL) – see clause 88 of Schedule 3 to the NGL. To date Victoria has not chosen to participate in the NERL. As a result, Part 12A of the NGR has not become part of the NGR as they apply in Victoria.

<sup>23</sup> See Schedule 2 of the Gas Distribution System Code of Practice.

<sup>24</sup> See clause 4 of Schedule 2 of the Gas Distribution System Code of Practice.

<sup>25</sup> Note that, in response to the Roadmap, Australian Gas Networks reduced their proposed growth capital expenditure for new connections by \$63 million (28% reduction), see their [revisions to capital expenditure](#) (p. 8); AusNet Services reduced their proposed capital expenditure for new residential connections by \$59 million (28% reduction), see their [addendum to proposal](#) (p. 31); and Multinet reduced their proposed growth capital expenditure by \$22 million (19% reduction), see their [revisions to capital expenditure](#) (p. 8).

<sup>26</sup> See clause 3.1(c) and Schedule 2 of the Gas Distribution System Code of Practice.

### Questions for stakeholders

3. Do you consider the current connections framework for gas retail customers appropriate? Why or why not?
4. What options should we consider when reviewing the connections framework for gas retail customers?

## Provision of information to customers about changes in the type of gas supplied

The AEMC completed its review into extending the national regulatory frameworks to hydrogen and renewable gases in November 2022.<sup>27</sup> The AEMC recommended the introduction of new rules in the National Energy Retail Rules (NERR) requiring distributors to:

- notify customers prior to a change in the type of gas supplied by a distribution system
- publish on its website information on the type of gas that may be supplied through a distribution system and, if there is a change to the type of gas, the transition date.<sup>28</sup>

The primary aim of these new rules is to provide transparency for customers on the type of gas they are consuming.

The new rules would take effect once changes to the NERR are made by the South Australian Minister, following the passing of amendments to the National Gas Law agreed by Energy Ministers.<sup>29</sup>

We note that the potential introduction of hydrogen or other gases in distribution networks is subject to decisions yet to be made by the Victorian Government.<sup>30</sup> However, given the AEMC's recent review, and that the NERR does not apply in Victoria, we are seeking initial stakeholder feedback on whether to introduce equivalent rules in the code.

If other gases were allowed to be introduced in distribution networks in Victoria, introducing these rules in the code would align consumer protections in relation to a potential change of gas type with those proposed for the national regulatory framework.

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<sup>27</sup> AEMC, Review into extending the regulatory frameworks to hydrogen and renewable gases, [Final rules report](#), November 2022.

<sup>28</sup> See proposed Part 8B – Notification of change of gas type in the AEMC's [recommended final rules](#).

<sup>29</sup> See Energy Ministers, [Extending the national gas regulatory framework to hydrogen blends and renewable gases](#).

<sup>30</sup> See footnote 12.

### Questions for stakeholders

5. Do you agree with the introduction of obligations to provide information to customers about changes in the type of gas supplied?

6. Are there other options to introducing equivalent obligations proposed for the National Energy Retail Rules that we should consider?

## Retaining metering requirements for non-declared parts of the Victorian gas network

The code contains a number of metering obligations distributors are required to follow. These obligations include:

- provision of metering installations
- maintenance of an installation database for each meter
- security of metering installations
- testing, correction, sealing, labelling and certification of meters
- collection and access to metering data.

These obligations substantially overlap with metering requirements in the NGR.<sup>31</sup>

There may be benefit in providing clarity to the industry of its metering obligations, by removing the metering requirements in our code which overlap with the national framework (making it clear that the metering obligations are set out in the NGR).

However, the NGR does not apply to non-declared distribution systems, leaving a gap in obligations if we were to remove the metering requirements from our code. This may result in gas meters in places such as East Gippsland, South Gippsland, the Grampians, Mildura, and the regional networks operated by Gas Network Victoria not being subject to the same requirements for gas meters in other areas (as currently required by the code).

This would occur as the AEMC's Declared Wholesale Gas Market distribution connected facilities [rule change](#) has recently restructured and strengthened the metering framework under the NGR rules. It has also changed the definition of 'declared distribution system' to a narrower definition

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<sup>31</sup> See the Declared Wholesale Gas Market rules 290-316 in the NGR. There are some exceptions: clause 6.5(a) of the Gas Distribution System Code of Practice, which is a 'declared metering requirement' for the purposes of rules 298(2) and 304(1)(a) of the NGR, as modified by the [Ministerial Order](#) of 28 June 2013; and clause 7 of the Gas Distribution System Code of Practice, which is broader than the corresponding provisions in the NGR (rule 299).

than the current one.<sup>32</sup> The new definition of ‘declared distribution system’ in the NGR will result in the Declared Wholesale Gas Market rules not applying to networks which are:

- not connected directly or indirectly to a declared transmission system
- indirectly connected to a declared transmission system but by means of a pipeline that does not form part of a declared transmission system.

Table 1 lists the distribution systems which are covered by the current definition of ‘declared distribution system’ and those which will be covered following the commencement of the Declared Wholesale Gas Market distribution connected facilities rules.

**Table 1: Current vs new definition of ‘declared distribution system’ in Part 19 of the National Gas Rules**

Current declared distribution systems (DDS)	DDS definition after DWGM rule change (from 1 May 2024)
<b>Includes:</b>	<b>Includes:</b>
AGN’s main distribution network	AGN’s main distribution network
Multinet’s main distribution network	Multinet’s main distribution network
AusNet’s main distribution network	AusNet’s main distribution network
AGN’s Bairnsdale and Paynesville network (East Gippsland)	<b>Does not include:</b>
AusNet’s Ararat, Avoca, Stawell and Horsham network (Grampians)	AGN’s Bairnsdale and Paynesville network (East Gippsland)
Multinet’s Korumburra, Leongatha, Inverloch and Wonthaggi network (South Gippsland)	AusNet’s Ararat, Avoca, Stawell and Horsham network (Grampians)
<b>Does not include:</b>	Multinet’s Korumburra, Leongatha, Inverloch and Wonthaggi network (South Gippsland)
AGN’s Mildura network	AGN’s Mildura network
Gas Network Victoria’s regional networks (Robinvale, Swan Hill, Kerang, Nathalia, Marong, Maldon, Heathcote, Invermay, Terang, Lakes Entrance and Orbst)	Gas Network Victoria’s regional networks (Robinvale, Swan Hill, Kerang, Nathalia, Marong, Maldon, Heathcote, Invermay, Terang, Lakes Entrance and Orbst)

We are seeking stakeholder views on whether these non-declared distribution systems should be subject to metering requirements, either by:

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<sup>32</sup> The [new definition and new rules](#) will commence on 1 May 2024.

- continuing to be subject to the current metering requirements in the code
- being required to comply with the same Declared Wholesale Gas Market metering requirements as declared distribution systems.

We are also seeking stakeholder views on the adequacy of current metering requirements in the event they are retained.

### Questions for stakeholders

7. Should we remove the overlap of metering obligations in the code and in Part 19 of the National Gas Rules?

8. What options to the regulation of metering requirements for non-declared distribution systems should we consider?

## Introducing minimum customer obligations when using the gas network

The code currently sets out basic requirements for deemed distribution contracts.

Deemed distribution contracts are contracts which are considered to have automatically been formed between a gas distributor and retail customers. Gas distribution companies may submit terms and conditions of these contracts to the commission, who must approve them.<sup>33</sup> The code sets out several terms and conditions which a distributor must or must not include in these contracts.<sup>34</sup>

However, there are currently no deemed distribution contracts between gas distributors and customers in Victoria.

The lack of deemed distribution contracts and the lack of customer obligations in the code could result in uncertainty for customers and gas distributors, as it becomes unclear what customers' minimum obligations are to use gas supply in an appropriate manner and what rights and obligations distributors have in rectifying inappropriate uses of their networks. This can cause

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<sup>33</sup> See section 48 of the *Gas Industry Act 2001*. Deemed distribution contracts are different and separate from deemed contracts for supply and sale of gas between *retailers* and retail customers (under section 46 of the *Gas Industry Act 2001*).

<sup>34</sup> Clause 11 of the Gas Distribution System Code of Practice sets out customer and distributor obligations which may be included in deemed distribution contracts, as well as limitations on liability and indemnity clauses that a distributor must not include in its deemed distribution contract.



difficulties, as a distributor cannot disconnect a customer who has inappropriately accessed or used gas as allowed under the code or any other regulatory requirement.<sup>35</sup>

This contrasts with electricity, where customer obligations are set out in the Electricity Distribution Code of Practice, as are distributors' obligations when they become aware that customers are not using the network appropriately. While electricity customers are not subject to enforcement by the commission, electricity distributors are required to notify customers if they are not complying with the code. This allows the customer to make changes to their electricity connection, so that it can operate effectively with the distribution network.<sup>36</sup>

Introducing minimum customer obligations in the code would clarify that customers must not engage in acts which may:

- endanger the safety of gas supply and of gas networks
- result in gas being taken without appropriate measurement or payment
- cause damage to gas networks and to third parties.<sup>37</sup>

Some of these prohibitions are also included in the Gas Industry Act, which allows a gas retailer to arrange the disconnection of a customer who does not comply with certain conditions.<sup>38</sup>

We are seeking stakeholder feedback on whether to introduce these customer obligations directly into the code, similar to what is currently in place for electricity.

### Questions for stakeholders

9. Do you consider that the current arrangements for deemed distribution contracts and customer obligations results in uncertainty for customers and industry that is burdensome or harmful?

10. Should we include customer obligations and prohibitions in the code?

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<sup>35</sup> See clause 4.1(a)(iv) of the Gas Distribution System Code of Practice.

<sup>36</sup> See clauses 7 and 15 of the Electricity Distribution Code of Practice.

<sup>37</sup> See clause 11.1 of the Gas Distribution System Code of Practice for a list of customer obligations which may currently be included in deemed distribution contracts.

<sup>38</sup> See sections 48DO-48DT and 152 of the *Gas Industry Act 2001*.

## Removing duplication with other regulatory instruments

A number of provisions in the code are duplicated or overlap with provisions in other regulatory instruments. We set out below the key provisions we consider may be reviewed so that such duplication is removed.

### Heating values

Heating value is a measure of the energy density of a gas. Consumer gas meters only measure the volume of gas passed through them, but gas consumption is billed on the energy used. The volume of gas is adjusted with a pressure factor and multiplied by the heating value to obtain energy used.

The code currently determines the application of a single daily statewide heating value to all non-daily metered (small and residential) customers.<sup>39</sup>

In November 2021, the Victorian Minister for Energy [requested](#) AEMO to implement zonal heating values for all small and residential customers. This would allow for more precise measurements of the energy consumed by these customers.

We have been working with AEMO to coordinate changes needed to implement zonal heating values. As part of this work and of this review, we consider that Part D of Schedule 1 of the code may be removed. Its removal would streamline regulation as heating values would then be regulated solely by AEMO's Wholesale Market Metering Procedures (Victoria).

### Questions for stakeholders

11. Do you have any views on the removal of Part D of Schedule 1 from the code?

### Technical standards

Schedule 3 of the code sets out the technical Australian Standards relevant to gas distribution systems. The details of these standards are set out in the most recent publications by the [Standards Association of Australia](#).

Other instruments such as the National Gas Rules and the *Gas Safety Act 1997* also regulate technical standards applicable to gas distribution networks. Our approach in reviewing the code is to remove any unnecessary duplication of regulation in this area.

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<sup>39</sup> Schedule 1, Part D of the Gas Distribution System Code of Practice.

Where relevant technical standards are referred to in obligations in the code, we intend to retain them and update any references if needed. Otherwise, we note that Energy Safe Victoria, the state's technical regulator responsible for electricity, gas and pipeline safety in Victoria, monitors and enforces compliance with the technical standards relevant to gas distribution and supply. We are therefore considering whether the identification of technical standards referred to in Schedule 3 (and not associated with other code obligations) should be retained.

### Questions for stakeholders

12. Do you have any views on the removal of Schedule 3 from the code?

## Clarifying obligations

### Disconnection and reconnection

The code provides that a distributor may disconnect a customer:

- at the direction in writing of a retailer
- where the customer requests a disconnection
- where directed under the Gas Safety Act <sup>40</sup>
- if a customer obtains supply of gas other than in accordance with the code or any other regulatory requirement
- in circumstances in which curtailment or interruption is permitted.

We note that the code does not define 'disconnection'. Nor does it address the difference between disconnections (for example, using locks or plugs at a meter to prevent the withdrawal of gas) and abolishments (for example, the removal of a service line and meter to prevent the withdrawal of gas at the delivery point).

Victorian gas distributors have proposed to specify disconnection and service abolishment (or meter and service removal) as distinct services in their latest access arrangement proposals.<sup>41</sup> We consider that these proposals may require clarification in the code.

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<sup>40</sup> The reference in clause 4.1(a)(iii) of the Gas Distribution System Code of Practice to 'the Director of Energy Safe' is outdated.

<sup>41</sup> [Australian Gas Networks](#) and [Multinet](#) are proposing a specific 'service abolishment – residential' ancillary reference service for \$950.00 in their revised access arrangement proposals to the AER. [AusNet](#) is proposing a 'meter and service removal' ancillary reference service for \$822.44 in their revised access arrangement proposal to the AER.

### Questions for stakeholders

13. Are any clarifications needed in relation to disconnection and reconnection obligations?

### Guaranteed Service Levels

Guaranteed Service Levels are service standards applicable to gas distributors. When a distributor fails to meet these standards, it must make a payment to an affected customer. They are intended to be an acknowledgement of poor service. They also provide an incentive for gas distributors to improve service.

The NGR do not specify any Guaranteed Service Levels. They are set out in the code and contemplated by the standard terms and conditions in access arrangements. This review intends to keep the current Guaranteed Service Levels in the code. However, we consider that it may be helpful to clarify the timeframes for when a Guaranteed Service Levels payment must be made.

The code currently determines that a current Guaranteed Service Levels payment must be made 'as soon as practicable'.<sup>42</sup> This contrasts with more specific timeframes for current Guaranteed Service Levels payments related to electricity distribution. We consider that clearer timeframes may provide more clarity both for distributors and for customers.

### Questions for stakeholders

14. Should we specify clearer timeframes for when Guaranteed Service Levels payments must be made?

### Distribution connected facilities

The AEMC recently made a [final rule](#) that amends the NGR to allow facilities which produce, store or blend gases to connect directly to distribution systems and to participate in Victoria's gas market. Currently, such facilities can only connect to the gas transmission system. The new rules will come into effect on 1 May 2024.

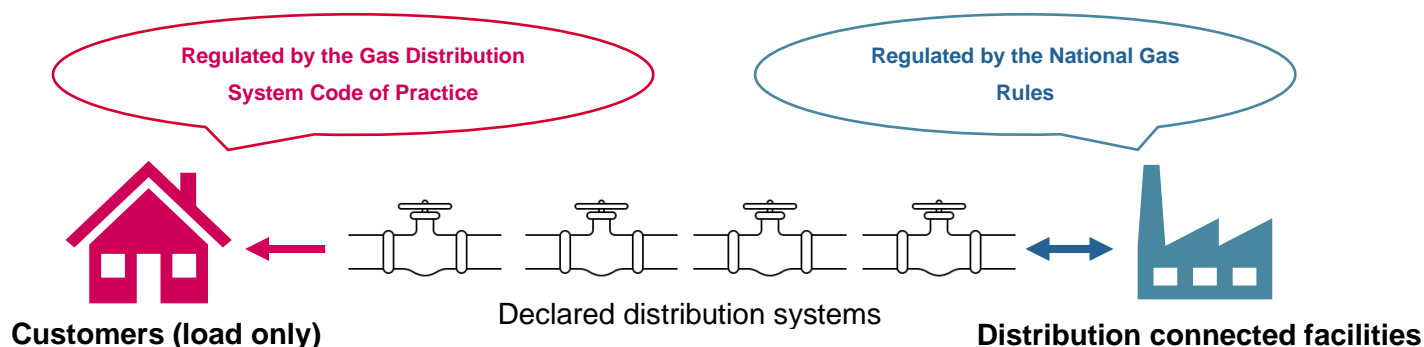
As part of the AEMC's final rule, the *pipeline interconnection principles* have been set out as the connections framework for distribution connected facilities.<sup>43</sup> This means that while state regulations (such as the Gas Distribution System Code of Practice) regulate the connection of retail customers to distribution systems, the NGR will regulate the connection of distribution

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<sup>42</sup> Clause 2.2(b) of the Gas Distribution System Code of Practice.

<sup>43</sup> See Schedule 1, Part 17, Division 3 of the NGR, as [amended](#) by the National Gas Amendment (DWGM Distribution Connected Facilities) Rule 2022.

connected facilities to distribution systems. The figure below illustrates how each set of regulations apply to the declared distribution systems.



We may need to make consequential changes to the code due to the recent amendments to the national regulatory framework.<sup>44</sup> For instance, we may need to include a definition of ‘injection point’ in the code or to amend the definition of ‘transfer point’ to account for distribution connected facilities. We are seeking stakeholder views on any further changes that may be needed.

#### Questions for stakeholders

15. Are there any further consequential changes to the code required due to the recent amendments to the National Gas Rules relating to distribution connected facilities?

#### Unaccounted for gas benchmarks

Unaccounted for gas (UAFG) is the difference between the measured quantity of gas entering the gas distribution system and the gas delivered to customers. This difference is the result of a variety of factors, including fugitive emissions (system leakage), metering errors, variations in the heating value of gas, data quality and theft.

In Victoria, UAFG is managed via a benchmark process set out in the code. The UAFG benchmarking process is a mechanism to facilitate the financial reconciliation between energy retailers and distributors. Retailers are required to purchase sufficient gas to cover customer consumption and actual UAFG. An annual reconciliation between gas distributors and retailers is then carried out to settle financial obligations to each other, based on whether actual UAFG is over or under the benchmarks.

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<sup>44</sup> For example, we may consider including a definition of ‘injection point’ or amending the current definition of ‘transfer point’ in the Gas Distribution System Code of Practice.

In December 2022, we set [new benchmarks](#) applicable to the 2023–2028 period. As part of that process, we received submissions highlighting that lowering UAFG has environmental benefits (due to lower fugitive methane emissions) as well as financial impacts.<sup>45</sup>

We highlighted that a decision by the commission to lower UAFG benchmarks to promote better climate outcomes (in addition to being beyond the scope of narrow purpose of these benchmarks) could have capital investment consequences disconnected from decisions already made by the AER regarding the networks' revenue. We also considered whether additional large capital expenditure on Victorian gas networks (recovered from gas consumers) would be efficient in the context of Victorian Government policy such as the Gas Substitution Roadmap.<sup>46</sup>

Recognising the strong concerns of the community that climate change mitigation objectives should be a factor when the commission considers regulatory changes affecting the Victorian gas network, we intend to consider the appropriateness of our role in setting these benchmarks for future periods. This is particularly relevant as AEMO currently supports the UAFG reconciliation process in Victoria, and the AER oversees investments proposed by Victorian gas distributors.<sup>47</sup>

### Questions for stakeholders

16. What factors should we account for when considering our role in the framework for setting unaccounted for gas benchmarks in Victoria?

### Name and structure of the code

The code has been known as the 'Gas Distribution System Code' and more recently the 'Gas Distribution System Code of Practice'. As part of remaking the code, we are considering simplifying its name to 'Gas Distribution Code of Practice'.

The review also seeks to give the new code an improved and more coherent structure. The aim is to make the code more user-friendly and easier to navigate. Similar restructuring was done when we remade the [Energy Retail Code of Practice](#) and the [Electricity Distribution Code of Practice](#).

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<sup>45</sup> Submissions are available at '[Unaccounted for gas benchmarks review 2022](#)'.

<sup>46</sup> Essential Services Commission, *Review of Unaccounted for Gas Benchmarks: Final decision*, 19 December 2022, p. 4.

<sup>47</sup> In the ACT, NSW and SA gas distributors are required to directly contract UAFG volumes. UAFG is included in their allowed operating expenditure under access arrangements approved by the AER and recovered via network charges. Gas distributors may over or under recover their actual UAFG costs depending on whether actual UAFG rates are below or above forecast rates. Despite the differences with the UAFG benchmarking process in Victoria, under both frameworks gas distributors are only rewarded or penalised for changes in the relative UAFG volumes, or the benchmark rate. See: Australian Energy Regulator, *Gas network performance report*, 2022, p. 59.

# Enforcement, compliance and reporting obligations

Our new enforcement framework provides the commission with a stronger set of tools to make gas distributors comply with their obligations.

Together with remaking the code, we propose to review gas distributors' compliance and performance reporting obligations.

We will also review the provisions in the code specified as civil penalty requirements. Designation of a provision as a civil penalty requirement means that potential contraventions of that provision can be enforced through the new enforcement framework.<sup>48</sup>

## Civil penalty requirements

The code currently lists few provisions as civil penalty requirements. These include:

- the obligation to make guaranteed service level payments to customers as soon as practicable
- life-support equipment protections.<sup>49</sup>

We note that some key obligations of the code, such as those related to the operation of distribution systems, metering, connections and disconnections, are not specified as civil penalty requirements.

We propose to review the obligations specified as civil penalty requirements, and welcome stakeholder feedback on issues to consider on whether or not to assign other obligations as civil penalty requirements.

## Reporting obligations

Our Compliance and Performance Reporting Guideline requires gas distributors to report any prescribed potential or actual breach of code provisions that has occurred, or is reasonably likely to occur. Gas distributors are currently required to comply with the Guideline under licence conditions.<sup>50</sup>

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<sup>48</sup> The new enforcement framework was established by the *Essential Services Commission (Compliance and Enforcement Powers) Amendment Act 2021*. It provides the same toolkit that is commonly available to most modern regulators. This includes the potential for infringement notices, enforceable undertakings and civil litigation. Remedies available as part of civil litigation may include monetary penalties, as well as compliance orders, injunctions, enforceable undertakings, and adverse costs orders.

<sup>49</sup> See clause 1.6 of the Gas Distribution System Code of Practice.

<sup>50</sup> Essential Services Commission, Compliance and Performance Reporting Guideline – Version 7, 16 February 2022.

We propose to move gas distributors' reporting obligations into a Schedule of the code. This will streamline regulation by consolidating obligations in a single instrument. A similar process has been recently undertaken in relation to electricity distributors' reporting obligations.<sup>51</sup>

We also intend to review gas distributors' compliance and performance reporting obligations to align them with obligations in the new code.

### **Questions for stakeholders**

17. What factors should we consider when assessing whether or not to assign obligations in the code as civil penalty requirements?

18. Do you have any views on our proposed approach in relation to compliance and performance reporting obligations?

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<sup>51</sup> Essential Services Commission, 'Distributor reporting obligations – Electricity Distribution Code of Practice update: Final decision', 22 December 2022.



# Updating gas distribution licences

We plan to review and vary gas distribution licences in conjunction with the remaking of the code.

There has not been a comprehensive review of gas distribution licences for some time, resulting in many current definitions, terms and conditions being outdated.

We will address any provisions which have been superseded by other regulatory changes, including removing any which are no longer required.

The proposed variations will:

- remove conditions which have been superseded by developments in the regulatory framework
- remove conditions that relate to matters common to all distributors and which may be more appropriately addressed in the code
- update outdated terms, definitions and references to other regulatory instruments
- review remaining conditions so that they are fit for purpose and aligned with the new code.

Licences may be varied by agreement between the commission and the licensee, or by a notice issued by the commission.<sup>52</sup>

We highlight below some of the changes we are proposing.

## Variation and revocation

We propose simplifying the clauses on licence variation by referring to the commission's power to vary the licence in accordance with sections 38 and 38A of the Gas Industry Act.

Similarly, we propose that licence revocation clauses will specify that the commission may revoke a licence:

- at the request of, or with the consent of, the licensee; or
- in accordance with the Gas Industry Act.

This reflects changes in our enforcement framework. The Essential Services Commission Act was amended on 1 December 2021 which saw the removal of enforcement orders and replacement of that tool with a number of other enforcement mechanisms. Energy retail and electricity distribution licences have also been updated and simplified in light of this change.

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<sup>52</sup> Section 38(1) of the *Gas Industry Act 2001*.

We note that the recently published [Guideline 5 \(2022\): Revocation of electricity or gas licences](#) describes the commission's approach to exercising its revocation powers.

## **Derogations**

The only licence that currently contains derogations is AGN's Mildura licence. However, these derogations refer to a version of the code that has been superseded.

The transition to codes of practice means the code is no longer applied as a licence condition. Therefore, we consider that if any flexibility for specific distribution systems is needed it should be in the code itself rather than a derogation in a distribution licence.

## **Next steps**

We will consult gas distributors directly on proposed licence variations.

New proposed draft distribution licences will then be consulted on together with a draft of the new code.

## Consequential amendments to other instruments

Remaking the code will require consequential amendments to other instruments. In this chapter we outline our assessment of potential amendments to other commission instruments.

### Gas Industry Guideline No. 17

[Gas Industry Guideline No. 17](#): Regulatory Accounting Information Requirements specifies the commission's requirements for the collection and recording of business data by gas distributors.

This Guideline has not been updated since 2008, when the responsibility for economic regulation of Victorian gas distributors was transferred from the commission to the AER. It remained in force during a transitional period until the first access arrangements approved by the AER for Victorian gas distributors.<sup>53</sup>

The AER now collects comprehensive regulatory accounting information from Victorian gas distributors. This is done annually by regulatory information notices (RINs), as part of the AER's performance monitoring functions. Gas distributors are also required to maintain separate accounts in respect of each of their covered pipeline services, as required by the ring-fencing provisions of the National Gas Law.<sup>54</sup>

We consider that the Guideline is now effectively redundant and propose that it be repealed.

### Energy Retail Code of Practice

The Energy Retail Code of Practice contains a few references to the code, particularly in provisions concerning life-support equipment. Remaking the code will require consequential amendments to the Energy Retail Code of Practice to align it with new clause numbering.

#### Questions for stakeholders

19. Can you identify any other changes we may need to make as a consequence of remaking the Gas Distribution System Code of Practice?
20. Are there any other issues we should consider as part of this review?

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<sup>53</sup> See section 37 of the *National Gas (Victoria) Act 2008*. The first AER-approved access arrangements for Victorian gas distributors took effect on 1 July 2013.

<sup>54</sup> See Chapter 4, Part 2 of the National Gas Law.