



Review of the *Electricity Industry Customer Transfer Code 2004*

Final Recommendations Report

Department of Finance | Public Utilities Office

November 2015

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Executive summary

This report, the Final Recommendations Report, presents the final recommendations of the Department of Finance, Public Utilities Office on its review of the *Electricity Industry Customer Transfer Code 2004* (the **Transfer Code**). The Public Utilities Office conducted the review on behalf of the Minister for Energy (the **Minister**). The Transfer Code is made by the Minister under section 39 of the *Electricity Industry Act 2004* (the **Industry Act**).

The Transfer Code facilitates the transfer of contestable customers between competing electricity retailers. It has not been reviewed or amended since its implementation in 2004.

The objectives of the review were to address inconsistencies of the Transfer Code with the *Electricity Industry (Metering) Code 2012* (the **Metering Code 2012**), assess industry proposed amendments and the suitability of the Transfer Code to meet its objectives.

Following a review undertaken by the former Office of Energy, the *Electricity Industry Metering Code 2005* (the **Metering Code 2005**)¹ was repealed and replaced by the Metering Code 2012. The Metering Code 2012 is, in effect, the Metering Code 2005 with amendments.

The Transfer Code and the Metering Code 2012 are interconnected owing to the role metering data and meter provision play in the transfer of contestable customers. The Public Utilities Office has identified required amendments to the Transfer Code to ensure it is consistent with the Metering Code 2012.

The Transfer Code should be consistent with the Metering Code 2012 to provide certainty to licensees about their compliance obligations. If the inconsistencies are not addressed, electricity network operators and retailers may experience unnecessary operational and licence compliance risks and costs. Inconsistencies also make it difficult for the Economic Regulation Authority (the **Authority**) to enforce compliance.

On 29 April 2014, the Public Utilities Office published an Issues Paper that invited public comment on options to improve the effectiveness and efficiency of the Transfer Code. Six submissions were received.

¹ Between June 2010 and August 2011, the former Office of Energy reviewed the Metering Code 2005. The Office published a Final Recommendations Report in August 2011, which detailed final recommended Code amendments for the Minister's consideration. The Public Utilities Office managed the drafting of the Code amendments approved by the Minister. Amendments were gazetted in December 2012. Full details of the Metering Code 2005 review, including all published documents, can be found on the Department of Finance website at <http://www.finance.wa.gov.au/cms/content.aspx?id=14551>.

On 10 October 2014, the Public Utilities Office published a Draft Recommendations Report that invited public comment on proposed amendments to the Transfer Code. The Draft Recommendations Report took into consideration the submissions received on the previous Issues Paper. Six submissions were received on the Draft Recommendations Report².

Following receipt of these submissions, the Public Utilities Office has prepared the Final Recommendations Report, detailing the final recommended Transfer Code amendments to be submitted to the Minister for consideration and approval.

The main recommendations proposed by the Final Recommendations Report are:

- retaining the current definition of “trading day” (8.00 am to 8.00 am) and not aligning it with the Metering Code 2012 definition of “day” (midnight to midnight);
- increasing the caps on the number of standing data requests and historical consumption data requests an electricity retailer can submit to a network operator each day from 20 to 100; and
- retaining the existing cap on the number of customer transfer requests an electricity retailer can submit each day.

The Public Utilities Office considers that amending the Transfer Code definition of “trading day” (to align it with the definition of “day” in the Metering Code 2012) is not justified at this time. This view takes into account the estimated system change costs that would be incurred by the Independent Market Operator (the **Market Operator**) and Western Power, and the relatively low transfer rate on the South West Interconnected System at present.

In recommending the increase to the data caps, the Public Utilities Office has taken into consideration the current level of competition in the electricity retail market, the ability of current systems to provide for larger numbers of data services, and the costs involved in upgrading systems to process more requests.

The Public Utilities Office has decided to not recommend an increase to the cap on the number of customer transfer requests that can be submitted by a retailer per day. This is because the historic transfer rate indicates that the Transfer Code is operating effectively in providing for those rare times when a retailer submits more than 20 transfer requests with the same nominated transfer date.

Should the government support the introduction of electricity full retail contestability or the lowering of the contestability threshold in the future, the Public Utilities Office would likely recommend removing both the data and transfer request caps, and amending the definition of “trading day” to align it with the definition of “day” in the Metering Code 2012.

The final recommendations arising from the review of the Transfer Code support greater efficiency in the existing market and do not preclude longer-term efficiency gains and reform options that may arise from the Electricity Market Review process.

² Submissions on the Issues Paper and Draft Recommendations Report are available on the Department of Finance website: <http://www.finance.wa.gov.au/cms/content.aspx?id=17838>.

Table of Contents

1. Introduction	8
1.1 Background	8
1.2 Objectives of the review	9
1.3 Scope of the review	9
1.4 Work program and timetable	10
1.5 Issues Paper and submissions	10
1.6 Draft Recommendations Report and submissions	10
1.7 Purpose and structure of the Final Recommendations Report	11
1.8 Information requests	12
2. Part 1 – Preliminary	13
2.1 Application	13
2.2 Code definitions	13
2.3 Meaning of “publish”	18
3. Part 2 - Objectives and arm’s length treatment	20
3.1 Network operator must treat retailers at arm’s length	20
4. Part 3 – Information provision	21
4.1 Submitting a data request	21
4.2 Verifiable consent required for historical consumption data	21
4.3 The communication rules and providing data to a retailer	22
4.4 Network operator’s obligations following receipt of a valid data request	22
4.5 Charges for standing data and historical consumption data	23
5. Part 4 – Transfer of contestable customers	24
5.1 Submitting a customer transfer request	24
5.2 Retailer’s representations and warranties in relation to a transfer request	25
5.3 Nominated transfer date	26
5.4 Network operator obligations following receipt of a valid transfer request	28
5.5 The transfer – actual readings	29
5.6 Effect of a transfer on an access contract	30
5.7 Rectifying an erroneous transfer	31
5.8 Network operator performance reports	32
5.9 Supplier of last resort	33
5.10 Consistency with the Customer Code	33
6. Part 5 – Communication rules	35
7. Part 6 – Notices	35

8. Part 7 – Dispute resolution.....	35
8.1 Referral of disputes to the Authority.....	35
8.2 Costs of disputing parties	36
9. Part 8 – Code amendment	36
10. Code Appendices.....	37
11. Other matters raised by stakeholders.....	37
11.1 Retailer objections to a transfer	37
Appendix – Final Recommendations.....	39

Abbreviations

This list contains the abbreviations used in the Final Recommendations Report.

Abbreviation	Full Title
Access Code	<i>Electricity Networks Access Code 2004</i>
Authority	Economic Regulation Authority
Customer Code	<i>Code of Conduct for the Supply of Electricity to Small Use Customers</i>
Energy Arbitrator	Western Australian Energy Disputes Arbitrator
Industry Act	<i>Electricity Industry Act 2004</i>
Market Operator	Independent Market Operator
Metering Code 2005	<i>Electricity Industry Metering Code 2005</i>
Metering Code 2012	<i>Electricity Industry (Metering) Code 2012</i>
Minister	Minister for Energy
MSLA	Model Service Level Agreement
MWh	Megawatt hours
National Energy Retail Law	<i>National Energy Retail Law (South Australia) Act 2011</i>
NECF	National Energy Customer Framework
NEM	National Electricity Market
SoLR	Supplier of Last Resort
Transfer Code	<i>Electricity Industry Customer Transfer Code 2004</i>
WEM	Wholesale Electricity Market

1. Introduction

1.1 Background

The (then) Minister established the Transfer Code in 2004, under section 39 of the Industry Act.

The Transfer Code promotes electricity retail competition by establishing:

- the rules governing the use of information about contestable customers;
- the processes for transferring customers between retailers; and
- retailer and network operator obligations when transferring customers.

A contestable customer is a customer who is able to choose their retailer. Full retail contestability exists outside the South West Interconnected System.

Within the South West Interconnected System, which includes Western Power's network, customers who consume less than 50 megawatt hours (**MWh**) of electricity per year (equivalent to an annual bill of about \$12,600³) are non-contestable⁴. These customers can only be supplied by Synergy⁵. Due to the consumption threshold for contestability, a residential customer is unlikely to be a contestable customer (as at 30 June 2014, 0.03 per cent of residential customers in the South West Interconnected System were contestable⁶).

Horizon Power supplies regional areas outside the South West Interconnected System. Although all of Horizon Power's customers are contestable, and other electricity retailers can supply those customers, no other retailer has operated in these areas until recently. In August 2014, Alinta Energy was granted a licence to retail electricity to customers in the Pilbara consuming more than 160 MWh of electricity per year.

The Transfer Code applies to electricity network operators and retailers, if it is a term or condition of their licence that they comply with the Transfer Code. The Authority grants and enforces compliance with licences under Part 2 of the Industry Act.

³ Economic Regulation Authority, *2014 Annual Performance Report Energy Retailers*, p.39. <http://www.erawa.com.au/electricity/electricity-licensing/performance-reports>.

⁴ The contestability threshold is prescribed by the *Electricity Corporations (Prescribed Customers) Order 2007*.

⁵ Under section 54(2) of the *Electricity Corporations Act 2005*, Western Power is only allowed to supply electricity to Synergy, for the purpose of supplying a "prescribed customer" (customers who consume less than 50 MWh of electricity per annum).

⁶ Economic Regulation Authority, *2014 Annual Performance Report Energy Retailers*, p.4. <http://www.erawa.com.au/electricity/electricity-licensing/performance-reports>.

While Part 8 of the Transfer Code allows for the Authority to recommend amendments to the Transfer Code directly to the Minister, the Public Utilities Office is the agency responsible for advising the Minister on, and implementing amendments to, the Transfer Code. Given the broad scope of matters to be considered, and the policy implications of several of those matters, it was agreed with the Authority that the Public Utilities Office would manage this review and make recommendations to the Minister.

1.2 Objectives of the review

The objectives of the review were to address:

- inconsistencies between the Transfer Code and the Metering Code 2012;
- industry proposed amendments; and
- the suitability of the Transfer Code to meet its objectives.

The objectives of the Transfer Code are to:

- set out rules for the provision of information relating to contestable customers and the process for transferring customers from one electricity retailer to another retailer in order to promote retail competition;
- protect the interests of contestable customers by ensuring that a contestable customer's verifiable consent is obtained before:
 - a retailer may request the customer's historical consumption data; or
 - a transfer of that customer may proceed; and
- specify the responsibilities and obligations of electricity retailers and network operators in processing and implementing the transfer of a customer.

1.3 Scope of the review

To meet the review objectives, the Public Utilities Office undertook to:

- consult with stakeholders;
- identify amendments to the Transfer Code required to ensure it:
 - is consistent with the Metering Code 2012;
 - meets its objectives; and
 - facilitates regulatory efficiency; and
- make recommendations to the Minister on amendments to the Transfer Code.

The review assessed matters that relate directly to the suitability of the provisions of the Transfer Code to meet its objectives. The scope of the review did not include matters relating to individual licensee compliance with the Transfer Code, or operational decisions by licensees.

1.4 Work program and timetable

Activity	Completed
Publish Issues Paper for public consultation	April 2014
Receive submissions on Issues Paper	May 2014
Publish Draft Recommendations Report for public consultation	October 2014
Receive submissions on Draft Recommendations Report	November 2014
Publish Final Recommendations Report	November 2015
Seek Ministerial approval for proposed amendments	November 2015

1.5 Issues Paper and submissions

On 29 April 2014, the Public Utilities Office published an Issues Paper inviting public comment on options to improve the effectiveness and efficiency of the Transfer Code. The purpose of the Issues Paper was to identify provisions of the Transfer Code that may require amendment and, if possible, recommend what the amendment/s should be. Stakeholder comments were prompted by questions relating to potential Transfer Code amendments.

The Public Utilities Office received six submissions⁷ on the Issues Paper from:

- Alinta Energy
- Community Electricity
- the Market Operator
- Perth Energy
- Synergy
- Western Power

1.6 Draft Recommendations Report and submissions

On 10 October 2014, the Public Utilities Office published a Draft Recommendations Report that invited public comment on proposed amendments to the Transfer Code. The Report took into consideration submissions received on the previous Issues Paper.

⁷ The Issues Paper and submissions are available on the Department of Finance website at www.finance.wa.gov.au.

Six submissions⁸ were received on the Draft Recommendations Report from:

- Alinta Energy
- Community Electricity
- Energy Retailers Association of Australia
- Perth Energy
- Synergy
- Western Power

1.7 Purpose and structure of the Final Recommendations Report

The Transfer Code is divided into the following parts:

- Part 1 – Preliminary
- Part 2 – Objectives and Arm's Length Treatment
- Part 3 – Information Provision
- Part 4 – Transfer of Contestable Customers
- Part 5 – Communication Rules
- Part 6 – Notices
- Part 7 – Dispute Resolution
- Part 8 – Code Amendment
- Appendices (1 – 6)

Each 'Part' is examined in sections 2 to 10 of the Final Recommendations Report (with each Part having a dedicated section). The purpose of the Report is to detail the final recommended Transfer Code amendments the Public Utilities Office will submit to the Minister for consideration and approval. The Report also recommends no action be taken in instances where a potential amendment was raised in the Issues Paper, but is not being pursued. A complete list of the final recommendations is in the Appendix.

Where submissions have commented on a specific amendment they have been summarised to provide an overview of stakeholder views.⁹

The Final Recommendations Report is not open for public comment.

Further information on the Final Recommendations Report or the review process can be obtained from Alex Kroon, A/Principal Policy Officer, Public Utilities Office on (08) 6551 4686 or at alexander.kroon@finance.wa.gov.au.

⁸ The Draft Recommendations Report and submissions are available on the Department of Finance website at www.finance.wa.gov.au.

⁹ A full account of each stakeholder's position on a particular matter is available in the relevant submission.

1.8 Information requests

Requests for information relating to the review will be treated in accordance with the *Freedom of Information Act 1992* (WA) and Department of Finance processes (please see <http://www.finance.wa.gov.au> for further information).

2. Part 1 – Preliminary

2.1 Application

The Public Utilities Office recommends that clause 1.2 of the Transfer Code be amended to expand application of the Code to include electricity network operators and retailers holding licence exemptions, if it is a term or condition of their licence exemption that they comply with the Transfer Code. Clause 1.2 currently specifies that it applies to licensed network operators and retailers, the Market Operator and the Authority only.

This recommendation has not changed from the Draft Recommendations Report (information on the rationale for the recommendation is on page 12 of the draft report).

No submissions were received on this recommendation.

Recommendation 1

Amend clause 1.2 to expand the application of the Transfer Code to include electricity network operators and retailers holding licence exemptions, if it is a term or condition of their licence exemption that they comply with the Transfer Code.

2.2 Code definitions

The Public Utilities Office recommends that the following amendments be made to the Transfer Code definitions.

Access contract

It is recommended that the Transfer Code definition of “access contract” be amended to clarify that it is the same as the *Electricity Networks Access Code 2004* (the **Access Code**) definition of “contract for services”.

The definition of “access contract” in the Transfer Code is broader than the definition of the same expression in the Access Code. This is because the Transfer Code is not limited to agreements entered into under the Access Code (the Transfer Code also applies to electricity retailers who entered into contracts for services with a network operator before the Access Code was made). The Transfer Code definition of “access contract” should therefore be the same as the Access Code definition of “contract for services”, which includes contracts entered into before the Access Code was made.

This recommendation has not changed from the Draft Recommendations Report (information on the rationale for the recommendation is on page 13 of the draft report).

No submissions were received on this recommendation.

Recommendation 2

Amend the definition of “access contract” to clarify that it is the same as the definition of “contract for services” in the Access Code.

Charges

It is recommended that the Transfer Code definition of “charges” be amended to clarify that charges means those payable by the electricity retailer to the network operator and Market Operator in connection with the “transfer” *and* “supply” of electricity.

Under clause 4.14 of the Transfer Code, following a transfer, the network operator and, if applicable, the Market Operator, must do all that is necessary to ensure the outgoing retailer and incoming retailer are not liable for “charges” after, or before, the transfer respectively. The current definition of “charges” applies only to those payable by the retailer in connection with the “transfer” of electricity.

Under clause 4.6 of the Transfer Code, by submitting a transfer request, the incoming retailer represents and warrants that it will assume the rights and obligations regarding the “supply” of electricity to the contestable customer from the transfer time.

The Market Operator is not involved in the “transfer” of electricity. A network operator transfers electricity through its network to enable the retailer to “supply” electricity to its customers. Relevantly, Western Power and retailers using its network enter into electricity transfer access contracts. Retailers enter into supply contracts with their customers.

The Market Operator’s charges payable by retailers do not relate to the physical transfer of electricity, they relate to charges in connection with the supply of electricity. For example, retailers pay the Market Operator for balancing and load following services. They do not pay the Market Operator for moving (transferring) the electricity through the network.

This proposed amendment was identified by a Transfer Code participant after the Issues Paper was published and the proposal was included in the Draft Recommendations Report. One submission was received on this matter from Alinta Energy, expressing support for the proposed amendment.

Recommendation 3

Amend the definition of “charges” to include those payable by the retailer to the network operator and Market Operator in connection with the “supply” of electricity.

Contestable

To take into account a change in legislation since the Transfer Code was made, it is recommended the reference to the *Electricity Corporation Act 1994* be removed and replaced with a reference to the *Electricity Corporations (Prescribed Customers) Order 2007* made under the *Electricity Corporations Act 2005*.

This recommendation has not changed from the Draft Recommendations Report (information on the rationale for the recommendation is on page 14 of the draft report).

No submissions were received on this recommendation.

Recommendation 4

Replace the reference to the *Electricity Corporations Act 1994* with a reference to the *Electricity Corporations (Prescribed Customers) Order 2007* made under the *Electricity Corporations Act 2005*.

Exit point / bidirectional point

To ensure the Transfer Code provides for all contestable customers, in particular customers with on-site electricity generation connected to the network, it is recommended that the definition of “exit point” in the Transfer Code be amended to include bidirectional connection points. To avoid confusion, this is likely to include the renaming of the definition to “connection point”. For consistency, the drafting of the amendment is likely to be similar to the definition of “connection point” in Western Power’s *Applications and Queuing Policy*¹⁰.

This recommendation has not changed from the Draft Recommendations Report (information on the rationale for the recommendation is on pages 14-15 of the draft report).

Western Power made a submission expressing support for this recommendation.

Recommendation 5

Amend the definition of “exit point” in the Transfer Code to provide for contestable customers on bidirectional connection points.

¹⁰ Western Power’s Applications and Queuing Policy is approved by the Authority and forms part of its Access Arrangement. It is available on the Western Power website at:
<http://www.westernpower.com.au/aboutus/accessArrangement/accessArrangement.html>.

Metropolitan area

To take into account a change in legislation since the Transfer Code was made, it is recommended that the definition of “metropolitan area” be amended to replicate the definition in the *Code of Conduct for the Supply of Electricity to Small-Use Customers* (the **Customer Code**).

This will require an amendment so the definition refers to the region described in Schedule 3 of the *Planning and Development Act 2005* and the townsites as constituted under section 26 of the *Land Administration Act 1997*.

This recommendation has not changed from the Draft Recommendations Report (information on the rationale for the recommendation is on pages 15-16 of the draft report).

No submissions were received on this recommendation.

Recommendation 6

Amend the Transfer Code definition of “metropolitan area” so it refers to the region described in Schedule 3 of the *Planning and Development Act 2005* and the townsites as constituted under section 26 of the *Land Administration Act 1997*.

Network operator and retailer

To take into account a change in legislation since the Transfer Code was made, it is recommended the following words be removed from the definitions of “network operator” and “retailer”: “(including regulations made under section 31A of the *Electricity Corporation Act 1994*)”.

In 2006, the *Electricity Corporation Act 1994* was renamed the *Electricity Transmission and Distribution Systems (Access) Act 1994* and section 31A was repealed as part of that process.

This recommendation has not changed from the Draft Recommendations Report (information on the rationale for the recommendation is on page 16 of the draft report).

No submissions were received on this recommendation.

Recommendation 7

Remove the words “(including regulations made under section 31A of the *Electricity Corporation Act 1994*)” from the definitions of “network operator” and “retailer” in the Transfer Code.

Trading day

It is recommended that the definition of “trading day” in the Transfer Code remain unchanged at this time.

This recommendation has not changed from the Draft Recommendations Report (information on the rationale for the recommendation is on pages 16-20 of the draft report).

Alinta Energy supported the draft recommendation to retain the current definition of “trading day” until electricity full retail contestability is adopted within the South West Interconnected System.

Western Power acknowledged the rationale in the Draft Recommendations Report for retaining the current “trading day” definition. Western Power explained that the effect of this position is that it will continue the current practice of requiring the outgoing retailer to submit a historical consumption data request for the period 12.00 am – 8.00 am immediately prior to the transfer (as the incoming retailer receives this data).

Western Power suggested that this current practice could be included in a ‘note’¹¹ in the Transfer Code for clarity. As these data management practices are already part of Western Power’s business-to-business processes with electricity retailers, a ‘note’ is not considered necessary. It may also create additional inconsistencies with the Metering Code 2012, because the Metering Code 2012 requires network operators to provide data on a 12.00 am - 12.00 am day.

Recommendation 8

Maintain the definition of “trading day” as currently drafted.

UMI or unique market identifier

The term “UMI” or “unique market identifier” is no longer used in the Wholesale Electricity Market (the **WEM**) or other jurisdictions in Australia. As “UMI” is outdated, it is recommended that it be replaced with “NMI” (national meter identifier¹²).

NMIs are used throughout the National Electricity Market (the **NEM**) and the WEM, with Western Power using its NMI Allocation Procedure¹³ to allocate NMIs to its connection points. The amendment will provide consistency with the Metering Code 2012 and the Wholesale Electricity Market Rules, which refer to NMIs rather than UMIs.

¹¹ While a ‘note’ is not an operative clause, they are sometimes used to add clarity to the application of a clause.

¹² A national meter identifier is a distinct and universal identifier for each connection point in the NEM and WEM.

¹³ http://www.westernpower.com.au/documents/retailersgenerators/buildPack/NMI_ALLOCATION_PROCEDURE_FOR_THE_WESTERN_AUSTRALIA_ELECTRICITY.pdf.

This recommendation has not changed from the Draft Recommendations Report (information on the rationale for the recommendation is on page 20 of the draft report).

No submissions were made on this recommendation.

Recommendation 9

Replace the Transfer Code definition and use of the term “UMI” / “unique meter identifier” with “NMI” / “national meter identifier”.

Verifiable consent

It is recommended that clause 1.3 of the Transfer Code be amended to allow electricity retailers to obtain oral “verifiable consent” from a customer. This will give retailers an additional option that is less onerous than obtaining written consent.

It is also recommended that the Transfer Code be amended to require a retailer to record oral consent for audit and compliance purposes.

This recommendation has not changed from the Draft Recommendations Report (information on the rationale for the recommendation is on page 21 of the draft report).

Western Power made a submission in support of this recommendation.

Recommendation 10

Amend clause 1.3 to allow retailers to obtain oral “verifiable consent” from a customer and require retailers to create a record of that consent.

2.3 Meaning of “publish”

Where an electricity network operator is required to publish a thing, it is recommended that clause 1.6 be amended to require the network operator to maintain that thing on its website until the Transfer Code no longer applies to the network operator, or the seventh anniversary of it being placed on the website (whichever is later).

It is also recommended that the network operator be required to make available a hardcopy of the thing for inspection by the public, without cost, during normal office hours at its principal place of business in Western Australia. This will make the Transfer Code consistent with the Metering Code 2012.

This recommendation has not changed from the Draft Recommendations Report (information on the rationale for the recommendation is on pages 21-22 of the draft report).

No submissions were made on this recommendation.

Recommendation 11

Amend clause 1.6 so:

- where a network operator is required to publish a thing, the network operator must maintain that thing on its website until the Transfer Code no longer applies to the network operator, or the seventh anniversary of the thing being placed on the website (whichever is later); and
- the network operator is required to make available a hardcopy of the thing for inspection by the public, without cost, during normal office hours at its principal place of business in Western Australia.

3. Part 2 - Objectives and arm's length treatment

3.1 Network operator must treat retailers at arm's length

It is recommended that clause 2.2 be amended so its arm's length treatment provisions do not apply to a network while there is no more than one electricity retailer on the network. This will make the Transfer Code consistent with the Metering Code 2012.

It is also recommended that, to take into account a change in legislation since the Transfer Code was made and to be consistent with the Metering Code 2012, clause 2.2(2)(b) be amended to replace "section 31A of the *Electricity Corporations Act 1994*" with "section 62 of the *Electricity Corporations Act 2005*".

This recommendation has not changed from the Draft Recommendations Report (information on the rationale for the recommendation is on page 23 of the draft report).

No submissions were made on this recommendation.

Recommendation 12

Amend:

- the arm's length treatment provisions, so that clause 2.2(1) does not apply to a network while there is no more than one retailer on the network; and
- clause 2.2(2)(b) to replace "section 31A of the *Electricity Corporation Act 1994*" with "section 62 of the *Electricity Corporations Act 2005*".

4. Part 3 – Information provision

4.1 Submitting a data request

It is recommended that clauses 3.4(1) and 3.4(2) of the Transfer Code be amended to increase the number of standing data requests and historical consumption data requests that can be made by an electricity retailer each day from 20 to 100.

This recommendation has not changed from the Draft Recommendations Report (information on the rationale for the recommendation is on pages 24-26 of the draft report).

Alinta Energy and the Energy Retailers Association of Australia made submissions in support of this recommendation.

Following the implementation of amendments to the Transfer Code, consequential amendments to Western Power's Model Service Level Agreement (the **MSLA**) will be required. For example, the MSLA's metering service for the provision of standing data is currently limited to 20 requests per day for each retailer¹⁴.

Recommendation 13

Amend clauses 3.4(1) and 3.4(2) to increase the number of standing data requests and historical consumption data requests that can be made per day by a retailer from 20 to 100.

4.2 Verifiable consent required for historical consumption data

It is recommended that the Transfer Code not be amended to require the electricity retailer to provide the customer's verifiable consent to the network operator as part of submitting a data request, or to require the network operator to confirm the customer has provided his or her consent.

This recommendation has not changed from the Draft Recommendations Report (information on the rationale for the recommendation is on pages 26-27 of the draft report).

Western Power supported this recommendation.

¹⁴ Recommendation 16 proposes deletion of clause 3.8(2)(b) of the Transfer Code and making any amendments necessary for the Transfer Code to defer to the Metering Code 2012 on the network operator's service levels for the provision of standing and historical consumption data.

Recommendation 14

That the Transfer Code is not amended to require the retailer to provide the customer's verifiable consent to the network operator as part of submitting a data request, or to require the network operator to confirm that the customer has provided his or her consent.

4.3 The communication rules and providing data to a retailer

To ensure consistency with the Metering Code 2012, it is recommended that clause 3.8(2) of the Transfer Code be amended to reflect that a network operator can now establish its own communication rules under the Metering Code 2012.

This recommendation has not changed from the Draft Recommendations Report (information on the rationale for the recommendation is on pages 27-28 of the draft report).

Western Power supported this recommendation.

Recommendation 15

Amend clause 3.8(2) to reflect that a network operator can establish its own communication rules under the Metering Code 2012.

4.4 Network operator's obligations following receipt of a valid data request

To ensure the Transfer Code is consistent with the Metering Code 2012 and Western Power's MSLA¹⁵, it is recommended that clause 3.8(2)(b) of the Transfer Code be deleted and any required further amendments be made for the Transfer Code to defer to the Metering Code 2012 on the service levels for the provision of standing and historical consumption data.

This recommendation has not changed from the Draft Recommendations Report (information on the rationale for the recommendation is on pages 28-29 of the draft report).

Western Power supported this recommendation.

Recommendation 16

Delete clause 3.8(2)(b) and make any amendments necessary for the Transfer Code to defer to the Metering Code 2012 on the network operator's service levels for the provision of standing and historical consumption data.

¹⁵ http://www.westernpower.com.au/documents/retailersgenerators/METERING_SERVICES_GENERIC_SLA_WITH_WA_RETAILERS.pdf.

4.5 Charges for standing data and historical consumption data

It is recommended that clause 3.10(2) of the Transfer Code be amended to require a network operator's charges for standing and historical consumption data to be consistent with the Metering Code 2012. In effect, this will mean that data charges will be prescribed by the network operator's MSLA (or an individual service level agreement that it has agreed independently with a retailer under the Metering Code 2012). This will ensure the Transfer Code is consistent with the Metering Code 2012.

To implement this amendment, clause 3.10(3) and the provisions in clauses 3.10(2)(a) and (b) of the Transfer Code that prescribe data charges that must apply, if the Metering Code 2012 does not provide otherwise, will be deleted.

Alinta Energy and the Energy Retailers Association of Australia supported this recommendation. Western Power agreed that data charges are not an item that should be prescribed by the Transfer Code; rather that they are a matter for the Metering Code 2012 and MSLA. However, Western Power suggested that the Transfer Code should continue to contain a provision that allows the network operator and retailer to agree a reasonable data charge if the Metering Code 2012 and MSLA do not provide otherwise.

Western Power's suggestion is supported to ensure the Corporation can recover its costs on the occasions when the Metering Code and MSLA do not prescribe charges for a particular data request (although it is acknowledged that these occasions should be rare). Accordingly, it is recommended that the part of clause 3.10(2)(b) of the Transfer Code that allows the network operator to charge a reasonable cost for historical consumption data if the Metering Code 2012 does not provide otherwise be retained.

With the exception of the additional amendment suggested by Western Power, this recommendation has not changed from the Draft Recommendations Report (information on the rationale for the recommendation is on pages 29-30 of the draft report).

Recommendation 17

Delete clause 3.10(3) and amend clause 3.10(2) so a network operator may charge a retailer for historical consumption data in accordance with the Metering Code 2012, and may charge a reasonable cost if the Metering Code 2012 and MSLA do not provide otherwise.

5. Part 4 – Transfer of contestable customers

5.1 Submitting a customer transfer request

The Draft Recommendations Report recommended that if:

- no meter change and/or manual meter reading are required to facilitate the transfer, the number of customer transfer requests that can be submitted in a day, or with the same nominated transfer date, by a retailer should be increased from 20 to 50; and
- a meter change and/or manual meter reading are required to facilitate the transfer, no change be made to the current cap of 20 transfer requests per day per retailer.

Alinta Energy and the Energy Retailers Association of Australia supported the recommendation.

Western Power objected to increasing the cap for transfers that do not involve a metering field service from 20 to 50, on the grounds that the low transfer rate does not support the increase. Western Power suggested that increasing the cap is not the best way to address retailer concerns about bulk transfers; for example, when a customer with more than 20 sites would like to transfer all the sites on the same day¹⁶.

It is noted that clause 4.5 of the Transfer Code provides network operator and retailers with the ability to negotiate a number of customer transfer requests above the cap on a particular day. At the request of the Public Utilities Office, Western Power provided data on the number and size of transfer requests received from retailers in 2012-13 and 2013-14 that exceeded the Transfer Code's limit of 20. Western Power advised it received 12 such requests during those two years, with an average of 56 transfers requested with the same nominated transfer date by a retailer. Western Power did not reject any requests from retailers to exceed the cap of 20 during this time.

The data from Western Power indicates that the Transfer Code is operating effectively in providing for those rare times when a retailer submits more than 20 transfer requests with the same nominated transfer date. It is also noted that the transfer rate is low for both types of transfers: those that involve a metering field service and those that do not.

The Draft Recommendations Report (page 32) noted that in 2013-14 about 1.6 transfers per day involved a metering field service. Based on advice from Western Power that in 2013-14 around 75 per cent of transfers did not involve a metering field service¹⁷, it is estimated that five transfers per day (across all retailers) did not involve a metering field service.

¹⁶ The Transfer Code, and the regulatory framework more generally, considers each connection point on the network to be a customer for the purposes of providing services such as transfers.

¹⁷ Figures provided to the Public Utilities Office by Western Power in July 2014.

While the Public Utilities Office appreciates a desire by retailers to see the transfer caps increase (or removed completely), any changes to the caps will create costs for network operators that are required to comply with the Transfer Code. There has to be a demonstrated case to increase the caps to ensure the costs do not outweigh the benefits. At this time, there is not sufficient evidence to support such an amendment to the Transfer Code.

Taking all the submissions into account, and the submission received on the Issues Paper, it is recommended that the cap on all transfers remains at 20, meaning that the cap on transfers that do not involve a metering field service should not be increased at this time.

If electricity full retail contestability is introduced in the future, or the contestability threshold is reduced substantially, the cap on transfer requests in the Transfer Code should be reviewed, with a view to removing, or increasing, the cap.

Recommendation 18

That the Transfer Code is not amended to increase the number of transfer requests that can be submitted in a day, or with the same nominated transfer date, by a retailer.

5.2 Retailer's representations and warranties in relation to a transfer request

It is recommended that the requirement in clause 4.6(1)(b) for the retailer to pay the network operator's reasonable costs for the installation of a new meter¹⁸ (and associated equipment) is replaced with a requirement for the retailer to pay the network operator's costs in accordance with the Metering Code 2012 (in effect the charges in the network operator's MSLA or service level agreement it has independently negotiated with the retailer).

In addition, the final 'Note' at the end of clause 4.6(4) will be amended to reflect that the *Trade Practices Act 1974* has been replaced by the *Competition and Consumer Act 2010*.

This recommendation has not changed from the Draft Recommendations Report (information on the rationale for the recommendation is on pages 33-34 of the draft report).

No submissions were made on this recommendation.

¹⁸ Clause 3.17 of the Metering Code 2012 provides that a transfer cannot occur under the Transfer Code unless the metering installation at each metering point for the customer's connection point contains an interval meter.

Recommendation 19

Replace the requirement in clause 4.6(1)(b) for the retailer to pay the network operator's reasonable costs for the installation of a new meter (and associated equipment) with a requirement for the retailer to pay the network operator's costs in accordance with the Metering Code 2012.

5.3 Nominated transfer date

The Draft Recommendations Report recommended that clause 4.7 be amended to extend the nominated transfer date for transfers that require a meter change and/or manual meter reading to:

- if the exit point is in a metropolitan area, at least five business days after the date the transfer request is submitted (from the current three business days); and
- if the exit point is not in a metropolitan area, at least 10 business days after the date the transfer request is submitted (from the current five business days).

Western Power supported the intent of the draft recommendation to align the Transfer Code with the metering service levels in Western Power's MSLA to ensure the Corporation has sufficient time to complete all the services it is requested to provide to facilitate a transfer. However, Western Power proposed that the minimum time between the date the transfer request is submitted and the nominated transfer date (referred to as 'lead time') should be longer to allow it to complete multiple services consecutively.

Western Power's MSLA requires it to conduct a meter change (if the customer requires an interval meter) within five business days in metropolitan areas and 10 business days in non-metropolitan areas. Once the meter change has occurred, Western Power will carry out the final meter reading and effect the transfer. The new meter needs to run for at least 24 hours to ensure it can provide a complete day's meter data to the market before the transfer occurs¹⁹.

Western Power submitted that it requires a minimum of three and five business days (in addition to the five and 10 business days respectively to change a meter) to read the meter and effect the transfer in metropolitan and non-metropolitan areas respectively, which is consistent with current Transfer Code provisions.

¹⁹ Western Power uses the National Electricity Market's NEM12 Data File Format to provide meter data to the market (the Independent Market Operator and affected retailers).

Western Power also submitted that multiple lead times for different transfers (depending on where the customer is located and what metering equipment they have), may require the Corporation to incur costs to upgrade its systems. The Public Utilities Office requested that Western Power provide an estimate of the costs it may incur to support this arrangement. Western Power estimated its costs at \$50,000²⁰.

Western Power proposed that the lead times for all transfers should be eight business days (metropolitan) and 15 business days (non-metropolitan) to allow for the metering field services that may need to be conducted and provide consistency between transfers that do and do not require these services.

Western Power's proposal is partially supported. The Public Utilities Office acknowledges that the Transfer Code should be consistent with Western Power's MSLA and allow sufficient time for Western Power to complete multiple metering field services to effect a transfer (if required). Therefore, it is recommended the Transfer Code is amended to extend the nominated transfer date for transfers that require metering field services to:

- if the exit point is in a metropolitan area, at least eight business days after the date the transfer request is submitted; and
- if the exit point is not in a metropolitan area, at least 15 business days after the date the transfer request is submitted.

However, Western Power's proposal that all transfers in a metropolitan area and non-metropolitan area have a minimum lead time of eight and 15 business days respectively is not supported. It is recommended that the Transfer Code's minimum lead times for metropolitan and non-metropolitan transfers that do not require any metering field services remain at three and five business days respectively (as per clause 4.7 of the Transfer Code).

It would be a barrier to competition if customers who have interval meters, in particular if they are remotely read, must wait at least eight or 15 business days (depending on location) to transfer to a new retailer. While it is acknowledged that Western Power may incur costs to upgrade its systems, the scale of this expenditure is not considered sufficient to outweigh the benefits of customers who have interval meters being able to transfer in three/five days instead of eight/15 business days, particularly when the transfer process is largely automated for this type of customer.

²⁰ Information provided to the Public Utilities Office by Western Power on 10 December 2014.

Recommendation 20

Amend clause 4.7 to require the nominated transfer date for transfers that require a meter change and/or manual meter reading to be:

- if the exit point is in a metropolitan area, at least eight business days after the date the transfer request is submitted; and
- if the exit point is not in a metropolitan area, at least 15 business days after the date the transfer request is submitted.

5.4 Network operator obligations following receipt of a valid transfer request

It is recommended that the Transfer Code not be amended to make a network operator liable for retailer and customer losses caused by an act or omission by the network operator resulting in the customer transferring after the nominated transfer date.

Western Power supported this recommendation.

The Draft Recommendations Report also recommended that, to improve a retailer's ability to manage a situation where the customer is not transferred on the nominated transfer date, clause 4.10 be amended to require a network operator to notify the outgoing and incoming retailers that the network operator will not be able to transfer the customer on the nominated transfer date (when a nominated transfer date had been agreed previously).

In its submission, Western Power argued that this proposed amendment is unnecessary because clauses 4.10 and 4.11 of the Transfer Code currently require the network operator to notify the outgoing and incoming retailer if a transfer cannot proceed on the nominated transfer date for various reasons, including when the customer's meter could not be read on the nominated transfer date.

The Public Utilities Office agrees that the Transfer Code adequately provides for the outgoing and incoming retailers to be kept informed when a transfer cannot occur on the nominated transfer date. The Draft Recommendations Report recommendation to amend clause 4.10 to require a network operator to notify the outgoing and incoming retailers that the network operator will not be able to transfer the customer on the nominated transfer date is therefore not supported.

Recommendation 21

- a. That the Transfer Code is not amended to make a network operator liable for retailer or customer losses caused by a network operator's act or omission resulting in the customer transferring after the nominated transfer date.
- b. That the Transfer Code is not amended to require a network operator to notify the outgoing and incoming retailers that the network operator will not be able to transfer the customer on the nominated transfer date.

5.5 The transfer – actual readings

The Draft Recommendations Report recommended that the Transfer Code be amended to include the Metering Code 2012 definition of “actual value” in relation to meter readings.

Under clause 4.11(1) of the Transfer Code, a transfer may only occur on a day the contestable customer's meter is read. Other than by way of a ‘note’ that is attached to clause 4.11(1), which says the actual read may comprise a special read or scheduled read, the Transfer Code does not define an “actual read”.

Defining the term “actual value” will clarify the process to be followed when a meter is unreadable and provide certainty to the market by aligning the Transfer Code with the Metering Code 2012. Clause 4.11(1) does not permit the use of a “deemed actual value” in a transfer when the meter is unreadable. If the Transfer Code adopts the Metering Code 2012 definition of “actual value”, the network operator can use a “deemed actual value” when the customer's meter is faulty.

Western Power supported defining “actual value”, but did not support including “deemed actual value” in the definition. Western Power considers there is no benefit to the market using deemed actual values for customer transfer purposes. Western Power's main concern is that if an estimated or substituted reading is used as a final reading for a transfer, Western Power, and possibly other Code participants, will incur costs to upgrade their metering and billing systems, as they are currently designed to transfer customers on actual readings only.

In addition, Western Power submitted that there is no immediate value to the market of allowing transfers to occur on deemed actual values due to the low transfer rate and the even lower amount of transfers that would be candidates for being transferred on a deemed actual value (that is, where the meter is identified as faulty when the final reading is taken). However, Western Power acknowledged that more flexibility may be required if electricity full retail contestability was introduced, or the contestability threshold was lowered.

The Public Utilities Office understands that it is normal practice that when a customer transfer is to occur and the meter cannot produce an actual value (and needs to be changed), for Western Power to produce an estimated or substituted reading for the latest supply period and provide this to the current retailer. Western Power then reads the new meter a few days after installation to obtain the actual value for the final reading for the transfer (this meter data goes to the outgoing and incoming retailers).

It would therefore be rare for a customer to be transferred on an estimated or substituted reading. This approach also protects the customer and retailers, as the customer is transferred based on the better quality actual value data, rather than a deemed actual value.

Taking into account potential costs to market participants to upgrade their systems, the low transfer rate and that Western Power replaces faulty meters prior to transfer (so the customer and incoming retailer are not affected), it is recommended that the Transfer Code define “actual value”, but not include “deemed actual value” in this definition at this time.

The Public Utilities Office recognises that there will be a slight difference between the Transfer Code and Metering Code 2012’s definition of “actual value”. This is considered acceptable in this particular case due to the unique nature of providing metering services for customer transfers and will not cause Transfer Code participants to incur any additional compliance costs.

Recommendation 22

In relation to meter readings, amend the Transfer Code to include the Metering Code 2012’s definition of “actual value”, excluding the reference to “deemed actual value”.

5.6 Effect of a transfer on an access contract

It is recommended that clause 4.12 of the Transfer Code remain unchanged. The Public Utilities Office considers that the Transfer Code is clear that the customer’s current retailer (the outgoing retailer) supplies the customer during any negotiations held under clause 4.12 (i.e. relating to a retailer’s access contract).

This recommendation has not changed from the Draft Recommendations Report (information on the rationale for the recommendation is on page 38 of the draft report).

Western Power supported this recommendation.

Recommendation 23

Maintain clause 4.12 as currently drafted, as no clarification is required on which retailer supplies the customer during negotiations that take place under clause 4.12(3).

5.7 Rectifying an erroneous transfer

Outside the Issues Paper submission period, Western Power requested that the Transfer Code Review consider an amendment to clause 4.15 in relation to rectifying an erroneous transfer²¹.

Clause 4.15 does not prescribe a timeframe in which retailers may submit a request to the network operator to reverse an erroneous transfer. This can expose network operators to financial risk if retailers dispute the network access charges incurred during the period between the transfer and the request to reverse the transfer, particularly if a substantial period of time has elapsed. Western Power also explained that the administrative burden to reverse transfers worsens as the delay in identifying erroneous transfers increases.

Western Power suggested that three months from the date of the transfer is a reasonable timeframe to allow for a request to rectify an erroneous transfer to be made. The Corporation considers that three months provides sufficient time to identify an erroneous transfer through the billing process and allow Western Power to manage its financial risk.

The Draft Recommendations Report sought feedback on the merits of a proposed amendment to prescribe a timeframe in which requests to rectify an erroneous transfer can be made to a network operator.

Alinta Energy, Community Electricity and Perth Energy supported suggested time limits from three to 12 months to make a request to the network operator to rectify an erroneous transfer (to provide sufficient time to identify an erroneous transfer).

Synergy objected to a time limit, but indicated support for any reasonable proposals from Western Power to amend its Communication Rules to support the early detection of erroneous transfers. Synergy submitted that a time limit on rectifying erroneous transfers would create regulatory and contractual uncertainty, and not protect the customer.

In requesting that this matter be considered as part of the Transfer Code Review, Western Power advised²² that in 2012-13 and 2013-14, it reversed 20 and 16 erroneous transfers respectively. The average number of days between the erroneous transfer occurring and the reversal request being received by Western Power was 36 days and six days respectively. The average number of days excludes the erroneous transfer that took the most number of days in the reporting year to identify. In 2012-13, this was 306 days and in 2013-14 it was 325 days.

²¹ Erroneous transfers include where the incoming retailer has not obtained the customer's consent, or the network operator transfers the wrong customer due to incorrect standing data (such as the details of the customer's connection point).

²² Information received by the Public Utilities Office from Western Power on 1 September 2014.

While the Public Utilities Office acknowledges erroneous transfers taking up to a year to identify are likely to cause operational problems for network operators, these situations are rare. The general performance of identifying erroneous transfers is efficient, taking an average of six days in 2013-14. Western Power's request to regulate a time limit on requests to rectify an erroneous transfer appears to be aimed at these rare once-a-year occurrences when it has taken over 300 days to identify an erroneous transfer.

It is possible that a retailer, acting in good faith, may not identify an erroneous transfer within three months of the transfer. A concern with prescribing an arbitrary timeframe on requests to rectify an erroneous transfer is that it may unfairly disadvantage retailers and customers. For example, it is unclear what would happen to the customer who has been transferred in error through no fault of their own if the transfer was identified after the time limit.

Given the limited scale of erroneous transfers each year and even smaller amount identified beyond three months of the transfer occurring, and that a time limit may penalise customers and retailers through no fault of their own, the Public Utilities Office does not support amending the Transfer Code to place a time limit on making a request to rectify an erroneous transfer.

It is not considered to be good regulatory practice to regulate for the infrequent erroneous transfers per year not identified within a reasonable time. The Public Utilities Office however does support network operators and retailers working together to ensure there are effective business-to-business processes in place in order to identify erroneous transfers at the earliest opportunity, to avoid a scenario where it can take more than 300 days to identify an erroneous transfer.

Recommendation 24

That the Transfer Code is not amended to place a time limit on submitting a request to the network operator to rectify an erroneous transfer.

5.8 Network operator performance reports

It is recommended that the Transfer Code be amended to require network operators to publish performance information annually on customer transfers, with the provisions requiring the publication of this information to mirror the equivalent provisions in Part 13 of the Customer Code. That is, the network operator would be required to provide performance information relating to customer transfers each year, as specified by the Authority. The information must be provided to the Authority by the date, and in the form, specified by the Authority. The Authority would also specify the date by which the information must be made publicly available.

This recommendation has not changed from the Draft Recommendations Report (information on the rationale for the recommendation is on pages 39-41 of the draft report).

Western Power submitted that it is able to accommodate this recommendation, providing the format of the data required is similar to data already required by the Authority from Western Power as part of its licence performance reporting.

Recommendation 25

Amend the Transfer Code to require network operators to publish performance information annually on customer transfers, as specified by the Authority.

5.9 Supplier of last resort

As the Transfer Code is silent on its application during a Supplier of Last Resort (**SoLR**) event²³, it is recommended that the Transfer Code be amended to clarify that its provisions do not apply during a SoLR event. This will avoid inconsistencies between the Transfer Code, any SoLR Regulations²⁴ and a SoLR Plan²⁵.

This recommendation has not changed from the Draft Recommendations Report (information on the rationale for the recommendation is on pages 41-42 of the draft report).

Western Power supported this recommendation.

Recommendation 26

Amend the Transfer Code to clarify that its provisions do not apply during a SoLR event.

5.10 Consistency with the Customer Code

It is recommended that the Transfer Code not be amended to require the network operator to ensure its process for transferring a customer does not cause a retailer to breach its Customer Code obligations.

This recommendation has not changed from the Draft Recommendations Report (information on the rationale for the recommendation is on pages 42-43 of the draft report).

Western Power supported this recommendation.

²³ A SoLR event occurs when an electricity retailer fails and can no longer supply its customers. In such an event, the failed retailer's customers transfer to the designated SoLR to ensure they continue to receive electricity. Synergy is the designated SoLR for the South West Interconnected System and Horizon Power is the default SoLR for areas outside the South West Interconnected System.

²⁴ Section 77 of the Industry Act allows the making of regulations to prescribe what a last resort supply plan must address.

²⁵ Section 72 of the Industry Act requires a SoLR to submit a last resort supply plan to the Authority for approval.

Recommendation 27

That the Transfer Code is not amended to require the network operator to ensure its process for transferring a customer does not cause a retailer to breach its Customer Code obligations.

6. Part 5 – Communication rules

It is recommended that Part 5 of the Transfer Code is deleted to make the Code consistent with the Metering Code 2012.

This recommendation has not changed from the Draft Recommendations Report (information on the rationale for the recommendation is on page 42 of the draft report).

Western Power supported this recommendation.

Recommendation 28

Delete Part 5 to make the Transfer Code consistent with the Metering Code 2012.

Note that, to ensure the relationship of the Transfer Code with Part 6 of the Metering Code 2012 is clear, a consequential amendment to the Transfer Code may be required (this will be addressed at the drafting stage, if the Minister approves this recommendation).

7. Part 6 – Notices

No amendments to Part 6 of the Transfer Code are recommended.

8. Part 7 – Dispute resolution

8.1 Referral of disputes to the Authority

It is recommended that the Western Australian Energy Disputes Arbitrator (the **Energy Arbitrator**) replace the Authority as the arbitrator of Transfer Code disputes.

This recommendation has not changed from the Draft Recommendations Report (information on the rationale for the recommendation is on page 45 of the draft report).

Western Power supported this recommendation.

Recommendation 29

Amend the Transfer Code to replace the Authority with the Energy Arbitrator as the arbitrator of Transfer Code disputes.

8.2 Costs of disputing parties

As it is recommended that the Energy Arbitrator replace the Authority as the arbitrator of Transfer Code disputes, it is proposed that the Transfer Code adopt the same provisions on dispute costs as the Metering Code 2012.

This recommendation has not changed from the Draft Recommendations Report (information on the rationale for the recommendation is on pages 45-46 of the draft report).

Western Power supported this recommendation.

Recommendation 30

Amend the Transfer Code to adopt the Metering Code 2012 provisions on the determination and recovery of the Energy Arbitrator's dispute costs.

9. Part 8 – Code amendment

It is recommended that Part 8 be amended to be consistent with clause 9.2 of the Metering Code 2012, through inclusion of provisions that state nothing in Part 8 limits:

- a person's ability to propose a Code amendment to the Minister; or
- the Minister's discretion to propose, consider or make a Code amendment.

This recommendation has not changed from the Draft Recommendations Report (information on the rationale for the recommendation is on page 46 of the draft report).

Western Power supported this recommendation.

Recommendation 31

Amend Part 8 to include provisions that state nothing in Part 8 limits:

- a person's ability to propose a Code amendment to the Minister; or
- the Minister's discretion to propose, consider or make a Code amendment.

10. Code Appendices

No amendments to the Transfer Code's appendices are recommended, although it is noted that consequential amendments to the appendices may be required to reflect the substantive amendments to the remaining parts of the Transfer Code.

11. Other matters raised by stakeholders

11.1 Retailer objections to a transfer

The Draft Recommendations Report considered a proposal from electricity retailers to amend the Transfer Code to allow the customer's current retailer to raise an objection to a customer transfer if the customer has an outstanding debt with the retailer, or there is an active Energy and Water Ombudsman²⁶ investigation involving the customer and retailer.

The Draft Recommendations Report did not support the proposal.

Objection relating to debt

In their submissions on the Draft Recommendations Report, Alinta Energy, Energy Retailers Association of Australia, Perth Energy and Synergy supported debt objection provisions (they proposed slightly different ways to achieve this).

While the Public Utilities Office understands and acknowledges the retailers' concerns about customers transferring when they have a debt owing to the outgoing retailer, the Office is not persuaded that a Transfer Code amendment is justified.

As noted in the Draft Recommendations Report, the regulatory framework provides retailers with several options to manage customer debt while they are a customer of the retailer and after the customer transfers. The Transfer Code is not considered a suitable mechanism to recover debt from a customer when these other options exist.

It is also a concern that retailer objections on the grounds of debt could become a barrier to competition. Furthermore, the NECF does not provide for retailer objections on the grounds of debt.

Therefore, the Public Utilities Office does not support the inclusion of debt objection provisions in the Transfer Code and recommends the Transfer Code not be amended.

This recommendation has not changed from the Draft Recommendations Report (information on the rationale for the recommendation is on pages 46-48 of the draft report).

²⁶ Western Australia's Energy and Water Ombudsman receives and resolves complaints about electricity, gas and water service providers: <http://www.ombudsman.wa.gov.au/energyandwater/>.

Objection relating to Ombudsman investigation

It is recommended that the Transfer Code not be changed to allow an electricity retailer to object to a transfer on the grounds there is an active Energy and Water Ombudsman investigation.

This recommendation has not changed from the Draft Recommendations Report (information on the rationale for the recommendation is on pages 46-48 of the draft report).

No submissions were received on this recommendation.

Recommendation 32

That the Transfer Code is not amended to include provisions to allow retailers to object to a transfer on the grounds of unpaid debt by a customer or an active Energy and Water Ombudsman investigation.

Appendix – Final Recommendations

Recommendation 1

Amend clause 1.2 to expand the application of the Transfer Code to include electricity network operators and retailers holding licence exemptions, if it is a term or condition of their licence exemption that they comply with the Transfer Code.

Recommendation 2

Amend the definition of “access contract” to clarify that it is the same as the definition of “contract for services” in the Access Code.

Recommendation 3

Amend the definition of “charges” to include those payable by the retailer to the network operator and Market Operator in connection with the “supply” of electricity.

Recommendation 4

Replace the reference to the *Electricity Corporations Act 1994* with a reference to the *Electricity Corporations (Prescribed Customers) Order 2007* made under the *Electricity Corporations Act 2005*.

Recommendation 5

Amend the definition of “exit point” in the Transfer Code to provide for contestable customers on bidirectional connection points.

Recommendation 6

Amend the Transfer Code definition of “metropolitan area” so it refers to the region described in Schedule 3 of the *Planning and Development Act 2005* and the townsites as constituted under section 26 of the *Land Administration Act 1997*.

Recommendation 7

Remove the words “(including regulations made under section 31A of the *Electricity Corporation Act 1994*)” from the definitions of “network operator” and “retailer” in the Transfer Code.

Recommendation 8

Maintain the definition of “trading day” as currently drafted.

Recommendation 9

Replace the Transfer Code definition and use of the term “UMI” / “unique meter identifier” with “NMI” / “national meter identifier”.

Recommendation 10

Amend clause 1.3 to allow retailers to obtain oral “verifiable consent” from a customer and require retailers to create a record of that consent.

Recommendation 11

Amend clause 1.6 so:

- where a network operator is required to publish a thing, the network operator must maintain that thing on its website until the Transfer Code no longer applies to the network operator, or the seventh anniversary of the thing being placed on the website (whichever is later); and
- the network operator is required to make available a hardcopy of the thing for inspection by the public, without cost, during normal office hours at its principal place of business in Western Australia.

Recommendation 12

Amend:

- the arm’s length treatment provisions, so clause 2.2(1) does not apply to a network while there is no more than one retailer on the network; and
- clause 2.2(2)(b) to replace “section 31A of the *Electricity Corporation Act 1994*” with “section 62 of the *Electricity Corporations Act 2005*”.

Recommendation 13

Amend clauses 3.4(1) and 3.4(2) to increase the number of standing data requests and historical consumption data requests that can be made per day by a retailer from 20 to 100.

Recommendation 14

That the Transfer Code is not amended to require the retailer to provide the customer’s verifiable consent to the network operator as part of submitting a data request, or to require the network operator to confirm that the customer has provided his or her consent.

Recommendation 15

Amend clause 3.8(2) to reflect that a network operator can establish its own communication rules under the Metering Code 2012.

Recommendation 16

Delete clause 3.8(2)(b) and make any amendments necessary for the Transfer Code to defer to the Metering Code 2012 on the network operator’s service levels for the provision of standing and historical consumption data.

Recommendation 17

Delete clause 3.10(3) and amend clause 3.10(2) so a network operator may charge a retailer for historical consumption data in accordance with the Metering Code 2012, and may charge a reasonable cost if the Metering Code 2012 and MSLA do not provide otherwise.

Recommendation 18

That the Transfer Code is not amended to increase the number of transfer requests that can be submitted in a day, or with the same nominated transfer date, by a retailer.

Recommendation 19

Replace the requirement in clause 4.6(1)(b) for the retailer to pay the network operator's reasonable costs for the installation of a new meter (and associated equipment) with a requirement for the retailer to pay the network operator's costs in accordance with the Metering Code 2012.

Recommendation 20

Amend clause 4.7 to require the nominated transfer date for transfers that require a meter change and/or manual meter reading to be:

- if the exit point is in a metropolitan area, at least eight business days after the date the transfer request is submitted; and
- if the exit point is not in a metropolitan area, at least 15 business days after the date the transfer request is submitted.

Recommendation 21

- a. That the Transfer Code is not amended to make a network operator liable for retailer or customer losses caused by a network operator's act or omission resulting in the customer transferring after the nominated transfer date.
- b. That the Transfer Code is not amended to require a network operator to notify the outgoing and incoming retailers that the network operator will not be able to transfer the customer on the nominated transfer date.

Recommendation 22

In relation to meter readings, amend the Transfer Code to include the Metering Code 2012 definition of "actual value", excluding the reference to "deemed actual value".

Recommendation 23

Maintain clause 4.12 as currently drafted, as no clarification is required on which retailer supplies the customer during negotiations that take place under clause 4.12(3).

Recommendation 24

That the Transfer Code is not amended to place a time limit on submitting a request to the network operator to rectify an erroneous transfer.

Recommendation 25

Amend the Transfer Code to require network operators to publish performance information annually on customer transfers, as specified by the Authority.

Recommendation 26

Amend the Transfer Code to clarify that its provisions do not apply during a SoLR event.

Recommendation 27

That the Transfer Code is not amended to require the network operator to ensure its process for transferring a customer does not cause a retailer to breach its Customer Code obligations.

Recommendation 28

Delete Part 5 to make the Transfer Code consistent with the Metering Code 2012.

Note that, to ensure the relationship of the Transfer Code with Part 6 of the Metering Code 2012 is clear, a consequential amendment to the Transfer Code may be required (this will be addressed at the drafting stage, if the Minister approves this recommendation).

Recommendation 29

Amend the Transfer Code to replace the Authority with the Energy Arbitrator as the arbitrator of Transfer Code disputes.

Recommendation 30

Amend the Transfer Code to adopt the Metering Code 2012 provisions on the determination and recovery of the Energy Arbitrator's dispute costs.

Recommendation 31

Amend Part 8 to include provisions that state nothing in Part 8 limits:

- a person's ability to propose a Code amendment to the Minister; or
- the Minister's discretion to propose, consider or make a Code amendment.

Recommendation 32

That the Transfer Code is not amended to include provisions to allow retailers to object to a transfer on the grounds of unpaid debt by a customer or an active Energy and Water Ombudsman investigation.