REIWA
REAL ESTATE INSTITUTE
OF WESTERN AUSTRALIA

A CENTURY OF SERVICE

215 Hay Street
Subiaco WA 6008
PO Box 8099
Subiaco East WA 6008
ABN 129 0862 3811
08 9380 8222
08 9380 8289
admin@reiwa.com.au
reiwa.com

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Energy Policy WA
EPWA-AES@deed.wa.gov.au

Dear Energy Policy WA

Submission – Alternative Electricity Services Code of Practice

REIWA welcomes the opportunity to provide feedback on the exposure draft Alternative Electricity Services Code of Practice dealing with single property network services.

REIWA is Western Australia's peak body for the real estate profession, representing over 1,200 real estate agencies which cover around 90 per cent of active real estate professionals. Our members include residential property managers, strata managers, commercial agents and commercial property managers who may be involved in the day-to-day management of properties affected by the proposed framework.

REIWA supports the objective of improving protections for customers in embedded electricity networks, now referred to as single property networks (SPN). Customers should have clear information about how electricity is supplied, how charges are calculated, who is responsible for the supply, and how complaints, hardship, family violence and life-support matters are managed.

However, the final Code and supporting implementation materials must clearly recognise the operational realities of strata, residential and commercial property management.

Real estate and strata professionals may assist owners, strata companies or registered SPN service providers with administrative functions. This may include providing information, issuing bills, collecting payment, passing on customer requests or facilitating communication. They should not, by performing those functions, inadvertently become de facto electricity providers or assume statutory responsibilities that properly sit with the registered SPN service provider, owner or strata company.

REIWA's submission is therefore focused on ensuring the final framework provides clear consumer protections while also providing practical certainty for the real estate and strata professionals who may assist with implementation.

Summary of recommendations

REIWA recommends that the final Code, or accompanying implementation guidance, should:

1. Clearly distinguish between the registered SPN service provider and a property manager, strata manager or commercial agent acting in an administrative capacity.

2. Explicitly confirm that agents are not expected to independently verify technical electricity network information supplied by an owner, strata company, registered provider or specialist contractor.

3. Provide practical guidance on how SPN agreements may be incorporated into leases, strata by-laws, management arrangements or standard disclosure documents, in consultation with REIWA.

4. Clarify how the framework applies to dual-key dwellings, unmetered supply arrangements and agreed allocation methods, including where costs are apportioned between tenancies.

5. Clarify when response timeframes commence and how they apply where a manager must obtain instructions or information from a third party.

6. Confirm that hardship, family violence and life-support obligations remain the responsibility of the SPN service provider, with agents able to facilitate communication without assuming those statutory obligations.

7. Clarify the obligation to facilitate direct connection to a licensed network, particularly where owner, strata company, council of owners or landlord approvals are required.

8. Publish practical implementation guidance, including a decision tree and worked examples for residential strata, commercial strata, dual-key dwellings, mixed-use schemes and commercial properties, in collaboration with REIWA.

Responsibility for compliance and role of agents

Clause 5 of the draft Code requires an AES provider to ensure that any person engaged by the provider to act on its behalf complies with the Code as if the Code applied to that person. It also provides that anything done or not done by that person is taken to be a breach of the Code by the provider.

REIWA understands the consumer protection rationale for this approach. A customer should not lose protections simply because the registered provider has outsourced billing, administration or customer contact functions.

However, the final framework should make clear that the registered SPN service provider remains responsible for compliance with the Code. A strata manager, residential property manager, commercial property manager or leasing agent should not be treated as the SPN service provider merely because they assist with administration.

This distinction is important because agents may be asked to perform limited functions such as:

- issuing an on-bill;
- collecting payment on behalf of the owner, strata company or provider;
- forwarding customer enquiries;
- providing a disclosure information supplied by the provider;
- updating tenancy or owner records;

- arranging access for contractors; or
- assisting the registered provider to communicate with occupants.

Those functions are materially different from supplying electricity, setting tariffs, managing the network, determining technical arrangements, maintaining meters, handling life-support registration, or making decisions about disconnection and reconnection.

REIWA recommends that the final Code or guidance expressly state that:

- the registered SPN service provider remains responsible for compliance with the Code;
- a property manager, strata manager or commercial agent may act as an administrative agent without becoming the SPN service provider;
- where an agent is engaged to perform Code-related functions, the scope of that engagement should be clearly documented;
- any statutory responsibility should remain with the registered provider; and
- agents should not be expected to perform technical or specialist electricity functions unless they have expressly agreed to do so and have the necessary information, systems and capability.

SPN agreements, leases and strata by-laws

REIWA notes that the framework allows an SPN agreement to form part of a lease, and in a strata titles scheme or community titles scheme, the by-laws that apply to a customer as a resident of the scheme. This flexibility is important and should be retained.

However, the final framework should avoid creating an expectation that property managers or strata managers must draft bespoke SPN agreements for every new tenancy, owner-occupier or occupant.

In many cases, the more practical approach will be for the registered provider, owner or strata company to provide a standard disclosure document or standard SPN terms that can be incorporated into:

- a residential tenancy agreement;
- a commercial lease;
- strata by-laws;
- commercial property onboarding material;
- a strata disclosure pack; or
- a separate prescribed information sheet.

REIWA recommends that Energy Policy WA work with REIWA and industry practitioners to develop model clauses and template disclosure materials that can be adopted by owners, strata companies, agents and registered providers.

This would reduce inconsistency, improve consumer understanding and avoid unnecessary duplication. It would also reduce the risk of property managers or strata managers being placed in the position of preparing legal or technical electricity supply agreements beyond their ordinary role.

Disclosure requirements and technical information

REIWA supports clear disclosure to customers before they enter an electricity supply arrangement.

However, the draft Code and schedules require information that may not be known to, or readily verifiable by, a property manager or strata manager. This includes information about tariffs, metering, allocation methodology, distributed energy resources, solar panels, batteries, EV chargers, export limits, feed-in tariffs, capital contributions, renewable electricity and complaint processes.

Much of this information sits properly with the owner, strata company, registered SPN service provider, embedded network operator, electrical contractor or specialist energy provider.

REIWA recommends that the final Code or implementation guidance confirm that:

- the registered provider is responsible for the accuracy and completeness of the disclosure information;
- agents may rely in good faith on information provided by the owner, strata company, registered provider or specialist contractor;
- agents are not required to independently verify technical information about the electricity network, metering, tariffs, solar, batteries, EV charging or other distributed energy resources;
- where information is not available, the Code should identify who is responsible for obtaining it; and
- practical templates should be provided to ensure disclosure is consistent and able to be integrated into existing property management, strata management and commercial leasing processes. Again, these should be developed in consultation with REIWA and industry practitioners.

Without this clarification, there is a risk that agents will be expected to verify information they are not qualified or equipped to verify.

Dual-key dwellings and unmetered allocation methods

REIWA members have identified dual-key properties as a practical area requiring specific guidance.

In some properties, there is one electricity account in the owner's name and electricity costs are apportioned between two tenancies. In some cases, tenants are advised at the commencement of the tenancy that electricity will be apportioned on a fixed basis, for example 60/40, regardless of actual usage. In other cases, sub-meters may exist but are difficult to read or administer.

The draft Code appears to contemplate unmetered supply addresses and allocation methodologies. REIWA supports this flexibility but recommends that the final Code or guidance expressly address dual-key and similar arrangements.

In particular, guidance should confirm:

- when a dual-key dwelling is, and is not, captured as an SPN;
- whether a reasonable predetermined allocation method, such as 60/40, can continue to be used where the individual dwellings are not separately metered;
- that any allocation methodology must be clearly disclosed before the tenant enters the tenancy or electricity arrangement;
- whether actual metered consumption must be used where separate meters exist;
- whether an agreed allocation can continue to be used where meters exist but are not practically read or managed;
- that the owner or registered provider remains responsible for the electricity supply arrangement; and
- that a property manager may issue bills and collect payment as agent without becoming the provider.

This is an area where a simple worked example would be particularly useful.

Billing and customer management

The draft Code includes detailed requirements for billing, billing data, payment methods, bill reviews, undercharging, overcharging, complaints, disconnection and reconnection.

REIWA supports minimum standards in these areas. However, it will be important for the framework to recognise that many real estate and strata management systems are not designed as electricity retailer systems.

If property managers or strata managers are expected to assist with billing, the final framework should provide clear guidance on the minimum billing information required, how this can be integrated into existing software, and what functions may be outsourced to specialist embedded network or billing providers.

REIWA recommends that Energy Policy WA consult with strata management, property management and commercial management software providers during implementation.

REIWA also recommends that the final framework clarify that an agent who issues a bill, statement or on-charge on behalf of an owner, strata company or registered provider does not become the provider merely by performing that administrative function.

Hardship, family violence and life support

The draft Code contains important protections for customers experiencing financial hardship or family violence, and for customers who require life-support equipment.

REIWA supports these protections. However, these are specialist, high-risk obligations. They require appropriate policies, training, record keeping, privacy protections, escalation procedures and decision-making authority.

Property managers and strata managers are not electricity providers and should not be expected to independently assess hardship, manage family violence disclosures, determine disconnection eligibility or maintain life-support registers unless they have been expressly engaged and appropriately trained to perform those functions.

In practice, a property manager or strata manager may be the first person contacted by a customer. Their appropriate role should be to identify that the matter relates to hardship, family violence or life support and promptly refer or escalate the matter to the registered SPN service provider or other nominated responsible person.

REIWA recommends that the final Code or guidance:

- confirm that responsibility for hardship, family violence and life-support obligations rests with the registered SPN service provider;
- provide a simple escalation process for agents who receive these requests;
- clarify what information an agent should and should not collect;
- address privacy and record-keeping risks;
- provide standard wording for agents to use when referring a customer to the provider; and
- avoid creating an expectation that agents will make substantive decisions about hardship, vulnerability, life-support registration, disconnection or reconnection.

Commercial properties and requests for direct connection to the licensed network

Clause 30 of the draft Code requires an SPN service provider to facilitate a connection to a licensed network supply for certain customers who consume, or are reasonably expected to consume, more than 50 MWh of electricity within a private network in a 12-month period.

REIWA understands the purpose of this protection, particularly for larger users who may have limited choice within an embedded network.

However, in commercial properties and strata-titled properties, the provider may not have unilateral power to deliver the outcome requested. A direct connection may require approvals from a landlord, building owner, strata company, council of owners, distributor, retailer, other occupiers or other third parties. It may also require access, infrastructure works, electrical works, cost allocation and disruption to the property.

REIWA recommends that the final Code or guidance clarify that “facilitate” means taking reasonable steps within the provider’s control. It should not mean that the provider, property manager or commercial agent can compel a landlord, strata company, council of owners or other third party to approve works or incur costs.

Guidance should also clarify:

- what preliminary information must be provided to a customer;
- when owner or strata company consent is required;
- how costs are to be estimated and disclosed;
- when the customer’s written consent is required;
- how access and works are to be coordinated; and
- what happens if the required third-party approvals are refused or delayed.

This is another area where practical examples for commercial buildings, commercial strata and mixed-use schemes would be helpful.

Response timeframes and requests requiring third-party information

The draft Code contains a number of specific response timeframes. These include notice requirements, complaint response timeframes, disconnection and reconnection timeframes, meter testing timeframes, planned interruption notices and life-support registration requirements.

REIWA supports timely responses to customers. However, the final Code should clarify how timeframes apply in property and strata management contexts where the first recipient of a request may not be the registered provider and where information or instructions may need to be obtained from a third party.

For example, a property manager may receive a question from a tenant but need information from the owner, strata company, registered provider, embedded network operator, electrician or billing provider before a substantive response can be provided.

REIWA recommends that the Code or guidance clarify:

- when a timeframe starts;
- whether a timeframe starts when a request is received by the registered provider or by any person acting in an administrative capacity;
- what happens where the request is sent to the wrong party;
- how timeframes apply where third-party information is required;
- whether reasonable extensions apply where information is outside the provider's control;
- how urgent life-support and safety matters should be escalated; and
- whether providers should nominate a single contact point for Code-related requests.

Clear rules are needed so customers receive timely responses and agents understand their role in escalating requests.

Which properties are captured

Members have also identified a need for clear guidance about which properties are captured by the SPN framework and which are excluded.

The framework may apply differently depending on whether the property is a residential strata scheme, commercial strata scheme, mixed-use scheme, dual-key dwelling, shopping centre, office building, industrial complex, retirement village, caravan park, land lease community or other property type.

REIWA recommends that Energy Policy WA publish practical implementation guidance that includes a decision tree and examples of properties that are captured and not captured, as well as exemption. In addition, guidance should be developed regarding:

- residential strata schemes;
- commercial strata schemes;
- dual-key dwellings and properties with one account and multiple occupants;
- commercial leasing and on-charging;
- where a strata company is the provider;
- where an embedded network operator is the provider;

- where an owner on-sells electricity to one tenant; and
- the role of property managers, strata managers and commercial agents.

This guidance should be available well before commencement so affected parties have time to review arrangements, update agreements, brief staff, amend management authorities and update billing systems.

Implementation and transition

REIWA supports a practical transition to the new framework. The Code will affect not only registered providers, but also owners, strata companies, strata managers, residential property managers, commercial property managers, commercial leasing agents, embedded network operators, billing providers and software providers.

To support implementation, REIWA recommends that Energy Policy WA:

- publish plain-English guidance for the real estate and strata sectors, developed in consultation with REIWA and industry practitioners;
- provide model disclosure documents and model SPN agreement clauses;
- provide worked examples for common property arrangements;
- provide guidance on how existing leases and by-laws can satisfy the SPN agreement requirement;
- clarify whether management agreements should be updated;
- allow sufficient time for software and billing system changes;
- engage directly with industry bodies and software providers; and
- consider education sessions for strata managers, property managers and commercial agents.

The final framework should avoid imposing technical electricity provider obligations on real estate and strata professionals who are not registered providers and do not control the relevant network.

Conclusion

REIWA supports the objective of improving protections for customers supplied through single property networks.

The final Code should provide clear consumer protections while also recognising the practical role of property managers, strata managers and commercial agents. These professionals may assist with administration, billing, information flow and communication, but they should not inadvertently become electricity providers or be expected to verify technical network information.

REIWA's central recommendation is that the final framework clearly identify the registered SPN service provider as the responsible party, provide safe and practical pathways for agents to assist with administrative functions, and publish detailed implementation guidance for the property and strata sectors before the framework commences.

REIWA would welcome further engagement with Energy Policy WA on practical implementation issues affecting strata companies, commercial property owners, property managers, strata managers and commercial agents.

For further information, or to collaborate on practical implementation matters and the development of guidance, please contact me

Yours sincerely

Tim Lane
Executive Manager Policy and Advocacy