



**Discussion Paper**

**Proposed amendments to the  
Electricity Industry Code regarding  
customer claims for Guaranteed  
Service Level (GSL) payments**

**May 2009**

Level 19, 12 Creek Street Brisbane Queensland 4000  
GPO Box 2257 Brisbane Qld 4001  
Telephone (07) 3222 0555  
Facsimile (07) 3222 0599

[general.enquiries@qca.org.au](mailto:general.enquiries@qca.org.au)  
[www.qca.org.au](http://www.qca.org.au)

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## SUBMISSIONS

Public involvement is an important element of the decision-making processes of the Queensland Competition Authority (the Authority). The Authority is releasing this Discussion Paper to provide an opportunity for interested parties to comment on proposed changes to clauses 2.5.11 and 2.5.14 of the Electricity Industry Code.

This Discussion Paper follows the Authority's Final Decision on its Review of Electricity Distribution Network Minimum Service Standards (MSS) and Guaranteed Service Levels (GSL) to apply in Queensland from 1 July 2010, which was released on 30 April 2009. To assist stakeholders in preparing their submissions, the Discussion Paper includes an overview of the existing GSL claim procedures and other relevant issues that may warrant consideration. The Authority will take account of all submissions received in the time allowed. Submissions in response to this Discussion Paper should be restricted to those issues relevant to the GSL claim procedures.

Written submissions should be sent to the address below. While the Authority does not necessarily require submissions in any particular format, it would prefer to receive an electronic version in Microsoft Word © format by e-mail. Submissions, comments or inquiries should be directed to:

Queensland Competition Authority  
GPO Box 2257  
Brisbane QLD 4001  
Telephone: (07) 3222 0555  
Fax: (07) 3222 0599  
Email: electricity@qca.org.au

The **closing date** for submissions is **COB on Friday 19 June 2009**.

### **Confidentiality and public access to submissions**

In the interests of transparency and to promote informed discussion, the Authority would prefer submissions to be made publicly available wherever this is reasonable. However, if a person making a submission does not want that submission to be public, that person should claim confidentiality in respect of the document (or any part of the document). Claims for confidentiality should be clearly noted on the front page of the submission and the relevant sections of the submission should be marked as confidential, so that the remainder of the document can be made publicly available. Where it is unclear why a submission has been marked "confidential", the status of the submission will be discussed with the person making the submission.

While the Authority will endeavour to identify and protect material claimed as confidential as well as exempt documents (within the meaning of the *Freedom of Information (FOI) Act 1989*), it cannot guarantee that submissions will not be made publicly available. As stated in section 187 of the *Queensland Competition Authority Act 1997*, the Authority must take all reasonable steps to ensure the information is not disclosed without the person's consent, provided the Authority is satisfied that the person's belief is justified and that the disclosure of the information would not be in the public interest. Notwithstanding this, there is a possibility that the Authority may be required to reveal confidential information as a result of an FOI request.

Subject to any confidentiality constraints, submissions will be available for public inspection at the Brisbane office of the Authority, or on its website at [www.qca.org.au](http://www.qca.org.au). If you experience any difficulty gaining access to documents please contact the office (07) 3222 0555.

Information about the role and current activities of the Authority, including copies of reports, papers and submissions can also be found on the Authority's website.

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## 1. BACKGROUND

### 1.1 Guaranteed Service Levels (GSL)

The Queensland Electricity Industry Code (the Code) sets Guaranteed Service Levels (GSL) that the electricity distributors, Energex and Ergon Energy, must meet in relation to the quality of service received by individual customers.

The GSL relate to various aspects of the services received by customers including the duration and frequency of outages, the timeliness of connections and reconnections, providing notices of planned outages, and whether appointments are attended on time.

If a distributor breaches a GSL they are required to make a GSL payment to the affected customer. GSL payment amounts vary according to the type of service involved. There is also an annual cap on the amount an individual customer may receive.

### 1.2 The Authority's recent review of MSS and GSL

The Authority recently reviewed the Minimum Service Standards (MSS) and GSL that will apply to the distributors from the beginning of the next regulatory period commencing 1 July 2010. In its Final Decision, the Authority decided to retain the current set of GSL arrangements, but to increase the level of GSL payment amounts in the Code by approximately 30% to maintain their real deterrent value by accounting for the effects of inflation over the relevant period.

The Authority's Final Decision - *Review of Electricity Distribution Network Minimum Service Standards and Guaranteed Service Levels to apply in Queensland from 1 July 2010* - was released on 30 April 2009 and can be accessed from the Authority's website.

### 1.3 The current review

This Discussion Paper follows on from the above Final Decision. In that Final Decision, the Authority noted that there were two remaining proposals for change which it considered had merit but which had not been subject to the required level of consultation as they had only been raised in the latter stages of the review.

Rather than delay the finalisation of the MSS and GSL arrangements, the Authority opted to process these two remaining matters separately.

The purpose of this Discussion Paper is to assist interested parties in making submissions to the Authority in relation to proposed changes to the process that applies when customers make claims for GSL payments from distributors. That process is contained in clauses 2.5.11 to 2.5.14 of the Code.

This Discussion Paper also constitutes a final consultation notice for the purposes of section 222L(3) of the Regulation. As the issues considered in this Discussion Paper follow directly from those already discussed and decided in the Authority's review of the MSS and GSL arrangements, the Authority considers that it is not necessary to conduct more than one round of consultation on the proposals outlined.

Chapter 2 of this Discussion Paper outlines the existing process and explains the suggested Code amendments. **Annexure 1** contains the proposed Code amendments that would be made to give effect to these suggestions

An indicative timetable for to finalise the matters raised in this Discussion Paper is provided below:

<b>Action</b>	<b>Date</b>
Release of Discussion Paper	22 May 2009
Receive submissions from interested parties	19 June 2009
Release Final Decision	24 July 2009

Under the *Electricity Act 1994*, the Authority must also seek Ministerial approval of any proposed Code amendments and, if granted, publish the amendments in the Queensland Government Gazette.

## 2. GSL CLAIM PROCESS

### 2.1 The current GSL arrangements

The existing GSL arrangements are contained in version 4 of the Code (version 5 of the Code, which increases the GSL payment amounts from 1 July 2010, is currently awaiting Ministerial approval). The current version of the Code can be accessed from the Authority's website.

The existing GSL arrangements are outlined in Table 1.

**Table 1 – GSL and GSL payment scheme**

<i>Electricity Industry Code</i>	<i>GSL</i>	<i>GSL payment amount (until 30 June 2010)<sup>1</sup></i>	<i>GSL payment amount (from 1 July 2010)<sup>2</sup></i>
Clause 2.5.3	Wrongful disconnection	\$100	\$130
Clause 2.5.4	Connection not provided by the agreed date	\$40 per day	\$52 per day
Clause 2.5.5	Reconnection not provided by the agreed date	\$40 per day	\$52 per day
Clause 2.5.6	Failure to attend to customer's premises within the time required concerning loss of hot water supply	\$40 per day	\$52 per day
Clause 2.5.7	Failure to attend appointments on time	\$40	\$52
Clause 2.5.8	Notice to planned interruption to supply not given	\$20 (small residential customers); and \$50 (small business customers)	\$26 (small residential customers); and \$65 (small business customers)
Clause 2.5.9	Interruption duration exceeding specified limits	\$80	\$104
Clause 2.5.9	Interruption frequency exceeding specified limits	\$80	\$104

<sup>1</sup> *GSL payments are payable subject to the terms and conditions contained in their respective clauses under the Code.*

<sup>2</sup> *The GSL payments to apply from 1 July 2010 are awaiting Ministerial approval and will not become effective until they are approved and published in the Queensland Government Gazette.*

The GSL arrangements only apply to *small* customers, which are defined in section 300 of the Regulation as those consuming 100MWh or less of electricity annually.

### 2.2 The current GSL claim process

Clauses 2.5.11 to 2.5.14 of the Code prescribe the process that applies when a small customer makes a claim for a GSL payment from a distributor.

The process essentially divides the different GSL measures into three groups, and a slightly different process applies to each group.

Under clause 2.5.11(a), a distributor must use their "best endeavours" to automatically give a GSL payment to a customer who is eligible for it under clauses 2.5.3 to 2.5.6. This includes GSL payments for wrongful disconnections, late connections, late reconnections, and failures to attend appointments relating to hot water supply on time. For these GSL, the customer retains an express right to make a claim for a GSL payment from the distributor where one has not been paid. No time limit is specified for the making of such claims.

Clause 2.5.11(b) applies to GSL payments for failures to attend appointments on time or failures to provide proper notice of a planned supply outage. There is no requirement for a distributor to use their best endeavours to automatically give these GSL payments. Rather, an affected customer must make a claim. A time limit applies – one month from the event giving rise to the claim – in which a claim must be lodged. A claim is not valid if it is made outside that timeframe.

Clause 2.5.11(c) applies to GSL payments relating to the reliability of supply. Reliability is measured in two ways: the number or frequency of outages; and the duration of outages. The acceptable limits of reliability are specified in clause 2.5.9 of the Code.

Again, there is no requirement for a distributor to use their best endeavours to automatically make these GSL payments to customers. Rather, an affected customer must make a claim from the distributor. In the case of GSL payments for the duration of outages, the claim must be made within one month of the relevant interruption. In the case of GSL payments for the frequency of outages, as frequency is measured per year, the claim must be made within three months of the end of the relevant financial year. Any claim made outside of these timeframes will not be valid.

A slightly different process applies to customers with card operated meters, under clause 2.5.13 of the Code. These are a minority of customers whose meters contain control equipment that switches on and off in accordance with the amount of credit stored in the meter. For these customers, a time limit of one month applies to making claims for all types of GSL payments. There is no requirement upon a distributor to use their best endeavours to automatically give GSL payments to these customers. No change is proposed in relation to this clause.

Clause 2.5.14 of the Code requires that a distributor must process “promptly” a GSL claim received from a customer. No further guidance is provided in the Code as to what is likely to be considered “prompt” for the purposes of processing a GSL claim.

Once the eligibility of a customer to a GSL payment is confirmed, clause 2.5.12 of the Code requires a distributor to use its best endeavours to make the GSL payment by cheque, electronic funds transfer or any other means agreed with the small customer.

### **2.3 The proposals for change**

In response to the Authority’s Draft Decision on its review of the MSS and GSL arrangements to apply in Queensland from 1 July 2010, the Queensland Council of Social Service (QCOSS) made a number of recommendations for changes to the MSS and GSL arrangements. The QCOSS submission, dated February 2009, is accessible from the Authority’s website.

In its submission, QCOSS expressed concerns about two aspects of the current GSL claim process, namely:

- (a) that clause 2.5.14 of the Code does not specify a strict timeframe within which a distributor must assess a customer’s GSL claim; and
- (b) that the timeframes in clause 2.5.11 of the Code may unreasonably restrict a customers opportunity to lodge their own claims for GSL payments.

In relation to the first issue, QCOSS recommended that a definitive timeframe should be introduced giving a distributors one month (or 20 business days) after receipt of a customer GSL claim in which to assess that claim.

On the second issue, QCOSS stated that, while it supported the requirement for distributors to use their best endeavours to make GSL payments automatically, customers were not sufficiently aware of their rights to claim GSL payments in cases where a GSL payment has not been paid automatically.

QCOSS was concerned that, under the current arrangements, a significant proportion of customers would likely fail to make a claim altogether, or would only become aware of the need to make a claim well past the time limits that currently apply. Queensland Consumers Association also endorsed this view. QCOSS suggested that any time limits restricting the ability of customers to make GSL claims should be extended to three months or 60 business days (whichever is the longer). QCOSS noted that this suggestion was in line with the time limits applying in the Australian Capital Territory.

## **2.4 The Authority's view**

In its Final Decision on the MSS and GSL Review, the Authority noted its acceptance of the points raised by QCOSS and considered that it was reasonable to set a time limit within which distributors must process GSL claims lodged by customers. In the Authority's view, this would provide some certainty for customers regarding the process to be followed and require distributors to ensure that claims are addressed in a timely fashion.

The Authority also noted that there is an apparent inconsistency between the quarterly billing cycle followed by most retailers and the current limit of one month in which customers can lodge claims. While there is no necessary connection between bills received and the source of GSL claims, the Authority considered that customers may only be prompted to attend to electricity-related matters when bills arrive every three months. This could lead to a situation where customers may (unsuccessfully) seek to lodge a GSL claim only after receiving their next quarterly bill for retail electricity services.

The Authority notes that introducing a definitive time limit this will ensure that customers have some expectation as to what constitutes a reasonable assessment period for a GSL claim.

The Authority also notes that the Electricity (Retail Billing Guaranteed Service Level Scheme) Code, which commenced on 19 September 2008, allows customers to make GSL claims under that Code within four months of the relevant event giving rise to eligibility for a GSL payment.

## **2.5 Proposed amendments to the Code**

The Authority proposes to adopt the suggestions made by QCOSS by:

- (a) amending clause 2.5.14 of the Code so that distributors have a definitive timeframe of one (1) month within which to process a GSL claim lodged by a small customer; and
- (b) simplifying and standardising the current claims process by combining sub-clauses 2.5.11(a), (b) and (c), so that, for all types of GSL payments:
  - (i) a distributor must use its best endeavours to automatically give a GSL payment to an eligible small customer; and
  - (ii) a small customer has a time limit of three (3) months within which to make a GSL claim.

Standardising the process that applies for all types of GSL payments will alter the existing rights and obligations of distributors and customers in three ways:

- (a) in relation to GSL payments for poor reliability of supply (frequency of outages), customers will continue to have the same period in which to make GSL claims but distributors will be required to use their best endeavours to make GSL payments automatically;
- (b) in relation to GSL payments for failure to attend appointments on time, failure to provide proper notice of planned interruptions and poor reliability of supply (duration of outages), distributors will be required to use their best endeavours to make GSL payments automatically and customers will have a longer time period in which to make GSL claims; and
- (c) in relation to GSL payments for wrongful disconnection, late connections or reconnections, or failure to attend appointments relating to hot water supply on time, customers will have three months within which to make a GSL claim (currently no time limit is specified).

The draft amendments that the Authority is proposing to make to the Code are contained in **Annexure 1** to this Discussion Paper.

The Authority seeks stakeholders views on the Code changes proposed in this Discussion Paper and as implemented in **Annexure 1**.

Submissions on these matters should be received by the Authority by close of business 19 June 2009.

**ANNEXURE 1 - PROPOSED AMENDMENTS TO THE CODE**

This Annexure contains the amendments that the Authority is proposing to make to the Electricity Industry Code (the Code) to give effect to the process that will apply when a customer makes a claim for a GSL payment under Part 2.5 of the Code.

This Annexure is a “draft of the proposed code amendments” for the purposes of section 222L(2)(b) of the Electricity Regulation 2006.

The following paragraphs contain the amendments to the Code proposed by the Authority:

**Clause 2.5.11 Claiming a *GSL payment***

In sub-clause 2.5.11(a) of the Code:-

- (i) Replace “2.5.6” with “2.5.8”.
- (ii) After “may make a claim for a *GSL payment*”, insert “within three months of the event giving rise to the claim”.

Delete sub-clause 2.5.11(b) of the Code.

Re-name sub-clause 2.5.11(c) of the Code “2.5.11(b)” and:-

- (iii) Replace “A *small customer* must make a claim from the *distribution entity* to be entitled to a *GSL payment* under clause 2.5.9” with “A *distribution entity* must use best endeavours to automatically give a *GSL payment* to a *small customer* eligible for it under clause 2.5.9. However, a *small customer* may make a claim for a *GSL payment* where a *distribution entity* has not done so”; and
- (iv) In paragraph (i) of that sub-clause, replace “one month” with “three months”.

**Clause 2.5.14 Processing claims**

In clause 2.5.14 of the Code:-

- (i) Replace “promptly” with “within one month”.