

**GUIDELINES
FOR
MODEL DOMESTIC CONTRACT FOR
DELIVERED ELECTRICITY
(Interposed)**

Consultation Draft – April 2008

Appendix A1

GUIDELINES FOR DOMESTIC CONTRACTS FOR DELIVERED ELECTRICITY (INTERPOSED)¹

Definitions

1. Capitalised terms in these guidelines are defined in Annex 1 of these guidelines.

Scope of application

- 1.2. These guidelines apply to Interposed Domestic Contracts.

Code

- ~~2. Interposed Domestic Contracts must comply in all respects with the Code.²~~

Vulnerable consumers

3. The Retailer must comply with the Commission's July 2007 "Guideline on arrangements to assist low income and vulnerable consumers". Nothing in these guidelines or the Model Interposed Domestic Contract limits this obligation and this obligation shall prevail in the event of any inconsistency with these guidelines or the Model Interposed Domestic Contract.

Consumer's Application

- 3.4. Interposed Domestic Contracts must set out the period within which the Retailer will respond to the Consumer's application.³

- 4.5. Interposed Domestic Contracts must set out either:

- the Retailer's acceptance criteria; or
- where the Consumer can obtain a copy of the Retailer's acceptance criteria.⁴

¹ Clause references in these guidelines this Appendix A1 are to clauses in the Model Interposed Domestic Contract. Footnotes have been included to show which clauses of the Model Interposed Domestic Contract reflect each paragraph of the guidelines (except where the paragraph itself refers to the relevant clauses). Capitalised terms in this appendix have the meaning given in the main body of this paper.

² The reference to the Code (i.e. the Electricity Consumer Code of Practice published by the Electricity and Gas Complaints Commission) has been deleted because going forward the Commission intends to specify all minimum contract standards itself rather than relying in part on a third party standard. The Code provisions have now been set out in full in these guidelines, except to the extent Code provisions are already covered by existing guidelines or relate to matters beyond the terms and conditions of Interposed Domestic Contracts.

³ Clause 1.1.

⁴ Clause 2.

Formation of contract⁵

5.6. Any statement in an Interposed Domestic Contract about the point at which a contract is formed with the Consumer must be accurate and not misleading. In particular, the Electricity Commission's EC's view of the law is that the taking of electricity prior to receiving notice of the terms of the Retailer's Interposed Domestic Contract cannot create a contract on the terms of such an Interposed Domestic Contract.

6.7. Interposed Domestic Contracts may provide that, once formed, the contract applies retrospectively from when the Consumer first used electricity supplied by the Retailer to the relevant property.

7.8. Interposed Domestic Contracts must contain a clause no less favourable to the Consumer than clause 6.

Privacy⁶

9. Interposed Domestic Contracts must comply with the provisions of the Privacy Act 1993 and accordingly:

(a) set out the purposes for which the Retailer collects information from individuals; and

(b) confirm that the Consumer will have ready access to information held about them and the opportunity to correct this information.

Protection of information

~~7. Interposed Domestic Contracts must provide that the Consumer's agreement is required before the Retailer is entitled to use or disclose for market research purposes information collected from the consumer.⁷~~

Performance commitments

10. Subject to paragraph 11~~10~~ of these guidelines, Interposed Domestic Contracts must include provisions no less favourable to the Consumer than clauses ~~2624~~ to ~~2823~~. Note that, in addition to being free to specify the values for the matters in square brackets in those clauses, the Retailer may also change the unit of measure (i.e. seconds, minutes, hours, Working Days, etc).

⁵ Clauses 3-5.

⁶ Clauses 16, 17 and 22 -25.

⁷ ~~Clauses 15.5 and 19.4~~

11. To the extent that:

- (a) the Retailer's ability to meet any performance commitments under clauses 2624 to 2823 depends on performance by a Distributor; and
- (b) the Retailer has used reasonable endeavours to obtain performance commitments from the Distributor in respect of such matters but the Distributor has refused to provide such performance commitments,

then the Retailer shall not be obliged to include in its Interposed Domestic Contract provisions as favourable to the Consumer as clauses 2624 to 2823.

Force Majeure

12. Interposed Domestic Contracts must define the situations covered under Force Majeure clauses and explain how a Retailer will respond in such circumstances.⁸

10.—

Prices and fees

Price information

13. Interposed Domestic Contracts must refer to the relevant prices or pricing schedule (as may be produced by the Retailer from time to time) of products and services available to the Consumer.⁹

14.14. Where the Consumer chooses a price plan which requires an additional meter, or which requires changes to any meter or other equipment, the Retailer must advise the Consumer of any additional costs involved when the Consumer chooses the price plan.¹⁰

Changes to price

15. Interposed Domestic Contracts must describe how the Retailer will communicate any increases in the price of electricity. If the increase in price is more than 5%, then a separate notice of the increase must be individually communicated to the Consumer in writing as soon as practicable.¹¹

⁸ Clause 27.

⁹ Clauses 29 and 32.

¹⁰ Clause 3025.

¹¹ Clause 33.

16. If a Retailer increases the price of electricity supplied under Interposed Domestic Contracts, including for example any increase in variable electricity prices and/or daily fixed charge prices, the Retailer must:

(a) give no less than 30 days notice before increasing the price of electricity; and¹²

(a) explain the reasons for the increase in price when it gives the Consumer notice about the change.¹³

17. For the avoidance of doubt, a Retailer is not required to give a Consumer advance notification of a decrease in the price of electricity supplied.¹⁴

22.18. Interposed Domestic Contracts must contain clauses no less favourable to the Consumer than clauses 3732 and 3833.

Invoices and payment

13.19. The Retailer must send the Consumer an invoice for the Consumer's actual or estimated electricity use at least every month unless the Consumer's price place plan provides otherwise.¹⁵

14.20. If the Consumer's price plan includes fixed charges, the Retailer's invoice must itemise these fixed charges separately.¹⁶

21. Interposed Domestic Contracts must contain must contain clauses no less favourable to the Consumer than clauses 42 and 43.

15.Except where the Consumer's electricity use is measured by a prepayment meter and as a result it is impracticable to comply with this paragraph, the Retailer must advise the Consumer in each invoice of the amounts of each of the following charge components:

a.the Retailer's charges for electricity supplied to the Consumer; and

b.the Distributor's charges for lines services to the Consumer.⁹

16.22. The Retailer's invoice must include the name of the Distributor, unless the Consumer's electricity use is measured by a pre-payment meter and as a result it is impracticable to provide such information.¹⁷

¹² Clause 331.

¹³ Clause 34.

¹⁴ Clause 36.

¹⁵ Clause 3934.

¹⁶ Clause 4136.

¹⁷ Clause 4439.

¹⁷ ~~Clause 38~~

23. Information about 24-hour telephone numbers to call for faults must be provided on every invoice to the Consumer.¹⁸

24. If a Retailer's invoice to the Consumer is based on a method of estimating electricity and/or Line Function Services usage the Retailer must:

(a) state in its Interposed Domestic Contracts that the Consumer is required to pay estimated accounts.¹⁹

(b) make sure that its invoices state clearly if an estimate has been used.²⁰

(c) provide the Consumer an opportunity to read their own meter and give the reading(s) to the Retailer until the Retailer arranges for the Consumer's meter to be read;²¹ and

(d) provide, on request, a simple explanation of how estimates are calculated and amend an estimated invoice if the Consumer provides a valid meter reading.²²

17.25. Interposed Domestic Contracts must not contain a clause which requires the Consumer to pay an amount which is genuinely in dispute.²³

18.26. If an Interposed Domestic Contract allows the Retailer to transfer the Consumer's debt from a previous account to a current account, the Interposed Domestic Contract must contain a provision no less favourable to the Consumer than clause 549.

27. The Retailer must have policies in place that assist a Consumer who is having difficulty paying an invoice.²⁴

28. If alternative payment options are offered to the Consumer, these should be supported by a simple explanation of how the options operate, either in the Interposed Domestic Contract or in a separate publication or notice.²⁵

29. Where currently offered payment options are to change, reasonable notice must be given and adequate information provided to explain the

¹⁸ Clause 44.

¹⁹ Clause 50.

²⁰ Clause 46.

²¹ Clause 101.

²² Clause 46.

²³ Clause 5247.

²⁴ Clause 56.

²⁵ Clause 57.

change to the Consumer before the change takes effect. The minimum notification provisions of paragraph 69 of these guidelines apply.²⁶

19.30. The Retailer must offer the Consumer a pre-payment option. For the avoidance of doubt, this does not require the Retailer to offer the Consumer a prepayment meter.²⁷

20.31. If the prepayment option involves a prepayment meter and, as a result, the electricity supplied to the Consumer will cost more than under other payment options, the Retailer must inform the Consumer when it offers the prepayment option.²⁸

21.32. The Retailer must inform the Consumer when it offers the prepayment option of any costs involved in installing a prepayment meter.²⁹

22.33. The Retailer must make details of service fees easily available to the Consumer.³⁰

23.34. -The Retailer must show details of any prompt payment discount in each invoice to the Consumer.³¹

35. Interposed Domestic Contracts must set out that, except in the case of invoices based on estimates, if the Retailer makes an error and charges an incorrect amount, the Consumer:

(a) is entitled to a refund of the difference between the incorrect and correct amounts where the Consumer has paid too much; or

(b) is only liable to the Retailer for the correct amount.³²

~~24. The Retailer must offer the Consumer options for the method of repayment of overcharged amounts.~~³³

25.36. Interposed Domestic Contracts must contain provisions no less favourable to the Consumer than clauses 6764 to 7064.

Bonds

~~26. The Retailer must not require the Consumer to pay a bond or bonds exceeding \$150 in aggregate.~~³⁴

²⁶ ~~Clause 58.~~

²⁷ ~~Clause 5953.~~

²⁸ ~~Clause 6054.~~

²⁹ ~~Clause 6155.~~

³⁰ ~~Clause 6357.~~

³¹ ~~Clause 6458.~~

³² ~~Clause 6665.~~

³³ ~~Clause 60.2~~

27. Interposed Domestic Contracts must include a provision no less favourable to the Consumer than clause 70.

37. If a Retailer requires a Bond:

(a) the Retailer must give the Consumer the reason for that decision;³⁵

(b) the Bond (together with any other bond the Retailer requires from the Consumer) must not be more than \$150 in total;³⁶

(c) the Interposed Domestic Contract must state if interest is payable on the Bond;³⁷ and

(d) the Bond must be held on trust in a separate account.³⁸

38. Interposed Domestic Contracts must include provisions no less favourable to the Consumer than clauses 77 and 78.

39. Interposed Domestic Contracts must state how the Bond will be refunded.³⁹

Meters

40. Interposed Domestic Contracts must include provisions no less favourable to the Consumer than clauses ~~8376~~ to ~~8578~~ and ~~9487~~ to ~~100~~ and ~~102~~ to ~~10699~~.

Access

41. Interposed Domestic Contracts may include provisions permitting reasonable access to the Consumer's Premises for the direct purposes of the Retailer or Distributor and any agent or subcontractor of the Retailer or Distributor. The consequences of not granting access should be set out in Interposed Domestic Contracts. Other conditions of access should be in line with the provisions of the Electricity Act 1992.⁴⁰

42. Where a Retailer is in the possession of keys and/or security information for the Consumer's Premises, the Retailer should have formal procedures for the secure storage and use of and return of these keys and/or security information.⁴¹

³⁴ ~~Clause 68~~

³⁵ ~~Clause 710.~~

³⁶ ~~Clause 75.~~

³⁷ ~~Clause 74.~~

³⁸ ~~Clause 764.~~

³⁹ ~~Clause 797.~~

⁴⁰ ~~Clauses 1108-113 and 1153.~~

⁴¹ ~~Clause 1142.~~

Access

~~28. The Retailer must make its policies for holding, transferring or disposing of keys or other means of access to the Consumer's premises easily available to the Consumer.~~⁴²

Obligations from point of connection to the network⁴³

43. The Retailer must supply information (on request) to the Consumer about the Consumer's electricity supply that explains where the Distributor's ownership and responsibilities end in relation to the network.⁴⁴

44. Interposed Domestic Contracts must set out the responsibilities of the Consumer, the Retailer and the Distributor in relation to ownership of equipment.

45. Interposed Domestic Contracts must explain the Consumer's responsibilities for compliance with all Line Function Services safety and technical requirements under regulations and codes of practice.

46. Interposed Domestic Contracts must include a warning to the Consumer to protect Sensitive Appliances from voltage spikes.

Customer service lines

~~30.47.~~ If the Retailer agrees to repair the Consumer's customer service lines (i.e. the ~~L~~ lines that convey electricity between the Consumer's point of connection to the network and the Consumer's premises), the Retailer must advise the Consumer of the cost involved before carrying out the repair.⁴⁵

Supply of electricity

~~31.48.~~ Interposed Domestic Contracts must include ~~a~~ provisions no less favourable to the Consumer than clauses ~~13323 and 124~~.

49. Interposed Domestic Contracts must clearly state a minimum notice period before a planned outage, which must be no less than four days unless agreed otherwise in the Interposed Domestic Contract. Retailers must notify the Consumer of a planned outage within the notice period.

⁴² ~~Clause 104~~

⁴³ See generally the section "Your Other Responsibilities" (clauses ~~116444-132430~~).

⁴⁴ Clause ~~17068~~.

⁴⁵ Clause ~~1321~~.

32-50. The Retailer must notify the Consumer of the time and expected duration of unplanned outages as soon as reasonably practicable.⁴⁶

33-51. If the Consumer's electricity supply is interrupted for any reason, the Retailer must restore the Consumer's electricity supply as soon as reasonably practicable.⁴⁷

Disconnection and reconnection⁴⁸

52. Interposed Domestic Contracts must set out the conditions under which the Consumer can be disconnected.

53. Without limiting paragraph 3 of these guidelines, Interposed Domestic Contracts must state that a Retailer may only disconnect the Consumer for non-payment where the non-payment relates to invoices (including a Bond) associated with the supply of Retail Services, Line Function Services, and/or electrical energy.

54. If the Consumer has started using and is pursuing the dispute resolution processes set out in the Interposed Domestic Contract (including the *[name of consumer complaints resolution scheme approved by Electricity Commission]*) in relation to the Consumer not paying the invoice, the Retailer must not disconnect the Consumer or commence credit recovery action until the processes are exhausted. However, without limiting paragraph 3 of these guidelines, this shall not prevent the Retailer disconnecting the Consumer for non-payment of that part of an invoice which is not in dispute.

55. Without limiting paragraph 3 of these guidelines, the Consumer should not be disconnected on the basis of an estimated account unless it is fair and reasonable in the circumstances to do so.

56. Except in the case of agreed or emergency disconnections, Interposed Domestic Contracts must:

(a) provide for at least seven days notice warning of disconnection and allow an additional three days for the delivery of the notice; and

(b) provide for a final warning no less than 24 hours nor more than seven days before disconnection. The final warning must specify these timeframes. If the disconnection is not prevented by the Consumer and not completed within these timeframes, the Retailer must issue another final warning.

⁴⁶ Clause 136127.

⁴⁷ Clause 137128.

⁴⁸ See generally clauses 138136-149147.

57. Interposed Domestic Contracts must explain when charges for temporary disconnection and/or reconnection apply. When warnings are delivered as per the provisions of paragraph 60, they must include and make explicit what additional charges over and above the recovery of invoicing arrears will apply.

58. Temporary disconnection and/or reconnection charges should not be more than the level required to meet the overall costs of the disconnection and/or reconnection service.

59. Disconnection notices should include:

(a) information about the Retailer's dispute resolution processes;

(b) contact details of the Retailer's credit department so that the Consumer can contact that credit department to arrange payment of an invoice that has not been paid; and

(c) the cost of reconnection.

60. If the Consumer's electricity supply is disconnected, once the Consumer has satisfied the requirements for reconnection the Retailer must restore the Consumer's electricity supply as soon as reasonably practicable.⁴⁹

Liability and compensation

61. Interposed Domestic Contracts must not limit the Retailer's liability to the Consumer to less than that provided in clause 152.

35.62. Interposed Domestic Contracts must include clauses no less favourable to the Consumer than clauses ~~158~~145 and ~~159~~146.

63. Notwithstanding the provisions of these guidelines and in particular paragraph 61, the Consumer has access to any remedies that arise under the Consumer Guarantees Act 1993. Where these guidelines conflict with the Consumer Guarantees Act, the Consumer Guarantees Act will take precedence.

Termination

64. Interposed Domestic Contracts must not include any provisions allowing the Retailer to terminate the contract other than:

(a) for material breach of the contract by the Consumer; and

(b) if the Retailer ceases to have an agreement with the Distributor for the provision of lines services in relation to the network.⁵⁰

⁴⁹ ~~Clause 139~~

Assignment

~~34. The Retailer must notify the Consumer of a transfer or assignment of the Retailer's rights and obligations under an Interposed Domestic Contract.⁶⁴~~

Consumer complaint resolution

65. Retailers must accept Consumer complaints in any reasonable form from the Consumer, including written and oral, and via a variety of delivery mechanisms including face-to-face, posted, hand-delivered, facsimile or electronic.⁵²

66. Retailers must have a free, accessible, fair and effective, internal Consumer complaints handling process.⁵³

67. Retailers must:

(a) provide information to the Consumer about how their complaint will be dealt with, and when;

(b) provide written information about their Consumer complaints handling processes; and

(c) treat the Consumer courteously and with respect.⁵⁴

68. Retailers must also:

(a) train their staff about their Consumer complaints handling processes;

(b) use processes that are easy to understand, easy to use and free to the Consumer;

(c) provide adequate resources for their complaints handling processes;

(d) tell the Consumer that there is a [name of consumer complaints resolution scheme approved by Electricity Commission] to whom they can go if their complaint is not resolved; and

(e) review their Consumer complaints handling process regularly.⁵⁵

Changes to Interposed Domestic Contracts

⁵⁰ ~~Clause 165.162~~

⁵⁴ ~~Clause 173~~

⁵² ~~Clauses 171 and 174.172.~~

⁵³ ~~Clause 175.173.~~

⁵⁴ ~~Clauses 176.174 and 175.~~

⁵⁵ ~~Clause 174 and 177.175.~~

69. If a Retailer changes the terms and conditions of its Interposed Domestic Contract, the Retailer must:

(a) give no less than 30 days notice before making any change to the terms and conditions of the Interposed Domestic Contract; and

(b) explain the reasons for the change to the Interposed Domestic Contract's terms and conditions when it gives the Consumer notice of the change.⁵⁶

70. Interposed Domestic Contracts must describe how the Retailer will communicate any changes to the terms and conditions of Interposed Domestic Contracts that may be made under Interposed Domestic Contracts. However, any change in the frequency of invoicing and/or frequency of meter reading must be separately communicated to the Consumer in writing.⁵⁷

Consumer's responsibility

71. Interposed Domestic Contracts must set out that the Consumer is liable for the charges for all the services included in the Interposed Domestic Contract and is responsible for making sure that the contractual requirements are met.⁵⁸

Assignment

72. The Retailer must notify the Consumer of a transfer or assignment of the Retailer's rights and obligations under an Interposed Domestic Contract.⁵⁹

⁵⁶ Clause ~~182~~180.

⁵⁷ Clauses ~~162~~161 and ~~163~~160.

⁵⁸ Clause ~~185~~183.

⁵⁹ Clause ~~186~~184.

Annex 1

Definitions

Capitalised terms in these guidelines have the following meanings:

<u>Bond</u>	<u>means the bond or sum of money provided by the Consumer as security for non-payment.</u>
<u>Consumer</u>	<u>means Electricity consumer who consumes electricity for domestic purposes rather than business purposes.</u>
<u>Distributor</u>	<u>means a company which operates a local network for conveying electricity and provides Line Function Services to Retailers or directly to the Consumer.</u>
<u>Force Majeure</u>	<u>means circumstances beyond the control of the company, for example failure to supply electricity due to as a storm.</u>
<u>Interposed Domestic Contract</u>	<u>means a contract for the supply of electricity and Line Function Services to the Consumer where the Retailer is interposed between the Distributor and the Consumer.</u>
<u>Line Function Services</u>	<u>means has the meaning set out in section 2 of the Electricity Act 1992 and as further provided for in an Interposed Domestic Contract and includes metering services where a Distributor provides these services.</u>
<u>Model Interposed Domestic Contract</u>	<u>means the Model Domestic Contract for Delivered Electricity (Interposed).</u>
<u>Premises</u>	<u>means the site to which electricity is supplied or is to be supplied to the Consumer.</u>
<u>Retail Services</u>	<u>means all services supplied under an Interposed Domestic Contract except Line Function Services.</u>
<u>Retailer</u>	<u>means any supplier of electricity to a Consumer.</u>

Sensitive Appliances

means electrical equipment that has electronic circuitry or control systems in them. Major household appliances that fall into this category include, but are not limited to, TVs, microwaves, stereos, computers, radios, washing machines, driers, fridges, freezers, videos, DVDs and dishwashers.