



Tasmanian Council of Social Service Inc.

---

TasCOSS submission on *Consultation Paper for the Gas Industry Bill 2017 & Gas Safety Bill 2017*  
November 2016



INTEGRITY  
COMPASSION  
INFLUENCE

This submission is authorised by Kym Goodes, TasCOSS Chief Executive Officer.

For questions or further information, please contact Kath McLean – [kath@tascoss.org.au](mailto:kath@tascoss.org.au) or by phone 6231 0755.

The TasCOSS Energy Advocacy & Research project is funded by Energy Consumers Australia Limited ([www.energyconsumersaustralia.com.au](http://www.energyconsumersaustralia.com.au)) as part of its grants process for consumer advocacy project and research projects for the benefit of consumers of electricity and natural gas. The views expressed in this document do not necessarily reflect the views of Energy Consumers Australia.

## Introduction

The Tasmanian Council of Social Service (TasCOSS) welcomes the opportunity to respond to the proposals for new legislation to govern the regulatory framework of the gas industry in Tasmania outlined in the *Consultation Paper* and detailed in the Draft Bills. Our comments in this submission focus on the Draft Gas Industry Bill 2017 rather than on the Draft Gas Safety Bill 2017 as the former falls more within our area of concern and expertise than the latter.

TasCOSS has long been concerned about the inadequacy of protections for residential gas consumers in Tasmania and has made numerous representations on this matter to the State Government in recent years, including to both the Minister for Energy and the Department of State Growth. TasCOSS has advocated for equal protections for gas and electricity consumers, either through adoption of the consumer protection elements of the National Energy Customer Framework (NECF) for gas consumers in Tasmania or through revision of the *Tasmanian Gas Retail Code* to mirror those protections. Despite our efforts, the obvious inequity of the situation and the essential nature of both energy products, the Tasmanian Government has been unwilling to provide equivalent protections to consumers of electricity and of gas.

It is our understanding that these Draft Bills are the result of a review of the gas regulatory framework undertaken as Action 18 in the State's *Energy Strategy* (2015). That action appeared, among other actions, under the heading 'Making energy work for people' and reads:

*Undertake a review of gas legislation in Tasmania to ensure it is contemporary with market conditions and ensures administrative overlaps are removed. As part of this review evaluate the effectiveness of gas customer protections and consider the costs and benefits of regulatory and non-regulatory approaches to address any identified gaps.<sup>1</sup>*

TasCOSS had hoped that this review would result in an improvement to gas consumer protections. However, while we are pleased to see in the Draft Gas Industry Bill 2017 a small but important move in what we see as the right direction to improve protections for gas consumers, we remain concerned that this does not go far enough.

## Obligation to supply

Our major concern centres on the absence in policy and regulatory instruments (including legislation, regulation and codes) of an obligation on gas retailers, or on a single gas retailer, to offer gas supply to residential customers. While Section 91 of this Draft Bill provides the Minister with the power to "require gas retailer to offer gas for sale", it does not oblige the Minister to do so.

In fact Section 91 of the Draft Bill allows the Minister to require a retailer to offer gas supply only under particular conditions, that is, if the Minister is satisfied that a retailer or retailers are unlikely to supply gas to certain customers and if "significant hardship may be caused" to customers if no retailers will offer gas supply.

---

<sup>1</sup> Tasmania, 2015, *Tasmanian Energy Strategy: Restoring Tasmania's energy advantage*, p 17.

While we understand that it may be necessary for a “head of power” to be vested in the Minister in order for the Minister to impose an obligation on a retailer (or retailers) to supply customers, it is clear to us – and should by now be clear to the Tasmanian Government – that the conditions detailed in Section 91(3) (a) & (b) already exist and have for several years.

TasCOSS has provided the Government with evidence of “significant hardship” resulting from an inability to obtain gas supply. The evidence has come from our community service member organisations that provide assistance and support for people experiencing difficulties, including financial hardship. This is one example:

*My client was placed in a Housing Tasmania property ... which had a brand new gas heater. She came to see me [two months later] after being unable to gain a gas connection. We contacted both providers (Aurora and Tas Gas), both of whom declined a connection. Aurora declined due to an old electricity debt of \$1500 which needed to be paid in full before they would connect gas. Tas Gas declined due to poor credit history (the Aurora debt had been passed into debt collection). We made complaints with both Aurora ... and Tas Gas ... outlining the extenuating circumstances (domestic violence background) which had left this client in this situation. We also went to the Ombudsman but [as a result] only received an offer from Tas Gas of \$100 per week payment plan which was unaffordable to client. Both companies stated at different points that gas is not seen as an essential service and therefore they were under no obligation to connect.*

Recently a support worker told us about experiences trying to negotiate with gas retailers on behalf of a client who had been allocated a public housing property with a gas hot water heater.

*The tenant had an electricity debt with Aurora and we set up a payment plan for that debt; we were then put through to the gas section at Aurora who said, “No”. TasGas was also approached and we received an outright refusal.*

*The tenant had to be moved to another house – an all-electric house.*

*Several times we have had to move tenants from properties [with gas hot water heaters] ...*

When natural gas was introduced in Tasmania it was seen as a product of choice for residential consumers and businesses alike. This changed in 2006 when Housing Tasmania (HT) introduced a policy to install gas appliances in its properties in situations where the gas pipeline passed the property and when an appliance failed (including space and water heating, and / or cooking appliances). It is our understanding that this remains the policy today, and that approximately 1,700 public and social housing properties currently have gas appliances installed.

While a gas connection has no doubt been appreciated by many HT tenants who enjoy the lower cost and amenity of using gas appliances, it has also caused, and continues to cause problems and hardship for some. Most public housing tenants live on very low incomes and are therefore especially vulnerable to financial difficulties and hardship. HT tenants who are allocated houses with gas appliances are

vulnerable to further disadvantage by the well-intentioned actions of their landlord – the State Government – in applying a policy to connect gas to HT properties, and by the failure of the same State Government to provide adequate consumer protections for gas consumers.

Gas connections and appliances have also proliferated in private rental properties. With a current shortage of rental properties in Tasmania (there is an estimated vacancy rate of “below 3%”<sup>2</sup>), the uncertainty associated with obtaining a gas supply further limits choice and makes finding a home even harder.

However, many tenants moving into either public or private rental properties are unlikely to be aware that they may be denied gas supply to their newly rented homes, as most would expect gas to be supplied on the same basis as electricity. We know that this can cause significant distress and hardship.

TasCOSS contends that gas can clearly no longer be considered a product of choice or a non-essential service in Tasmania and its supply should therefore be subject to regulation to adequately protect consumers and importantly, to ensure that consumers have access to gas supply. Furthermore, TasCOSS contends that obligation to supply gas should not be contingent on the possibility that “significant hardship may be caused” to customers, but should be provided because natural gas is an essential service to those households with gas appliances.

### Concerns about the Draft Bill

Notwithstanding our disappointment that this Draft Bill does not provide the consumer protections for gas consumers that it could provide, we welcome the Bill’s provision of power to the Minister to require gas retailers to offer supply. However, we have some concerns about parts of the Draft Bill and the potential outcomes of those parts.

- Section 91(2) allows the Minister to “determine a class of customers for the purposes of this section”.  
We would not want to see a “class of customers” created that is different to residential customers as a result of this Bill. That is, customers who are considered less worthy of supply, “welfare customers” or “poor credit rating customers”. While we understand that this is probably not the intent of the draft legislation, it may be a perverse outcome of it.
- Section 91(3)(a) refers to “gas distribution entities that supply natural gas by retail”. This appears to be an error. Our reading of the draft legislation suggests that the word “distribution” should be deleted as the subsection refers to activities of retailers, not distributors.
- Section 91(4) gives the Minister the power “to approve, for the purposes of this section, a contract for supply, by retail, of natural gas to a class of customers determined under subsection (2)”.

---

<sup>2</sup> Real Estate Institute of Tasmania, 2016, Media Release: *June 2016 Quarterly Report*, August 2016, p 2.

We are concerned that this subsection may allow for bespoke or specific market contracts to be approved for customers with financial difficulties (past or current) or with poor credit ratings. TasCOSS believes that all residential customers should be offered supply through standing offer contracts that are in line with the *Tasmanian Gas Retail Code*.

It should be noted that gas retailers currently have the right, under the *Tasmanian Gas Retail Code*, to require a customer to provide a security deposit. This should be sufficient to ensure that retailers' interests are protected and that specially designed and approved contracts are not necessary.

Again, although this is probably not the intent of this subsection, it is possible that it may be an unintended outcome.

### TasCOSS recommendations

We see this Draft Bill as an opportunity to not only provide a “head of power” to the Minister to require a gas retailer to offer supply, but also to legislate an obligation to supply and other consumer protections for gas customers, such as the implementation of mandatory hardship policies. This is therefore our primary recommendation.

If the Draft Bill is not amended to provide these consumer protections, TasCOSS recommends that:

- Immediately the Bill becomes law, the Minister uses this power to require that at least one Tasmanian-based natural gas retailer be required to offer supply to all residential customers who request the retailer to supply natural gas to their premises. This could be done through an amendment to the *Tasmanian Gas Retail Code* that could appoint a single retailer as the Financially Responsible Retailer (or Local Area Retailer) who is obligated to offer supply to all customers requesting supply (as in the National Energy Customer Framework).
- Alternatively, the Minister should immediately use this power to impose an obligation to supply on a gas retailer (or retailers) as a Community Service Obligation, funded or guaranteed, through negotiation between the parties, by the State Government.
- Failing the implementation of either of the above, the Tasmanian Government should adopt the consumer protection elements of the National Energy Customer Framework for natural gas customers in Tasmania. This would provide not only an obligation to supply, but also other consumer protections currently not enjoyed by gas consumers in Tasmania, including access to hardship policies approved by the Australian Energy Regulator.