



**EnergyAustralia**

LIGHT THE WAY

17 September 2019

Life Support Review  
Essential Services Commission  
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Dear Ms Symons

### **ESC – strengthening protections for life support customers draft decision**

EnergyAustralia is one of Australia's largest energy companies, providing gas and electricity to 2.6 million household and business customer accounts in New South Wales, Victoria, Queensland, South Australia and the Australian Capital Territory. In Victoria, we provide gas and electricity to around 20 percent of households.

EnergyAustralia welcomes the opportunity to make this submission to the Essential Services Commission's (ESC's) draft decision to strengthen protections for life support customers.

EnergyAustralia supports the ESC's intent to ensure that customers who require life support equipment are provided protections. We support the harmonisation of the Energy Retail Code (the Code) with the National Energy Retail Rules (NERR). We have already adopted the NERR process nationally and welcome the formalisation of these protections for Victorian customers who require life support equipment.

While we anticipate that the internal adaptations of the additional protections to be relatively straightforward, we note that a commencement date of 1 January 2020 may be overly ambitious given there are a few outstanding issues the ESC needs to consider.

If you would like to discuss this submission, please contact me on 03 8628 1805 or [sarah.ogilvie@energyaustralia.com.au](mailto:sarah.ogilvie@energyaustralia.com.au)

Regards

**Sarah Ogilvie**  
Industry Regulation Leader

## **1. Commencing the new framework (decision 1)**

We suggest that the ESC reconsider a commencement date of 1 January 2020 given the Final Decision is expected in November 2019. While, on the surface the life support requirements appear simple to implement, in practice, given the ESC has proposed additional requirements broader than the National Energy Retail Rules (NERR), system changes will be required. It is unreasonable to expect that systems and employee training can take place in less than two months.

One of our primary concerns is that there is no existing industry system solution to allow gas retailers and distributors to exchange LSN/LSR transactions as easily as planned for electricity. While, AEMO is planning an update to the B2B it is unlikely to be ready for 1 January 2020. As a result, and given the high number of gas customers in Victoria, an onerous interim manual solution will be required. While EnergyAustralia will continue to register life support gas customers, we suggest that the ESC align the commencement of the obligations with the delivery of a full B2B solution.

In addition, one of the challenges with the introduction of the NERR life support obligations on 1 February 2019, was that the inconsistent interpretation of the obligations and late amendments to requirements, for example to the B2B procedures. This created issues for industry developing well considered and efficient solutions, particularly around automated systems. As such, we encourage the ESC ensure it provides clear guidance and sufficient timeframe so as to reduce customer determinant and operation inefficiencies.

### **1.1 Obligations application**

EnergyAustralia requests that the ESC set out clearly, and early in the consultation process, its expectations for protections for large customer sites.

EnergyAustralia notes that the Energy Retail Code only applies to small customers.<sup>1</sup> As such, the proposed life support obligations will only apply to domestic or small business customers. We appreciate that the ESC is mainly adopting the obligations from the NERR, however, in January 2019 the AER published its 'life support registration guide' in which it states that the life support obligations can apply to large customers.<sup>2</sup>

EnergyAustralia considers that large customer sites which are required to have life support equipment, for example, sites which are hospitals, day surgery centres, nursing homes/aged care facilities and, retirement villages should have protections from being disconnected. While, EnergyAustralia flags our large customer sites which require life support equipment, and will continue to do so, we are presented with some challenges from distributors. For example, we have had a distributor push back against registering a hospital/day surgery centre as it considered patients do not reside there and, as such, should be out of scope of the regulations.

If the ESC was to extend the obligations to large customer sites we believe that a common-sense approach should be taken. That is, retailer/exempt entity discretion on seeking medical confirmation should be allowed for sites where there are multiple occupants reliant upon life support equipment. In these cases, a medical practitioner

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<sup>1</sup> Clause 3B(1), Energy Retail Code

<sup>2</sup> <https://www.aer.gov.au/system/files/AER%20Life%20support%20registration%20guide%202019.pdf>



may sign a medical confirmation form stating that there are multiple occupants/patients at the site with life support requirements at any given time and should not be required to name an individual person. For example, in hospitals or nursing home sites there are likely to be multiple occupants reliant on life support equipment. There is also a more frequent turn-over of these occupants and EnergyAustralia's preference would be for the obligations to allow us to maintain the registration of these sites.

## **2. Registration and de-registration process (decision 11)**

We support the ESC's decision to align the registration and de-registration process with the NERR for retailers and exempt entities. However, we request that the ESC consider that practicalities of the 15-business day waiting period in clause 128 (6)(a)(iii) and clause (7).

In the scenario where a customer changes retailer and the distributor is the registered process owner (RPO), the distributor will begin the process to de-register the site upon receipt of the customer transfer. There is a 15-business day waiting period between the distributor being notified of the transfer, and the day the de-registration market notification (LSN) is sent. If in that 15-business day period, the customer's new retailer sends out to market a new LSN to register the customer, this could then be inadvertently cancelled when the distributor's de-registration LSN is sent. This may cause the customer to lose their life support protection if the premise is incorrectly deregistered.

In the scenario where a customer advises a distributor or its previous retailer that they no longer require life support at the premises upon moving out there is a 15-business day waiting period between the time of move out and the day the de-registration market notification (LSN) is sent. If there is a subsequent life support registration at the site within the 15 days by the new customer, this might lead to an inadvertent de-registration of the new customer's life support requirement. It is not possible for participants to consider the dates that the transactions were sent as the distributor may have sent the latest transaction, but not be aware of the latest information passed from the customer to their new retailer.

These are but two scenarios, where the 15-day business rule presents some challenges in providing a good customer experience. EnergyAustralia is happy to have a discussion around this in more detail with the ESC.

## **3. Medical confirmation (decision 12)**

EnergyAustralia considers that for mass market customers, the ESC should align fully with the NERR. That is, requiring retailers to seek medical confirmation from life support customers. Should the ESC consider extending the obligations to large customers, we consider that retailers should have discretion around whether to ask for medical confirmation.

We note that the ESC is contemplating an approach where a customer is not required to provide medical confirmation, yet the full protections will exist. We agree that it is fair and reasonable to take customers at their word and that this would mean customers wouldn't have to see a medical practitioner to get the form signed. However, there are some practicable limitations that the ESC will need to consider in making this decision. For example, how will the deregistration process work? A retailer would be required to always have a premise registered as requiring life support equipment. Not only will this

create inflated registers, it poses some difficulties in the scenarios of a customer moving out or abolishment.

### **3.1 Requirements on collecting and disclosing information**

EnergyAustralia considers that the *Privacy Act 1988* (Commonwealth) and the Australian Privacy Principles provides adequate privacy requirements on businesses, including energy business, to safeguard customer health information. We do not consider amendments to the ERC around collecting and disclosing information about life support equipment to other energy business, is necessary.

For example, as part of our privacy policy, we inform our customers that we may be required to collect their health information in certain circumstances – including if the premise has life support equipment – and that the health information may be disclosed to the customer’s distributor.<sup>3</sup>

### **4. Asking customers if they require life support equipment (decision 16)**

The ESC is proposing to require retailers/exempt sellers to ask all customers if they require life support equipment at the time of entering into a contract. We note that EA already seeks this information from customers.

However, we seek clarity around the proposed wording of clause 137 (19)(a) – ‘*when this contract starts, we must ask you...*’. We don’t have a contract with a customer until we have explicit informed consent. As stated, it could be construed that we are required to ask the customer the question again. We suggest that the ESC amend the sentence to make it a pre-condition to the contract ‘*when this contract starts, we have asked you...*’.

Given this proposed new requirement, the ESC states that distributors would not need to de-register the customer in the scenario where it becomes aware the customer has changed retailers without informing the new retailer. We consider that this obligation should remain so as to align with the NERR and ensure no gaps in the process.

### **5. Combined electricity and gas life support equipment (decision 17)**

The ESC is proposing that when a retailer, distributor or exempt seller is contacted by a customer requiring life support equipment, that the contacted party needs to establish if it is a dual fuel scenario, and if the fuel is supplied by another retailer.

While we are encouraged that the ESC is providing clarity around dual fuel scenarios, we consider that what has been proposed is complicated and duplicative. Particularly as retailers will already be required to ask customers of they require life support equipment when signing a new contract. As such, EnergyAustralia considers that clause 125(1)(b) is unnecessary and is sufficiently covered by clause 16A(1).

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<sup>3</sup> <https://www.energyaustralia.com.au/privacy>



## **6. Timely notification and update of life support registers (decision 18 and 19)**

We support the ESC's proposal to provide clarity around time-bound obligations. We consider a one-business day time frame appropriate for:

- Notifying the other party after notification from a customer,
- The RPO updating its register after notification from a customer,
- The other party updating its register after notification from the RPO.

## **7. On-market embedded networks (decision 23)**

The ESC is considering an alternative approach for on-market embedded network customers. This would result in the on-market customer being registered as life support with their exempt supplier, licensed retailer and licensed distributor. We consider when notifying of a planned supply outage, a two staged approach would be required. Where the distributor or licenced retailer knows that there is a planned outage, the exempt seller should be informed. It should then be the responsibility of the exempt seller to communicate this to customers.