



3 March 2022

Ms Anna Collyer
Chair
Australian Energy Market Commission
Level 15, 60 Castlereagh Street
Sydney NSW 2000

Email: ProjectRRC0042@aemc.gov.au

RE: RRC0042 Protecting customers affected by family violence

Origin Energy appreciates the opportunity to provide a submission in response to the Australian Energy Market Commission's (AEMC) consultation *Protecting customers affected by family violence*.

Origin strongly supports customers affected by family violence being provided with safe, supportive, and flexible assistance from their energy retailer and for this support to be provided in a respectful way.

Following the Essential Services Commission's (ESC) introduction of a family violence provision in the Victorian Energy Retail Code, Origin has developed a family violence policy that we apply across all the jurisdictions we operate in.

We support Red/Lumo's rule change proposal to require retailers to have a family violence policy that meets minimum standards of conduct. We also believe that retailers are afforded the discretion on how best to operationalise their policies to ensure their customer assistance policies operate consistently and complement one another.

We note that the Red/Lumo proposal does not mirror the ESC's Victorian obligations – instead it has excluded aspects of the Victorian obligations that it considers have not resulted in positive customer outcomes or are not working as intended. We support this decision by Red/Lumo. While national consistency is preferred, it must be in the best interest of consumers.

We also support the proposal to ensure that where a retailer places the safety of a customer affected by family violence in a position that is not compliant with other rules in the National Electricity Retail Rules (NERR), retailers would not be in breach of their contract with the customer or these rules.

Origin's views on the issues raised in the AEMC's consultation are set out below.

QUESTION 1: What are your views on the effectiveness of the changes proposed by Red and Lumo in protecting customers affected by family violence?

Proposal that each energy retailer must have a family violence policy

We agree that an energy retailer must have a family violence policy that contains information on the assistance available from the retailer to customers affected by family violence. This will allow a customer to research and understand what a retailer can do to assist them and feel confident that if they were to disclose their experience, the retailer would take appropriate steps to protect them.

Level of prescription on what a retailer's policy should include

Origin does not consider a prescriptive approach is necessary or productive for two key reasons.



First, we consider that the industry-led nature of this proposal shows that retailers in good faith want to protect and help customers who are experiencing family domestic violence. Origin made the decision to apply its family violence policy to customers in all states despite there being no requirement to do so. There is also no evidence of widespread non-compliance to the existing family domestic violence policies. These factors ought to indicate that retailers would voluntarily comply with their policy.

Second, and more importantly, requiring a retailer to consider how it will develop a policy to meet the intended outcomes represents a learning opportunity, where participants can more fully understand the breadth of issues customers experiencing family domestic violence face. It forces providers to look at an uncomfortable truth and then determine what they can do to mitigate this societal problem across all aspects of their business. If a model policy were available, then a provider would need not fully engage, leading to lack of understanding of the issues and potentially to a failure to investigate where changes needed to be made across their processes to accommodate customers experiencing family domestic violence.

In combination, we believe that requiring retailers to develop and implement their own family violence policies results in better understanding and engagement.

Should a retailer's family violence policy take priority over a market retail contract and other provisions in the rules

We consider one of the most important elements of the rule proposal is to ensure that where a retailer places the safety of a customer affected by family violence in a position that is not compliant with other rules in the NERR, retailers would not be in breach of their contract with the customer or these Rules.

We also support the views of Red/Lumo that changing the NERR in this way will enable retailers to give primacy to the safety of the customer.

Should family violence be recognised by a retailer as a form of payment difficulty

Since family violence can take many forms, not all customers who are experiencing family violence will require payment assistance. We consider that if this is recognised there is no reason not to include family violence as a potential indicator of hardship in the context of energy. Including this as an indicator may mean a customer feels more empowered to escape their current situation and can be referred to specialist teams for assistance if payment difficulties arise, because a greater awareness of these issues exists within the retailer.

When evidence may be requested

We acknowledge that in most circumstances, the victim-survivor will be the party who is asked to provide this evidence and that this experience may be unpleasant. However, we believe that there are limited, but reasonable, times when a retailer may need to request evidence of a family violence situation from a customer. These include to:

- avoid disconnection of supply (example: the account holder does not live at the address and uses the energy supply being disconnected as a method to control the victim, particularly where there are dependent children);
- resolve disputes about liability, particularly where there is not sufficient evidence in documentation or recordings held by the retailer to demonstrate an environment of family violence (example: the customer can provide a statutory declaration or existing order that evidences the family violence); and
- remove credit default listings where a person was coerced or otherwise ought not be considered liable for the debt accrued in their name (example: a child turned 18 and their parent coerced them into creating an energy account and taking responsibility for usage they should not have been liable for).

QUESTION 2: Are there additional matters you would like considered beyond those considered in the proposed rule?

Including small business customers

Origin considers that the proposed family violence policy should not apply to small business customers.

Small business structures can be complex, with shared liability for debt accrued by the business. In our experience, the protections under the ERC that apply to small business customers in Victoria do not consider the difference a business structure can make to both liability and potential for further financial abuse a bigger problem as compared to an individual account.

For instance, the Victorian requirements define an affected customer as ‘any customer, including a former customer, who is or was a small customer and who may be affected by family violence.’

The Victorian Energy Retail Code of Practice (ERCoP) prohibits a retailer from disclosing or providing access to confidential information about an affected customer to any other person without the consent of the affected customer (including a person who is or has been a joint account holder).¹ In the context of small businesses which may be set up with more than one liable person (such as partnerships, joint ventures and cooperatives,) excluding a registered business owner from accessing account information is problematic. It would prevent that party having visibility of what are ultimately their liabilities and could be used as a weapon to further abuse or detriment that party rather than serve as the protection it is intended to be.

Further, the *Corporations Act 2001* (Cth) section 588G sets out that that if a company is insolvent and a director allows the company to incur a new debt, then the director can be personally liable for the new debts incurred. In the context of small businesses which may be set up with more than one liable person (such as partnerships, joint ventures, and cooperatives) we consider that not including small businesses better protects a victim-survivor of family domestic violence because there is no ability for debt to be accrued without their knowledge, where for the purposes of the *Corporations Act 2001* (Cth), they would likely be considered to have ‘known’. In turn, we consider this more effectively limits a victim-survivor’s exposure to financial abuse through a small business.

For these reasons we do not support the application of this rule to small business customers.

Mandatory staff training

Origin supports the requirement for retailers to provide necessary staff training. We believe it ought to be a matter for retailers to determine who the appropriate staff are to be trained and the content of that training.

We think that the nature and content of training for customer facing staff and their managers is not designed to make them experts in family domestic violence support service providers. Rather it is designed to ensure they understand and can identify instances where family violence is or may be occurring, and the retailers process for supporting the customer when this is the case.

We also believe that training will need to be tailored for different staff roles i.e. training for employees who are not directly customer facing will be different for customer facing staff. For example, training for those responsible for designing systems and processes ought to focus on how to ensure risks to customers who may be experiencing family violence are proactively identified and controlled for rather than on appropriate engagement with a customer directly.

Minimising repeated disclosure of family violence experiences

Origin supports the principle that a customer should not have to unnecessarily repeat disclosure of their family violence experience to a provider. We consider that providing effective, ongoing engagement with an affected customer is necessary to build and maintain a safe service relationship.

¹ Cl. 150.

We also agree that retailers should consider how they can deliver this to customers. However, we do not think that the method for delivery should be predetermined. For instance, a retailer may develop a 'flag' system which marks an account as 'family violence' and this could help the customer avoid having to re-tell their experience.

However, in certain circumstances (such as where the account relates to a staff member) a flag of this nature may not be appropriate. Retailers ought to retain flexibility in the management of family violence disclosure in order to ensure the customers' privacy is respected, as well as their safety.

Actively referring a customer to an external support service

We agree that retailers ought to provide a customer with information about support services at a time and in a manner that is safe, respectable, and appropriate given the customer's circumstances.

However, we do not support that this should be a requirement. Nor do we agree with the AEMC's view that if staff have undertaken compulsory family violence training, they would be well-placed to identify appropriate support. Training staff on the content and application of a family violence policy is a different requirement to referring customers to specific, individualised external support services.

Question 3: What regulatory approaches from other sectors should the Commission consider, to complement, amend or replace Red and Lumo's proposal?

Application to embedded networks

Origin considers that the proposed rule change ought to apply to embedded network operators. The physical location of where a customer receives their electricity supply should not impact their ability to obtain family violence assistance nor should the structure of energy supply arrangements prevent a customer from being able to access safe, supportive, and flexible assistance from their energy retailer.

What regulatory approaches from other sectors should the Commission consider, to complement, amend or replace Red and Lumo's proposal?

Even when considering how to identify and manage financial abuse, retailers have very limited information. We believe that the rule change proposed by Red/Lumo would provide significant consumer benefit for customers affected by family violence while allowing retailers to further develop mechanisms to assist and manage instances of family and domestic violence

When discussing options that are available to energy retailers to mitigate the effect of family domestic violence and assist a customer, it must be acknowledged that retailers have limited capacity to provide assistance to customers.

At the AEMC's stakeholder forum on 14 February 2022, attendees heard from representatives from other sectors about how their identification and management of customers affected by (and engaging in) family domestic violence had evolved over time. The data held by banks is considerably more than that held by energy companies, and this wealth of data has allowed banking to proactively identify cases of abuse that were not strictly financial. These were informative discussions and highlighted that some of the best ways to mitigate abusive behaviours are discovered when businesses are given discretion to try different approaches within a supporting framework.

QUESTION 4: Is the proposed assessment framework appropriate? What amendments or additions would you suggest, and why?

Compliance enforcement and civil penalties

Retailers are heavily reliant on external information when identifying customers experiencing family domestic violence, i.e., the customer usually must tell the retailer this is occurring. Any penalty could only be applied when a retailer does not have a policy or does not apply that policy as written.

Notwithstanding, a penalties regime is unlikely to be effective in terms of ensuring customer outcomes. Rather, effective assistance and protection of customers affected by family violence comes from a



sweeping cultural change. The increased engagement required to develop and implement a family violence policy is what drives the underlying cultural change, not external penalties.

If you have any questions regarding this submission, please contact Courtney Markham in the first instance on 03 9821 8086 and or Courtney.Markham@originenergy.com.au.

Yours sincerely

A handwritten signature in black ink, appearing to read "Sean Greenup".

Sean Greenup
Group Manager Regulatory Policy
sean.greenup@originenergy.com.au