



Protecting customers affected by family violence

Final determination and final rule

Essential services can be exploited by perpetrators to control victims, undermine financial security, and inflict psychological and physical harm. The Commission has made the final determination and more preferable rule to address these family violence issues and vulnerabilities in the energy sector. The Commission notes this is an important area and considers the final rule will assist with appropriate measures and support for family violence victims in the national energy retail market.

Why the rules need to change to assist customers affected by family violence

Intimate partner violence contributes to more death, disability, and illness in adult women than any other preventable risk factor.¹ On average, a woman is killed by a current or former male partner every week.² In 2017, the Australian Bureau of Statistics found that one in four Australian women has experienced violence by an intimate partner, and around one in thirteen men have also experienced intimate partner violence.³ More recent surveys show the incidence and severity of family violence increased during the COVID-19 pandemic.⁴ Family violence is also the leading cause of homelessness for women and children in Australia.⁵

Because they are critical to everyday life, essential services like electricity, gas, water and communications can be exploited by perpetrators of family violence to harm and control victims. Many energy retailers around Australia have proactively introduced their own programs to help customers experiencing family violence. The Essential Services Commission of Victoria, has been at the forefront of many of the developments in the water and energy sectors.

However, more needs to be done. This rule change recognises that all energy retailers have a role to play in providing targeted, practical assistance and support to customers affected by family violence.

The final rule

The Commission's final determination is to make a more preferable final retail rule that will commence on **1 May 2023**. The final rule:

- **Has a broadly defined scope that provides the widest customer coverage and protection.** The final rule is broadly drafted to give customers certainty that they are entitled to protections. In this respect, it relies on a definition of family violence that includes important relationships such as carers and Aboriginal and Torres Strait Islander kinship

¹ Australia's National Research Organisation for Women's Safety (2018). Violence against women: Accurate use of key statistics (ANROWS Insights 05/2018). Sydney, NSW:ANROWS.

² Australian Institute of Criminology (2017). Homicide in Australia: 2012-13 to 2013-14: National Homicide Monitoring Program Report. Canberra, ACT

³ Australian Bureau of Statistics. (2017). Personal safety, Australia, 2016. Canberra, ACT:Australian Bureau of Statistics.

⁴ Carrington, Kerry, Morley, Christine, Warren Shane, Harris, Bridget, Vitis, Laura, Clarke, Jo and Ryan, Vanessa, The Impact of COVID-19 Pandemic on Domestic and Family Violence Services and Clients. Australia, Queensland University of Technology, May 2021.

⁵ The Australian Institute of Health and Welfare (2019). Specialist Homelessness Services annual report 2018-19. Canberra, ACT: Australian Institute of Health and Welfare.

relationships. It will apply to residential and small business customers.⁶ The Commission also recommends that the AER apply protections to customers in embedded networks.

- **Requires all retailers to publish family violence policies to support transparency and certainty for consumers.** The final rule requires retailers to develop and implement a family violence policy that addresses how the retailer will apply each of the new family violence obligations in the NERR. Retailers must keep their policies consistent with leading practice, and policies must be accessible on retailer websites.
- **Requires retailers to prioritise affected customer safety and protect their personal information.** The final rule introduces account security protections to prevent perpetrators from accessing affected customers' sensitive information. It also requires retailers to firstly consider the affected customer's safety in all their dealings and to identify and use an affected customer's preferred method of communication.
- **Recognises the financial impacts faced by family violence and protects affected customers.** The final rule requires retailers to consider the impact of selling debt or commencing debt recovery action on an affected customer, including if another person is responsible.⁷ It also requires retailers to consider that an affected customer is likely to be affected by payment difficulties or to be a hardship customer. The rule also extends certain hardship customer and payment difficulty protections to affected customers (whether or not the affected customer is in financial hardship).⁸
- **Includes protections that will get customers the right support from retailer staff that understand their issues.** The final rule requires retailers' staff to understand family violence issues and to be able to identify, engage with, and assist affected customers.⁹ It also requires that retailers: not require affected customers to provide documentary evidence to receive support; have systems to identify customers and minimise the need for customers to repeatedly disclose details of their family violence experiences; and provide customers with the details of at least one external support service.¹⁰
- **Provides flexibility for retailers to help customers when they need it, minimising unnecessary regulatory burden.** The final rule gives retailers greater assurance when assisting affected customers by providing:
 - that retailers can communicate with affected customers using their preferred method of communication, regardless of other communication requirements in the NERR, and
 - that the retailer's family violence policy prevails to the extent of any inconsistency with a customer's market retail contract.¹¹

The Commission intends to recommend Tier 1 civil penalty provisions for three key, overarching provisions in the final rule, recognising impacts that may flow from a breach of these provisions.

To maximise certainty for affected customers, retailers, and service providers, and to reduce implementation costs, the Commission has extended many of the protections that are currently available in Victoria to the NECF. In some instances, the Commission has introduced an approach that differs from the Victorian code, where it considers doing so furthers the National Energy Retail Objective (NERO).¹²

⁶ Small business customers are covered if they are "small customers" under the NERL.

⁷ The final rule also requires similar considerations from a retailer when it is arranging for de-energisation of an affected customer's premises.

⁸ In this respect, the rule requires retailers to waive late payment fees for affected customers and allows affected customers to pay using Centrepay.

⁹ This includes those in retailer businesses that engage with affected customers, their managers and people responsible for systems and processes that guide interactions with affected customers.

¹⁰ This must be done in a manner that is safe, respectful and appropriate to the affected customer's circumstances. The retailer must also keep an up to date list of external family violence support services on its website.

¹¹ The draft rule also updates the model terms and conditions of the standard retail contract, to reflect these new retailer obligations and help for customers affected by family violence, and requires retailers to update their standard retail contracts to reflect this.

¹² For instance, the rule prohibits retailers asking for documentary evidence in any situation as this has recently become leading practice and there is no evidence of fraudulent claims by consumers in Victoria.

How the final rule achieves the National Energy Retail Objective

The Commission considers that the final rule contributes to achieving the NERO because it:

- Introduces **targeted consumer protections** that address family violence issues and vulnerabilities in the energy sector.
- **Provides retailers flexibility** in how they choose to comply with protections, including relying on principles-based and outcomes based drafting. It also typically aligns with the rules in the Victorian code unless there is a compelling reason to take a different approach, and
- **Improves transparency and certainty** for customers by requiring retailers to have a family violence policy.

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