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Mr John Pierce
Chairman
Australian Energy Market Commission
PO Box A2449
SYDNEY SOUTH NSW 1234

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Reference: RRC0009

Submitted online: www.aemc.gov.au

Dear Mr Pierce

Proposed Rule Change – Strengthening Life Support Protections

AGL Energy Limited (AGL) is pleased to respond to the AEMCs Consultation Paper – National Energy Retail Amendment – Strengthening Protections for Customers Requiring Life Support Equipment (Life Support Rule Change).

As one of Australia’s largest integrated energy companies with over 3.7 million retail customers, AGL has a keen interest in appropriate protections for our customers and efficient market processes and strongly supports the protection of customers with valid life support requirements.

AGL supports the Draft Rule which establishes of more robust and efficient processes for managing Life Support Requirements.

As this is a complex process involving multiple participants, AGL believes the AEMC should allow industry a period (i.e. six months) to develop the business processes and transactions necessary to support the new obligations proposed in the Draft Rule and use the learnings from this period to provide feedback into the final rule, so as to mitigate any unintended outcomes.

AGL’s detailed responses to the AEMC consultation paper are provided in Attachment 1.

Should you have any questions in relation to this submission please contact Mark Riley on 0475 805 262 or by e-mail: mark.riley@agl.com.au.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Elizabeth Molyneux'.

Elizabeth Molyneux
Head of Energy Markets Regulation

Attachment 1 – Detailed Responses to Consultation Paper

General Comments on Process

AGL supports the AER in seeking to ensure clarity of obligation and provide the appropriate level of protection to customers requiring Life Support equipment.

The AER has proposed that the National Energy Retail Rules (NERR/Rules) relating to Life Support are based on the 1 December 2017 rule changes. However, implementing these changes close to 1 December will be complex. AGL believes this is too soon and does not consider the need for participants to review and change the various processes and transactions used to manage the Life Support registration information between participants as outlined in the proposed Rule.

As such, AGL believes that the AEMC should consult with industry, including AEMO, on the likely timeframe to establish new Business to Business (B2B) processes and transactions and the likely impact that the Power of Choice implementation would have on this timetable.

AGL suggests that industry would likely need at between 12 to 15 months in the current environment of implementing Power of Choice to review the proposed rule changes, develop the necessary B2B processes and modify / change any transactions which are used within the industry Life Support Processes to ensure efficient, cost effective and robust processes and transactions are implemented, to give effect to the proposed Rule and ensure life support customers remain appropriately protected through the transition.

AGL suggest a more preferable process would be to allow industry a period (i.e. six months) from the publication of the Draft Rule to develop the business processes and transactions necessary to support the new obligations and use the learnings from this to provide feedback into the Final Rule, so as to identify and mitigate any unintended outcomes. The implementation period could be reduced from the release of the final rule, but this would need to be confirmed with industry as a whole since all participants have to implement the processes simultaneously.

AGL has not undertaken any cost assessment of the proposed changes, since we believe that there is substantially more work to be done to clarify obligations and business to business processes and transactions within the energy industry.

Comments on Rule Elements

The remainder of the submission provides feedback on specific elements of the proposed Rule.

1. Calendar Days

The AER proposed Rule Change is couched in periods relating to calendar days. AGL strongly suggests that all obligations applied to industry participants be couched in business days, not calendar days, as proposed by the AER¹. If information is to be provided via mechanisms, such as Australia Post, then the obligation cannot be met in certain periods (e.g. Christmas, Easter) if based on calendar days.

¹ AER, Request for Rule Change – Strengthening Protections for Customers Requiring Life Support Equipment, February 2017, p10

2. Best Endeavours

AGL believes that these obligations should be consistent with NERR obligations, that require retailers to make contact with customers. For example, NERR CI 113, De-Energisation for Denying Access to Meters –provides for the participant to make best endeavours to provide that information to the customer about gaining access to the meter and the consequences of not gaining access. A participant (either retailer or distributor) cannot guarantee that a customer either receives or acts upon material which is provided to them.

3. Penalty Regime

AGL understands a penalty regime is an important regulatory tool to motivate industry participants to abide by regulatory obligations, especially obligations as important as protecting customers requiring life support equipment.

However, AGL believes that the penalty regime should apply to the obligations that are directly controllable by regulated entities. In terms of the proposed Rule, AGL supports the application of penalties if authorised participants do not provide data and manage Life Support Registration. However, AGL does not support a penalty applying to situations where an authorised entity has met their obligation but the customer has not acted as requested. For example, AGL does not support a penalty applying where a retailer has provided customer information and/or undertaken actions (e.g. de-energisation) and the customer has not provided Life Support Certificate (after the initial period to request a certificate).

4. Application of proposed Rule

The AER has proposed that:

The life support rules will apply to retailers where:

1. a customer provides a retailer with confirmation from a registered medical practitioner that a person residing at the customer's premises requires life support equipment; or
2. the retailer is **advised** by a distributor that a person residing at the customer's premises requires life support equipment.

The current B2B Procedures require Participants to notify each other *immediately by telephone or e-mail* when advised by a customer that they have Life Support Requirements. It is unlikely that industry would want to change these obligations as they were implemented to protect customers.

However, these B2B Procedures also place obligations on prospective retailers. Prospective retailers are not registered in MSATS as that customer's retailer and may never be registered in MSATS as that customer's retailer, and therefore will not be responsible for issuing information to that customer nor organising a retailer planned outage.

The AER has also sought to require participants notify each other as soon as possible when a customer ceases to require life support or vacates the premises. The requirement for 'as soon as possible' is not defined, but could be interpreted as communications manually outside of business hours.

Requiring the communication to be undertaken 'as soon as possible' for de-registration is not critical, The existing timing of B2B processes for notifications (with the required additional information), which is transactional and within business hours, is appropriate and acceptable for removing the Life Support registration.

The AER has proposed that all processes are associated with the participant who the customer contacts. However, given the temporal nature of roles and the churning of customers between retailers and potentially distributors, it is not necessarily appropriate for all communication to reside with the initially contacted participant.

Take the scenario where a customer contacts Retailer 1 and initially accepts an offer from Retailer 1 and during this process informs Retailer 1 advising of life support, and then completes the churn with Retailer 2 but may neglect to inform Retailer 2 of life support requirements.

Retailer 1 will advise the Distributor of a Life Support Requirement, but as the customer never completes the transfer with Retailer 1, there is no further communications with the customer or the distributor in relation to that customer. The customer will churn in with retailer 2. The distributor will advise Retailer 2 that the customer has a Life Support Requirement, and at that stage it is reasonable that Retailer 2 commences communication with the customer in regard to the Life Support Certificate.

5. Medical Certificate

AGL is concerned the proposed Rule does not provide any guidance on the valid issuing period for a medical certificate.

If a customer continues to provide a letter or certificate that is older than a reasonable period (e.g. three years) then it is not unreasonable for either participant (retailer or distributor) to seek an updated certificate or medical letter, as the requirements may well have changed or ceased. If an updated medical certificate was not provided it would then be reasonable to de-register the customer.

6. Medical Confirmation Form

The proposed Rule has introduced a new concept of a participant Medical Confirmation Form, which is a form issued by a retailer or distributor. AGL supports the notion of a retailer or distributor sending a medical confirmation form as a means of prompting the customer to provide information from a registered medical practitioner as confirmation that the customer's premises requires life support equipment.

However, AGL suggests the AEMC it should make clear that this form – which could potentially be used for de-registration – is not the only mechanism that is used by customers to provide confirmation of life support or request removal from Life Support status.

For example, in jurisdictions where Life Support equipment is entitled to an energy concession, a government form duly signed by a medical practitioner is an appropriate mechanism for registering life support requirement.

Further, the NERR (clause 3 – Definitions) states that Life support equipment includes:

.....

(g) in relation to a particular customer—any other equipment that a registered medical practitioner certifies is required for a person residing at the customer's premises for life support;

It is important that there is clarity on the use and obligations regarding various forms and medical certificates, otherwise the proposed rules under CI 124, will require participants to seek both a concession form/letter and a Participant Medical Confirmation Form to ensure compliance with the proposed Rules.

7. De-registration

Regarding De-registration, the AER has proposed that this can only be initiated by the participant first contacted². As discussed above, as customers churn, the initially contacted participant may no longer have a relationship with the customer, and it is not unreasonable for either of the current participants to seek Life Support De-Registration.

Conclusion

Overall, AGL believes that the proposed rule change has merit and supports the broad concepts embedded within the AERs proposed new Rules. However, AGL believes that the Rules need to be clearer in terms of obligations regarding provision of information between participants, management of a valid certificate and notification to another party of such a certificate.

² AEMC, Consultation Paper – National Energy Retail Amendment - Strengthening Protections for Customers Requiring Life Support Equipment, June 2017, p9

RESPONSE to AEMC Questions

Question 1 The concerns the AER has identified with the life support rules

(a) Has the AER accurately characterised the problems with the life support rules?

The AER has highlighted three areas of concern:

1. Customer knowledge;
2. AER enforcement;
3. Growth in Life support numbers.

AGL agrees that Life Support numbers have grown, and without appropriate management, the Life Support status will eventually lose its value.

AGL's processes are designed to meet the retailer's obligations in good practice and provide a positive service to our customers.

We provide our customers with the appropriate information when they advise us that they have a valid Life Support requirement and immediately advise the network of a Life Support requirement, both as a registered retailer and as a prospective retailer.

Question 2 The registration process

(a) Please provide any information you have on the size of life support registers and how these have changed over time.

(b) Are the registration obligations proposed by the AER efficient and do they provide greater certainty and transparency for consumers and businesses? Are there more preferable arrangements?

(c) Are the notification arrangements between retailers and distributors sufficient to achieve the requirement of keeping registers up to date?

(d) As a retailer or distributor, what additional costs would you incur to comply with the changes proposed to the registration process?

(e) Does the information pack proposed in the rule change request provide the appropriate information?

The AER conducted a number of workshops with industry during the early part of 2017, and this matter was discussed at length during the development of the amended B2B processes for Power of Choice, but changes which were discussed were postponed as a result of the AER Rule Change submission.

The areas that are not identified in the proposal are the varied processes which occur between retailers and distributors from customer notification to customer provision of medical certificates.

The processes relating to the provision of Life Support information between participants, relates to roles that have a temporal nature and the obligations vary depending on what state the participant is acting in. For instance, obligation to provide notice of information exist between prospective retailers and distributors and there are different obligations for retailers who are responsible for a customer site and the customer's life support flag.

The nature of customers choosing different retailers during the transfer process has led to the situation where prospective retailers advise distributors of prospective customers with life support needs; the distributor flags the existing customer, and a conversation may then commence between the distributor and the existing retailer in relation to the existing customer, and not the prospective customer, which leads to unnecessary and confused conversations and data management between participants. Further, the retailer who provided the initial advice, may have no further relationship with the customer if that customer chooses another retailer prior to the customer transfer completing in the market.

Question 3 The medical confirmation process

- (a) Is the medical confirmation process proposed in the rule change request appropriate for consumers, retailers and distributors?
- (b) As a retailer or distributor, what additional costs would you incur to comply with the changes proposed to the registration process?

The proposed medical confirmation process has not adequately considered the temporal nature of roles before and after a customer transfer and the associated obligations on parties at these point in time. There are also issues with a customer being identified as requiring Life Support by a participant who is no longer involved with the customer.

For instance, a customer registered with a retailer who moves to a new house (and network) would trigger a notice from the retailer to the network. However, if that customer subsequently changes retailer, there would be no participant who was the initial point of contact, and the limitation on who can follow up with that customer is not reasonable. The party who should be able to initiate communication in respect of Life Support Equipment is the current retailer and Network.

Further, if a customer continuously churns between retailers within the communications process period, the only participant who would be consistent long enough to complete the process may be the distributor.

Under the proposed Rules, the certification of a Life Support requirement would require the customer to provide both the proposed participant Medical Confirmation form and the government concession forms / medical certificates. In the case of the Participant Medical Form described in the proposed Rules, AGL strongly Supports a standard industry form to replace the various industry forms or ad-hoc doctor's letters. However, AGL does not see this form replacing an appropriate government concession form.

Question 4 The deregistration process

- (a) Does a voluntary process for deregistration strike the right balance between the needs of customers and businesses?
- (b) Should only the retailer or distributor who was originally notified by the customer when they registered be in control of the deregistration process?
- (c) As a retailer or distributor, what additional costs would you incur to comply with the changes proposed to the deregistration process?

As has been noted by the AER and industry participants, the number of customers listed as having Life Support has increased, although the number of persons with valid medical certificates has not substantially increased.

The issue of who has responsibility has been complicated by the varied processes and the level of information transmitted across industry. These problems which arise from the certification process are more likely to arise from the de-registration process.

In particular, the limitation on which participant can initiate contact with the customer to seek a medical certificate or trigger de-registration are limited and do not clearly take account of the various temporal nature of roles and the churning of customers between multiple participants.

Further, the proposed rules have not sought to place a time limit on the validity of a certificate. If a customer's medical certificate is more than three years old, it does not seem unreasonable to request a new certificate.

AGL also notes the requirements for Life Support registration in the Western Australian electricity market³. In summary, the participant must request a medical certificate (which must be no older than 3 years) three months prior to the 12-month anniversary of registration. If the certificate is not provided the customer is removed from the Life Support Register.

There are benefits in the Western Australian process in that it ensures that requests are made annually for Medical Certificates and that the Life Support certificate and registration is current. This is consistent with medical practices where a medical referral by a GP to a specialist is only valid for 12 months.

³ [https://www.slp.wa.gov.au/Gazette/gazette.nsf/searchgazette/6169A74E9610398648257FD4007FDBDE/\\$file/Gg104.pdf](https://www.slp.wa.gov.au/Gazette/gazette.nsf/searchgazette/6169A74E9610398648257FD4007FDBDE/$file/Gg104.pdf)

Attachment 2 – Current Life Support Process

Please find attached the Process Flow for the current Life Support Process.

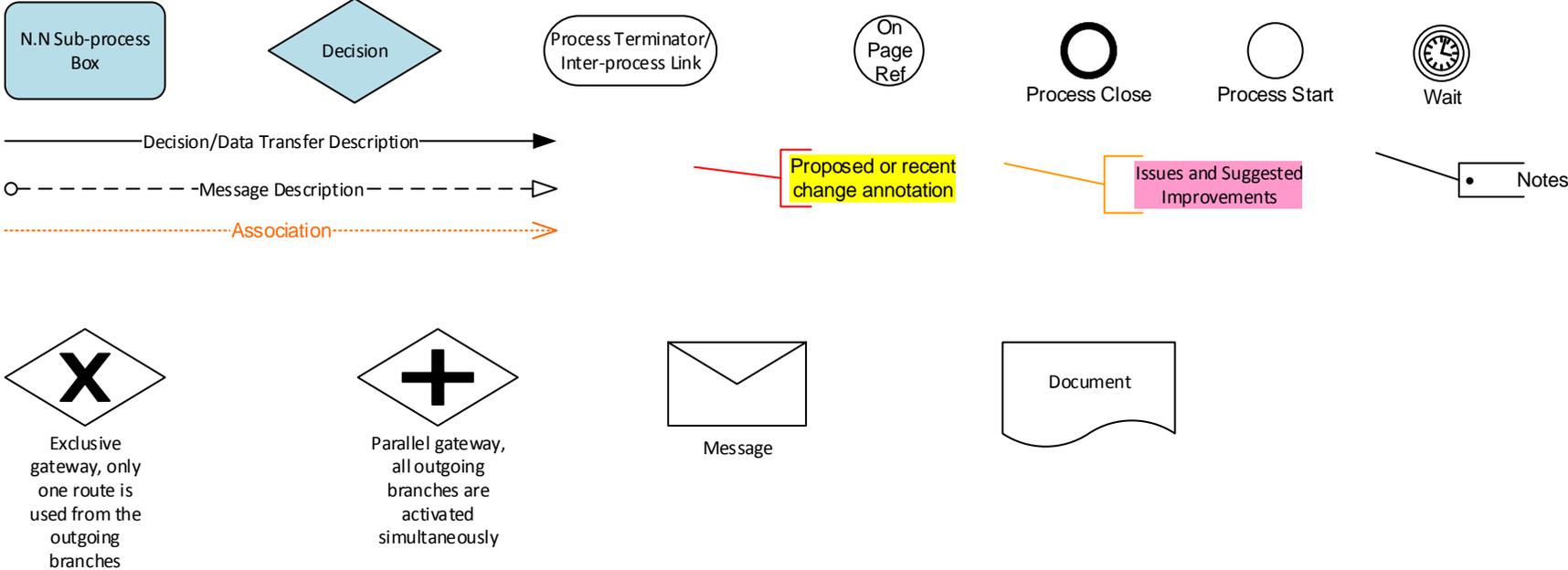
This process flow was developed by AGL and further updated by AEMO.

Processes between multiple participants (multiple retailers and networks) with multiple decision points and outcomes leads to a high level of complexity, which can be seen in the attached process flow. The new obligations arising from the proposed rule will further increase the complexity of process and information transmittal.

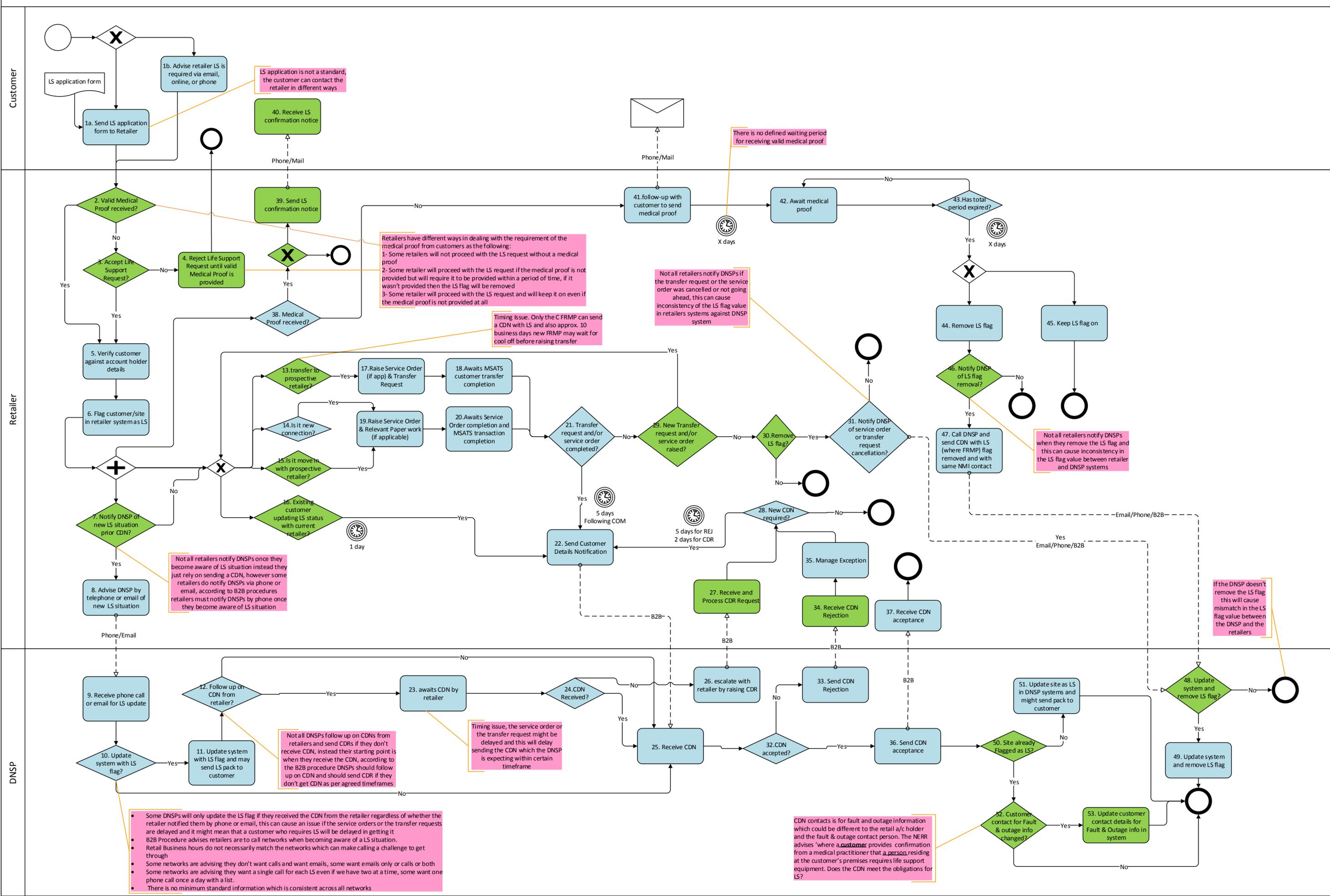
To this end, AGL strongly recommends that after the draft rule has been released, that a period (i.e. six months) be provided to allow industry to develop the business and transactional processes and provide feedback into the final drafting, to minimise unintended consequences.

Life Support Process Diagrams – July 2016

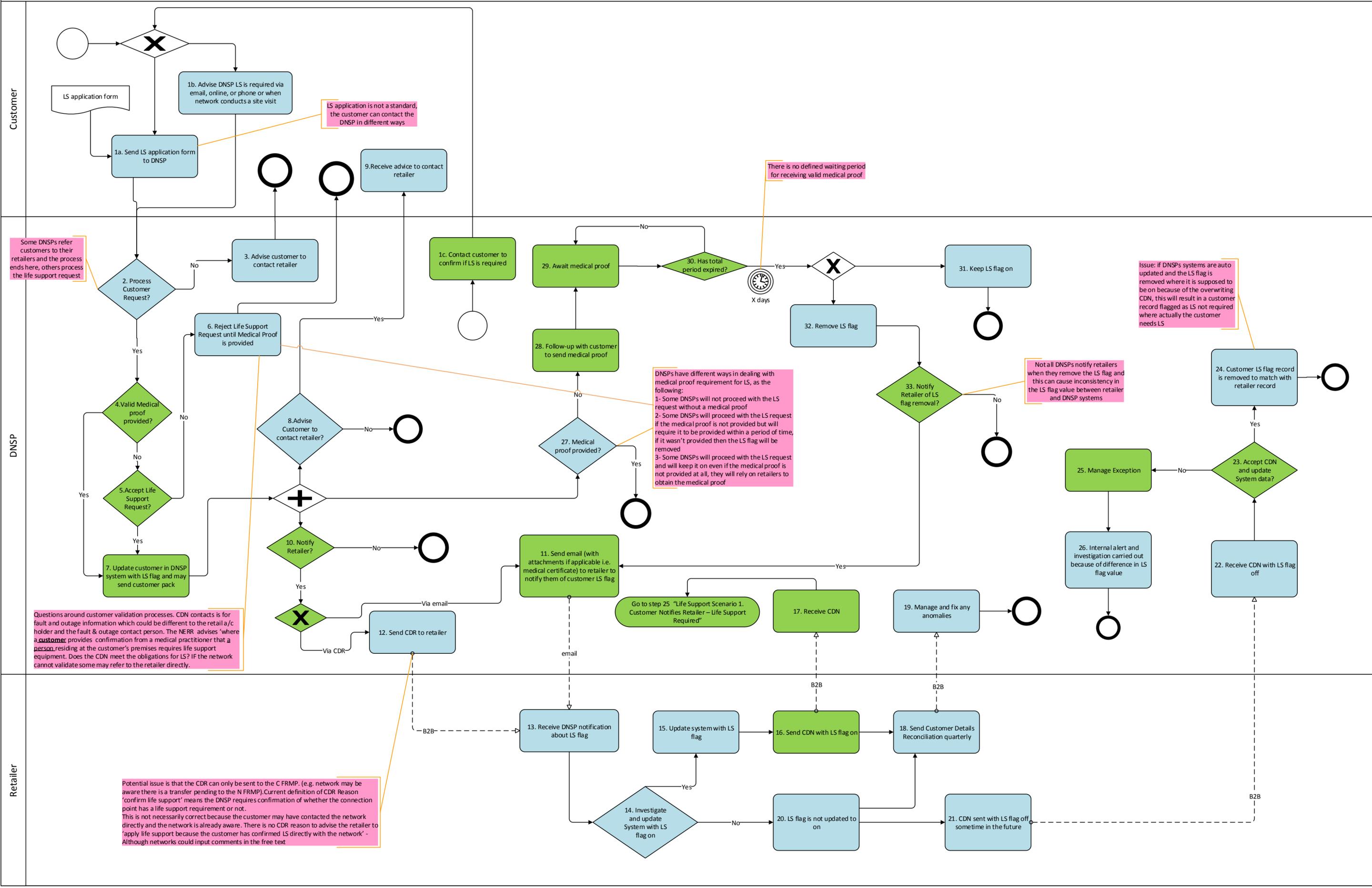
The drawing conventions used for the diagrams are as follows:



Life Support Scenario 1. Customer Notifies Retailer – Life Support Required



Life Support Scenario 2. Customer Notifies DNSP – Life Support Required



LS application is not a standard, the customer can contact the DNSP in different ways

There is no defined waiting period for receiving valid medical proof

Some DNSPs refer customers to their retailers and the process ends here, others process the life support request

DNSPs have different ways in dealing with medical proof requirement for LS, as the following:
 1- Some DNSPs will not proceed with the LS request without a medical proof
 2- Some DNSPs will proceed with the LS request if the medical proof is not provided but will require it to be provided within a period of time, if it wasn't provided then the LS flag will be removed
 3- Some DNSPs will proceed with the LS request and will keep it on even if the medical proof is not provided at all, they will rely on retailers to obtain the medical proof

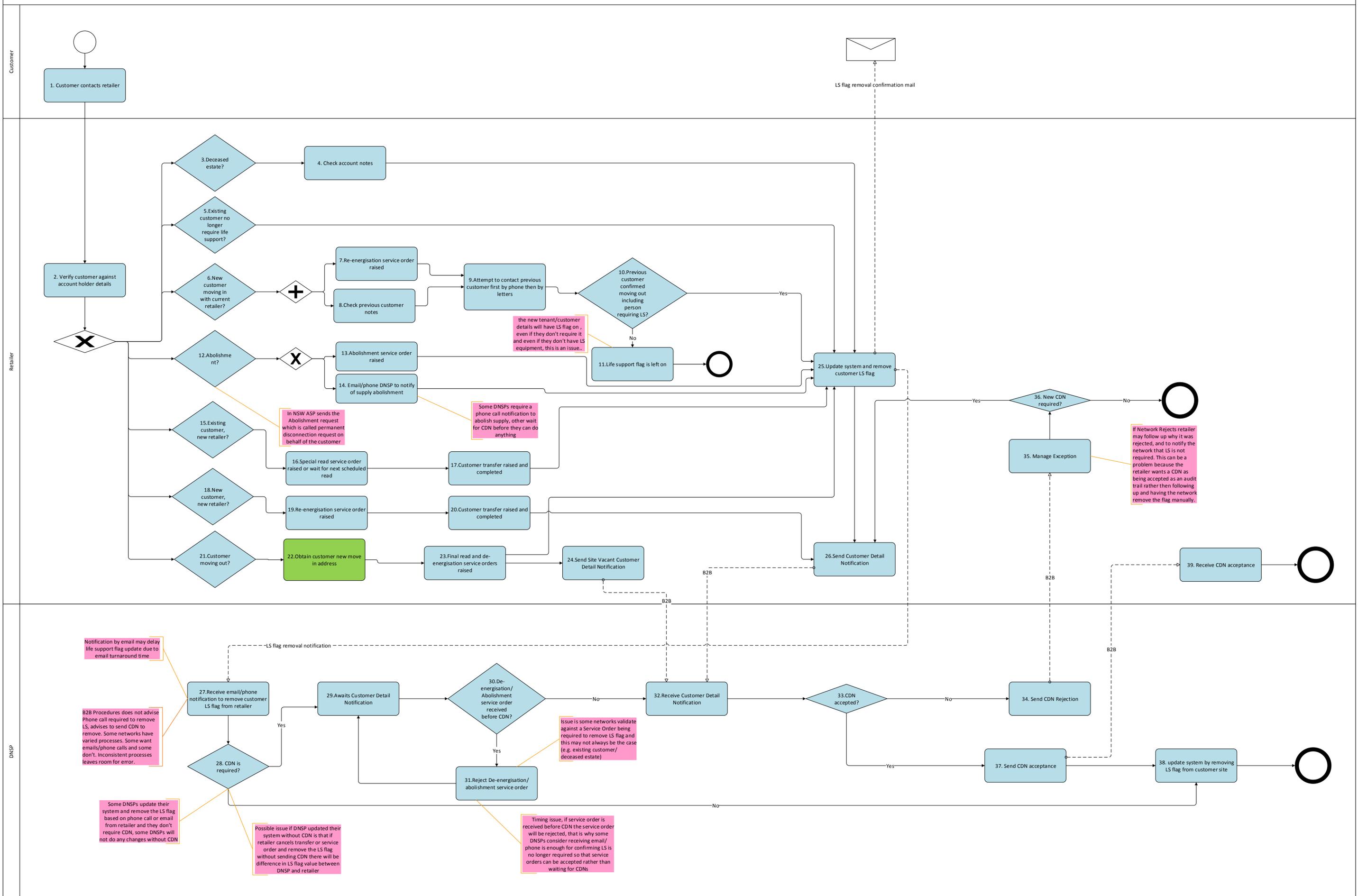
Issue: if DNSPs systems are auto updated and the LS flag is removed where it is supposed to be on because of the overwriting CDN, this will result in a customer record flagged as LS not required where actually the customer needs LS

Not all DNSPs notify retailers when they remove the LS flag and this can cause inconsistency in the LS flag value between retailer and DNSP systems

Questions around customer validation processes. CDN contacts is for fault and outage information which could be different to the retail a/c holder and the fault & outage contact person. The NERR advises 'where a customer provides confirmation from a medical practitioner that a person residing at the customer's premises requires life support equipment. Does the CDN meet the obligations for LS? If the network cannot validate some may refer to the retailer directly.'

Potential issue is that the CDR can only be sent to the CFRMP. (e.g. network may be aware there is a transfer pending to the N FRMP). Current definition of CDR Reason 'confirm life support' means the DNSP requires confirmation of whether the connection point has a life support requirement or not. This is not necessarily correct because the customer may have contacted the network directly and the network is already aware. There is no CDR reason to advise the retailer to 'apply life support because the customer has confirmed LS directly with the network' - Although networks could input comments in the free text

Life Support Scenario 3. Customer Notifies Retailer – Life Support Not Required



Life Support Scenario 4. Customer Notifies DNSP – Life Support Not Required

