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18 July 2017

Mr John Pierce
Chairman
Australian Energy Market Commission
PO Box A2449
Sydney South NSW 1235

Submitted electronically

Dear Mr Pierce,

Re: National Energy Retail Amendment (Strengthening protections for customers requiring life support equipment) Rule 2017

Red Energy (Red) and Lumo Energy (Lumo) welcome the opportunity to respond to the Australian Energy Market Commission (AEMC) on the strengthening protections for customers requiring life support equipment rule consultation paper (the consultation paper).

Broadly, we support the rule change proposed by the Australian Energy Regulator (AER) to strengthen the existing life support obligations in the post December 2017 National Energy Retail Rules (NERR). We agree there is insufficient clarity in the current rules about the obligations of relevant participants when registering customers with life support equipment. For this reason, we would welcome a more refined process that ensures the life support register is up to date, accurate, and adequately protects consumers.

However, we are concerned the rule proposed by the AER may not achieve the objectives sought. As such, the change may not realise all the consumer benefits intended. The AER notes that the current life support register (the register) is increasingly inaccurate due to customers not being registered correctly, which ultimately results in an inability to enforce participant obligations. We agree with this characterisation, but all these issues are unlikely to be resolved by the mechanism proposed.

Ensuring accuracy in the register

Red and Lumo consider there are a number of reasons why an accurate register is preferable. Most importantly, the register must ensure that consumers with a critical need are not without energy. Secondly, so as to minimise the costs of maintenance, the register should only include properties in which life support equipment is present.

We consider the proposed rule will resolve the first issue, however will not necessarily result in an accurate register. It may be appropriate to incur some additional costs in order to protect consumers requiring life support, however we do not consider the consultation paper adequately assesses these limitations.

In order to achieve the most accurate register possible, the Commission should consider whether there should be obligations on participants regarding:

- Customer notification procedures
- Customer validation procedures
- Retailer/Distributor response to validation/ lack of validation
- Customer notification that life support equipment is no longer present

The proposed rule appropriately places obligations on participants as soon as a customer notifies that life support equipment is on site. This will ensure that there is no delay in protection while the customer completes the necessary paperwork. We strongly support this requirement.

Customers will then be required to obtain validation from a medical practitioner that life support equipment is required at the site. This will take time, and in some cases may require an extension to ensure confirmation is obtained. We are comfortable with this element of the proposed rule.

The proposed rule then gives the notified party the option of removing a life support flag if a customer does not validate the presence of life support equipment. This choice will result in a less accurate register than if the notified party was required to remove the flag when confirmation is not provided and should be considered as part of determining whether the proposed rule meets the National Energy Retail Objective.

It could be argued that this inaccuracy is warranted. A requirement to remove life support flags may risk the primary reason for maintaining an accurate register in the event customers who have life support equipment do not provide confirmation. However, placing the onus on the notified party may result in inconsistencies dependent upon an organisation's risk appetite, and will almost definitely result in those without life support equipment being protected at the expense of other consumers. As part of this rule change process we would welcome further discussion to ensure customers are appropriately protected.

The accuracy of the register is further limited by the AER not proposing a timeframe for registration, instead placing the obligation on the customer to advise the notified party that life support equipment is no longer present at the property. We consider it extremely unlikely that customers will proactively notify their retailer or distributor if life support equipment is no longer present, resulting in a large number of incorrect flags on the register. This inaccuracy could be mitigated by requiring a customer to 'reconfirm' the presence of life support equipment periodically, for example every two years¹.

The Commission must consider these factors in their entirety in assessing this rule change proposal.

Practical considerations in implementing the proposed rule

Red and Lumo propose some amendments should be made to improve the practicality of the rule. The AER has drafted the rule to place obligations based on calendar days. We consider this is at odds with the rest of the NERR, which exclusively refers to business days. We suggest any rule made is amended to align with existing practice.

We also consider that a number of the timeframes proposed for obligations between parties to be too tight. In particular, the proposed rule 125(9) requires a retailer to refer a removal request to a distributor within 2 calendar days. This seems unnecessarily short given the apparent lack of urgency of the request. As the customer will merely

¹ In Western Australia, the Code of Conduct for the Supply of Electricity to Small Use Customers requires retailers to reconfirm the presence of life support equipment every 12 months.

be protected for an additional period, 5 business days seems a more reasonable timeframe.

We are also concerned with the application of rule 125(10) and the requirement for retailers to rely on information from a distributor that a customer has advised they no longer require protection for life support. Given the obligation will be on the retailer as the notified party, we do not consider a requirement to merely attempt to contact the customer for confirmation to be sufficient. We suggest that if the participant advised of the deregistration is unable to action it, the customer should be referred to the other party.

There remains the practical issue of what happens when sites with life support transfer between retailers. A customer who notifies their retailer of the need for life support, and validates that registration, appears to need to re-validate upon transferring retailers. This would not be the case if the customer originally notified their distributor, as the distributor would be able to notify the new retailer of the valid registration. We recommend the Commission consider this issue prior to developing any draft rule, and would welcome a workshop with relevant market participants to ensure an appropriate solution is developed. In order to maintain confidence in the market, positive customer experience that maintains the protections customers are entitled to is essential.

Implementation

The rule change proposal considers that given metering contestability will commence on 1 December 2017, a start date post-1 December would enable participants to implement the systems required. Given the importance of this rule change, we consider any start date should be no earlier than 6 months after the commencement date of metering contestability to ensure the necessary systems and processes are developed.

About Red and Lumo

Red and Lumo are 100% Australian owned subsidiaries of Snowy Hydro Limited. Collectively, we retail gas and electricity in Victoria and New South Wales and electricity in South Australia and Queensland to approximately 1 million customers.

Red and Lumo thank the Commission for the opportunity to respond to this consultation. Should you have any further enquiries regarding this submission, please call Ben Barnes, Regulatory Manager on 03 9425 0530.

Yours sincerely

A handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke extending to the right.

Ramy Soussou

General Manager Regulatory Affairs & Stakeholder Relations
Red Energy Pty Ltd
Lumo Energy Australia Pty Ltd