

14 January 2021

Mr C Guimaraes
Advisor
Australian Energy Market Commission

Submitted online via: www.aemc.gov.au

Dear Mr Guimaraes

Draft Rule Determination – Maintaining life support customer registration when switching

SA Power Networks welcomes the opportunity to comment on the Australian Energy Market Commission's (AEMC) Draft Rule Determination (Draft Rule) on the life support rule change proposal from the Energy and Water Ombudsman of New South Wales (EWON)—RRC0038.

Regulation of customer life support arrangements is fundamentally important to protect some of the most vulnerable members of our society. It is imperative that the regulatory framework, reflected in the National Energy Retail Rules (Retail Rules), is targeted to assist customers whose life would be threatened without the support of their life support equipment (LSE).

We have continued to experience problems with the effectiveness of the current regulatory framework for life support, concerns that are shared by our customers and their advocates. Overall, our view is that the draft rule in its current form is unlikely to fully resolve these concerns.

Our key comments are that:

- the Draft Rule has improved on the EWON proposal, simplifying some life support procedures;
- practical issues in implementing the Draft Rule need resolving, particularly in relation to customer verification and privacy issues;
- we remain concerned that the AEMC Determination has been too narrow and not addressed areas that continue to limit the effectiveness of the life support regulatory framework; and
- a more complete regulatory review is required if changes to the Retail Rules are limited to those set out in the Draft Rule.

Improvements to the EWON proposal

We agree that the draft rule is a 'preferred rule' as it proposes changes to the EWON proposal, which help simplify life support procedures. In particular, a customer should not be required to obtain a medical confirmation to support their registration where there already exists a suitable current medical confirmation, provided the confirmation includes all the required information and is legible.¹

¹ We note that the draft rule has deemed that a current medical confirmation is one obtained within the last four years.

Implementation concerns with the Draft Rule

Further consideration is needed to resolve several implementation issues that we expect to result from the draft rule:

- The Draft Rule requires that the Registration Process Owner (RPO) retain the medical confirmation form (MCF)² or medical certificate, provided to register the premises for LSE, for 110 business days after the customer ceases to be a customer. The requirement to return the MCF is 'subject to applicable privacy laws'. SA Power Networks may not hold sufficient information to verify that the person requesting the return of the MCF is the same person who provided the MCF, and consequently would be unable to provide the MCF to the person requesting it, in those circumstances.
- The Draft Rule only allows a customer to use an existing MCF to register a premises for LSE (LSE) where that MCF was verified by a medical practitioner within the previous four years. Consequently, returning a MCF to a customer which is more than four years old, is inefficient as it does not allow that customer to register for LSE with a new retailer using that MCF. We recommend amending the rule to reflect this, that is, the MCF and/or medical confirmation should be kept 110 business days after the person has ceased to be a customer, or four years (whichever is the earlier).
- To register a premises for LSE we require medical confirmation that a person (including the name of the person) is residing at a premises. This information can then be used to register a premises for LSE. We consider that a premises could not be validly registered for LSE where the certificate was for a person residing at a different address, as a person's name is not necessarily unique. Consequently, we consider that a person should be only able to re-register a premises for LSE using an existing MCF, when they are switching retailers and not premises.

Broader factors limiting the effectiveness of the life support framework

The regulatory framework for life support continues to suffer from inaccuracy and is not well targeted to assist only genuine life support customers, being those requiring LSE. As a product of this inaccuracy, we observe that in South Australia:

- the number of premises registered for LSE has risen from circa 2,000 prior to February 2013 (ie commencement of National Energy Customer framework in SA) to circa 4,400 in December 2017 (ie prior to the commencement of the AEMC's 2017 Strengthening protections for customers requiring life support equipment rule change) to circa 14,000 in 2020;
- of the 14,000 registered for LSE in South Australia, only 54 percent have provided medical confirmation. This means that many customers are now being registered as Life Support Customers but do not have or require LSE as described in the Retail Rules;
- SA Power Networks' estimates that its costs in managing life support arrangements have increased by circa \$1 million per annum over the period December 2016 to August 2020, costs which would significantly decrease if only genuine life support customers were registered;
- the significant number of life support customers currently registered limits SA Power Networks' ability to accurately service and protect the genuine life support customers; and
- concern is being expressed by customers and customer advocates, including through our Community Reference Group (CRG) and Customer Consultative Panel (CCP), over the high number of life support registrations compromising SA Power Networks' ability to provide protection to the most vulnerable in our communities.

² MCF is considered as sensitive information under the privacy act and therefore subject to stringent controls.



We note that the accuracy of life support registers has previously been considered. The AEMC stated that it expected its December 2017 changes to the Retail Rules on ‘Strengthening protections for customers requiring life support equipment’ to: “...provide better protection for life support customers, allocate responsibilities clearly and appropriately between retailers and distributors, and improve the accuracy of life support registers.” However, those Retail Rules changes have been operational for two years and concerns still remain with the accuracy of life support registers. This has also been observed by the Australian Energy Regulator (AER), which stated in its submission to the AEMC that: “...since the new life support rules were introduced in 2017 we have seen continued issues with the accuracy of life support registers and timeliness of registration which places vulnerable consumers at risk.”

The AER’s submission to the AEMC considered that inaccuracies in life support registers are largely due to inadequate compliance systems. SA Power Networks considers that there are additional factors driving inaccuracy, as follows:

- potential retailers who are not the Financial Responsible Market Participant (FRMP) can register a premises for life support and in effect become the Registration Process Owner (RPO) and never become the customer’s retailer and therefore their FRMP;
- the Retail Rules permit a Distribution Network Service Provider (DNSP) to lawfully deregister a premises (eg at the customer request) after complying with the deregistration process in the Retail Rules, but the retailer can ignore that lawful deregistration under Retail Rule 125(10) (ie the deregistration is not mandatory). This is despite Retail Rule 125(2)(c) which mandates that a retailer update their registration details when advised by a DNSP that the premises has been deregistered. Where a premises is deregistered lawfully by one party the other party must also deregister the premises, the deregistration must not be discretionary;
- the Retail Rules allow a premises to remain registered for LSE despite no medical confirmation, as the Retail Rules does not mandate that a premises be deregistered for not providing medical confirmation, this is despite giving the customer at least 110 business days to provide medical confirmation, from the date of being registered;
- the Retail Rules permit the registration of a premises where LSE is not required to sustain a person’s life (eg premises registered for life support for a medical professional to have telehealth appointments with their clients or registered so that a customer can charge their mobile phone in case of an emergency);
- the Retail Rules do not make one party solely responsible for the registration which can be a source of inaccuracy. As noted in our submission to the Consultation Paper, DNSPs were solely responsible for managing the life support registers prior to National Energy Customer Framework commencing in SA in February 2013. The accuracy of the registers prior to February 2013 were not questioned; and
- the Retail Rules do not permit the deregistration of a premises when a customer has moved out but requires the deregistering party to provide 15 business days notice of the deregistration, prior to deregistering the premises, despite the customer no longer residing at the premises.

Some of the factors driving inaccuracy in registers have been addressed in Victoria under recent amendments (January 2020) to the Victorian Retail Code and Distribution Code when they were incorporated into the Retail Rules December 2017 amendments in Victoria. We encourage the AEMC to consider the Victorian amendments and broader Victorian regime, as this may assist in addressing concerns experienced across the National Electricity Market. For example, the Victorian Retail Code Clause 125 uses the term ‘financial responsible retailer’ and only the financial responsible retailer can register a premises for LSE. This would avoid issues that SA Power Networks has directly encountered:



- we currently have issues with prospective retailers (where they are in the early stages of winning a customer but are not the FRMP and acting as the registration process owner) providing Life Support information to us as the DNSP. This communication results in the creation of LSE records within distributors' systems; however,
- if the prospective retailer fails to become the FRMP for the National Metering Identifier (NMI) / premises, this record remains within the DNSP's systems and can result in inaccuracies between the current (financially responsible) retailer's register and DNSP's register. This results in considerable exception management and follow up activities for both parties.

The need for a broader review of the life support regime

SA Power Networks considers that a broader review of life support regulation is required. If the AEMC limits changes to the Retail Rules to those set out in its draft rule, rather than addressing the concerns we outline in this submission, DNSP's and Retailers in the NEM will continue to experience a dilution of visibility of genuine life support customers.

Consequently, our ability to cater appropriately for those customers who need the support the most, is lost in the 'volume' and the rules designed to bolster support for life support customers are currently in their very essence, weakening the industry's ability to provide a considered service to genuine life support customers.

We are currently engaging closely with our Community Reference Group and Customer Consultative Panel on these issues and would welcome the opportunity to engage further with the AEMC.

If you have any queries or wish to discuss any aspect of our submission, please contact me on 08 8404 5865.

Yours sincerely



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