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Commissioners  
Australian Energy Market Commission  
GPO Box 2603  
Sydney NSW 2000  
Lodged electronically

Dear Commissioners,

**Consultation Paper – National Energy Retail Amendment (Maintaining life support customer registration when switching) Rules – (PUBLIC VERSION)**

EnergyAustralia welcomes the opportunity to provide a submission to the AEMC's Consultation Paper on Energy and Water Ombudsman of New South Wales' (EWON) Rule Proposal - *National Energy Retail Amendment (Maintaining life support customer registration when switching)* (Consultation Paper).

EnergyAustralia is one of Australia's largest energy companies with approximately 2.5 million electricity and gas accounts in NSW, Victoria, Queensland, South Australia, and the Australian Capital Territory. We also own and operate a multi-billion-dollar energy generation portfolio across Australia, including coal, gas, and wind assets with control of over 4,500MW of generation in the National Electricity Market (NEM).

EWON's Rule Proposal seeks to improve customer outcomes in some situations where retailers and distribution network service providers (distributors) may require the re-submission of medical confirmation forms by customers with a life support requirement (Life support customers), following a change of premises or retailer. The Consultation Paper identifies the types of situations when this might occur and we agree this would generally happen when a new retailer is not the registered process owner (RPO) for a premises and they start the registration of life support equipment process under the *National Energy Retail Rules* (NERR).

EWON considers that the resubmission of medical confirmation forms creates cost or other barriers for Life support customers to fully participate in the retail energy market. The Rule Proposal seeks to enable the transfer of medical confirmation or medical confirmation forms (medical confirmation information) between outgoing and incoming life support RPOs following a customer's change of premises or retailer.

EnergyAustralia fully supports reform that removes barriers to customer switching and improves access to retail competition, particularly for vulnerable customers like Life support customers. However, EnergyAustralia does not support EWON's Rule Proposal. Although we recognise that obtaining medical confirmation is an additional step faced by Life support customers when changing retailers, it is very unclear whether there is evidence that shows that this additional step is a barrier to switching for Life support customers. Below we set out data which suggests that this might not be the case. We submit that any benefits would therefore have minimal impact in improving competition and would only likely achieve improvements to customer convenience.

We also consider that a cost benefit analysis of the Rule Proposal would demonstrate that the costs would far outweigh any possible convenience benefits to the customer. Further, another reason to not change the current life support rules at this time, is that the current rules achieve the most efficient risk allocation. Customers are in the best position to manage medical confirmation information, to ensure it is current and correct, and to transfer it between incoming and outgoing RPOs.

If the AEMC were to pursue some change and consider solutions that improve customer convenience, we consider that there are much simpler and lower cost alternatives that will deliver this outcome. Our reasons are outlined in more detail below.

### **Materiality and cost benefit analysis**

EnergyAustralia submits that it is very unclear whether there is evidence to support that the process of re-submitting medical confirmation information presents barriers for Life support customers seeking to switch retailers, in practice.

We understand that EWON's Rule Proposal is based on multiple complaints but note that the specific case example referred to in its Rule Proposal is not a customer switching retailer scenario. Rather the example relates to an issue around a customer being asked to re-provide medical confirmation information when they were returned to their original retailer after a transfer in error. Although this is a very poor customer experience that should be rectified, it is not relevant to a customer change of premises or retailer scenario which the Rule Proposal seeks to address. Without more evidence, EWON has not substantiated the materiality of the issue it is aiming to resolve through its Rule Proposal.

EnergyAustralia's customer data shows that churn to other retailers among Life support customers is occurring at a higher rate than churn across our general customer base (including Life support and Non-life support customers).

**[Confidential information has been omitted for the purposes of section 24 of the Australian Energy Market Commission Establishment Act 2004 (SA) and sections 223 and 268 of the National Energy Retail Law]**

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Accordingly, we consider there is minimal effect or benefit to retail competition associated with EWON's Rule Proposal.

Separate from benefits to competition, there might be benefits to the customer by way of increased customer convenience in an avoided visit to their medical practitioner which we would support in principle. However, we note that the extent of this benefit is also unclear. Telehealth can be expected to continue after the pandemic avoiding a visit in person, and a customer can obtain medical confirmation in their next scheduled appointment as the period to return medical confirmation is 50 business days (with an option to extend by 25 business days) i.e. it is possible that no additional appointment would be required for medical confirmation alone. We also note that any cost benefits are unclear as we would expect a customer to be able to claim a Medicare rebate for their appointment.

If the AEMC were to take a broader view on customer benefit and consider possible improvements to customer convenience, we highlight that the benefits from the Rule Proposal would only be gained by a subset of Life support customers. This is because Life support customers who claim concessions for their life support equipment, will still need to visit their medical practitioner to sign the NSW Department of Planning, Industry & Environment's (NSW Department) form to prove eligibility for life support concession. The *NSW Social Code for energy* (the Code) sets out this obligation and states that a "customer must complete and submit an application to the new retailer before the rebate can be applied by the new retailer" (B3.2.8). The Code also requires the customer to submit a fresh form every 2 years.

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We also understand that some Life support customers may claim a Medical Energy Rebate which similarly requires the customer to complete a separate NSW Department form.

In view of the above, we consider the benefits associated with the Rule Proposal to be limited in terms of improving competition and improving convenience for customers.

On the other hand, the costs of implementing the Rule Proposal would be significant. The Rule Proposal would be highly complex to implement using current infrastructure. As the AEMC is aware, B2B transactions cannot attach documents. We expect that building this capability in MSATS would be very costly. If the transfer of documents were to be implemented outside of MSATS, this would involve sending documents possibly via email, between retailers, and between distributors, and potentially each other. This would increase manual handling and require more FTE to handle the exchange and storage of medical confirmation information.

Further to these direct costs, there are costs in handling "Sensitive Information". Information captured in medical confirmation forms is likely to be "health information" and therefore fall under the definition of "Sensitive Information" under the *Privacy Act 1988* (Privacy Act).<sup>1</sup> While retailers hold Sensitive Information now and are required to comply with the Privacy Act, the Rule Proposal would require that they transfer this information. If this were undertaken outside of MSATS, retailers would need to ensure that the transfer of Sensitive Information is secure and protected from misuse and loss. There would be costs incurred across retailers and distributors in ensuring adequate data security for this data transfer process.

### **Risk allocation**

The Consultation Paper seeks views about risk allocation. In our view, customers are in the best position to manage medical confirmation information, ensure it is current and correct, and transfer it from one retailer to another retailer or distributor. EWON's Rule Proposal transfers this risk to retailers and distributors. Retailers and distributors are not in the best position to verify that medical confirmation information is current, nor are they in the best position to securely transfer this information to other parties (and would likely incur costs in improving security, as discussed above). If transferring this information were undertaken outside of MSATS, it could undermine the accuracy and currency of life support registers of retailers and distributors which rely on MSATS data.

We also submit that requiring a customer to refresh medical confirmation with their incoming retailer provides value in checking that medical confirmation information and life support registration is current. This check, in turn, helps retailers and distributors manage their life support registers and ensures that the right customers are receiving extra consumer protections that apply to Life support customers, thereby keeping the costs of managing Life support customers at an efficient level across the energy industry.

### **Embedded networks**

The AEMC will need to consider how EWON's Rule Proposal would apply to authorised retailers that sell to customers in embedded networks. Embedded networks are private electricity networks which serve multiple premises ("child connections") and are only connected to the distribution network and national electricity grid, through a "parent meter" connection point.

EWON's Rule Proposal is potentially relevant when embedded network customers move "on market" and switch to a new retailer. The transfer of medical confirmation information from "off market" retailers to "on market" retailers, when "off market" child connections are not currently in MSATS (and so B2B processes do not apply) would present challenges. We can provide more information on the exception of embedded networks should it be relevant to the AEMC's Draft Decision on the Rule Proposal.

### **Alternative solutions**

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<sup>1</sup> Section 6(1) *Privacy Act 1988*

As noted above, EnergyAustralia does not support EWON's Rule Proposal. However, if the AEMC were to determine there is a need to improve convenience benefits to customers (which alone will not deliver improvements to retail competition), we would suggest a simpler alternative to the Rule Proposal.

One alternative solution would involve customers providing their outgoing retailer's medical confirmation form to the incoming retailer. This would mean the efficient risk allocation discussed above is retained, and retailers avoid the need to transfer Sensitive Information to other market participants. If a customer cannot locate their form, the outgoing retailer could send it to the customer, and over time, customers would understand that they should keep their medical confirmation information (and retailers can also help to inform customers of this guidance).

The other benefit in having the customer provide the form to their incoming retailer is that the customer is re-engaged and can check that their medical confirmation is still current.

The AEMC would need to consider whether the NERR would need to be amended to support this alternative solution and explicitly clarify that a previous retailers form could be provided as a way for a customer to provide medical confirmation under the NERR.

Separately, we also note that the ACCC is considering including life support requirement information as sharable data under the Consumer Data Right (CDR).<sup>2</sup> The CDR may provide a cost effective, alternative way to port life support requirement data from one retailer to another, via a secure CDR environment. There would be complexities around this solution which may take time to resolve, including changes to the NERR, but we flag that the CDR may provide a more feasible solution to provide improved customer convenience in the future.

### Other issues raised by the AEMC paper

The AEMC sets out other questions which relate to the effectiveness of specific life support rules in the NERR.

The AEMC asks whether medical confirmation provided to the RPO should "expire" after a certain period. Our view is that to implement some sort of expiration would require evidence to show that the current de-registration process (where the onus is on the customer to alert the retailer when they no longer have life support equipment), is not operating effectively. Placing the onus on the customer to update their life support registration when it is no longer required, is consistent with the risk around out of date medical confirmation information being allocated to the customer (who is best placed to manage it).

The AEMC also asks whether Rule 125(14) raises risks around inadvertent life support deregistration. Rule 125(4) provides that where a retailer is the RPO and the customer switches to a new retailer and does not inform their new retailer of their life support requirement, the distributor may deregister that premises, provided it follows the de-registration notice process. We have not received any complaints from customers being de-registered inadvertently as a result of this process. We also observe that this process is not widely used as a distributor does not have line of sight for a customer moving from one property to another inside their own distribution network, regardless if they stay with or choose another retailer.

Lastly, we would like to flag a new issue not discussed in the Consultation Paper. In our experience, some customers appear to be trying to remain flagged with a life support requirement, when they have not provided medical confirmation despite cycling through the medical confirmation process (including reminder notices) multiple times. The initial life support registration and process to obtain medical confirmation, can continue to operate in perpetuity, should a customer keep contacting the retailer to notify a life support requirement at the end of the process (and where there are serious doubts over whether the customer's life support requirement is genuine). Dealing with this situation takes additional resources and involves costs for retailers, and there is no means for a retailer to address these customer interactions under the NERR. While this is largely uncommon and limited to a few exceptions, we wish to flag these with the AEMC and industry as an issue to monitor and potentially address in the future (if it becomes a widespread issue).

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<sup>2</sup> <https://www.accc.gov.au/system/files/CDR%20-%20Energy%20rules%20framework%20consultation%20paper%20-%20July%202020.pdf>, p 12

If you would like more information or would like to discuss any matters set out in this submission, please contact me on 03 8628 1548 or [Selena.liu@energyaustralia.com.au](mailto:Selena.liu@energyaustralia.com.au).

Regards,

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