

3 March 2022

Ms Anna Collyer
Chair
Australian Energy Market Commission
GPO Box 2603
Sydney NSW 2001

Dear Ms Collyer,

Re: Protecting customers affected by family violence (RRC0042) – Consultation paper

Simply Energy welcomes the opportunity to provide feedback on the consultation paper for the rule change proposal related to protecting customers affected by family violence.

Simply Energy is a leading energy retailer with approximately 730,000 customer accounts across Victoria, New South Wales, South Australia, Queensland and Western Australia. As a leading retailer focused on continual growth and development, Simply Energy supports the development of effective regulation to facilitate competition and positive consumer outcomes in the market.

Simply Energy supports Red and Lumo Energy's rule change proposal, and we consider that it is critical that all energy retailers protect and support customers that are affected by family violence. The rule change proposal would create a framework for retailers to provide important protections to customers affected by family violence in all National Electricity Market (NEM) jurisdictions.

While we support Red and Lumo's rule change proposal, we are open to additions and amendments that may improve its operation in practice. In this submission, Simply Energy provides feedback on some aspects of the rule change proposal and potential additional components of the rule.

Family violence rules taking priority over the retail contract and other rules

Simply Energy agrees with Red and Lumo that the safety of the customer is the paramount priority when dealing with a customer affected by family violence. For that reason, we agree that the family violence rules should take precedence over compliance with the retail contract and other rules in the National Energy Retail Rules (NERR). This would ensure that retailers can confidently assist customers affected by family violence, without concern about the implications of not strictly complying with the NERR. We consider this is a critical aspect of the rule change proposal.

Evidence of family violence required for energy disconnections

Simply Energy agrees that customers affected by family violence may not be able to easily obtain and provide documentary evidence and may find these requests traumatic. However, this also needs to be balanced against retailers' need to adequately verify those customers who are affected by family violence. This would enable retailers to make informed decisions about the debt management actions that would be most appropriate in the customers circumstances. The absence of documentary evidence in such circumstances would risk fraudulent requests undermining the objective of providing support to those who need it.

Simply Energy would support retailers being able to request documentary evidence, where appropriate, to assist in assessments of customer debt relief options and whether to suspend disconnection processes. At a minimum, we urge the Commission to retain Red and Lumo's proposal to allow retailers to request documentary evidence when a retailer is considering disconnection.

Application of family violence protections to small business customers

We agree with Red and Lumo's reasoning for proposing that family violence protections are not extended to small business customers. Red and Lumo's rule change proposal clearly outlines the challenges and unintended consequences involved in navigating complex business ownership structures. However, we also appreciate there will be some instances where small business customers would benefit from family violence protections (such as where there is co-ownership of a small business). For that reason, Simply Energy would support if the rule change allowed retailers to apply their discretion (as set out in their family violence policy) when considering how they will provide family violence protections to their small business customers.

Specialist family violence training for staff

We understand that Red and Lumo did not propose a specific requirement for staff training on family violence because operationalising the rule change would already necessitate staff training. In addition, other rules in the NERR do not have their own specific training obligations.

Simply Energy considers there are significant consumer and social benefits associated with retailers providing staff with tailored training to handle interactions with customers who may be experiencing family violence.

We note that the Commission questioned whether it would be appropriate to place operational obligations in the NERR. This is a valid question, and we suggest that an alternative approach could be for the rule change to require that a family violence policy specify that the retailer has provided training to any person acting on its behalf to support customers affected by family violence. For example, our Victorian family violence policy states:¹

Our Customer Advocacy Team are a specialist team, trained to provide you with support while you are experiencing or have experienced family violence. Some matters the team are trained in are as follows;

- *How to apply our family violence policy, including financial impact that may require payment assistance options*
- *How to identify signs of family violence and how to engage effectively with a customer affected by family violence.*
- *Assist you in accessing specialist family violence services*

This approach could be included within the proposed rule 76B(1). An example of how this could be included within the rule change is outlined below and is based on the equivalent provision in the Victorian Energy Retail Code of Practice (additions are in bold).

A retailer must:

- (1) have a family violence policy containing:
 - (a) information on the assistance available for affected customers; **and**

¹ Simply Energy, Family Violence Policy, accessed at: https://www.simplyenergy.com.au/sites/default/files/2020-07/family-violence-policy-2020_0.pdf

- (b) information on the training that has been provided to persons (including employees, agents, and contractors) acting on a retailer's behalf who may engage with an affected customer by any means of communication, which addresses:
- (i) the nature and consequence of family violence;
 - (ii) the application of the retailer's family violence policy;
 - (iii) how to identify affected customers; and
 - (iv) how to engage appropriately and effectively with affected customers.

Civil penalty requirements

Simply Energy considers that Red and Lumo's rule change proposal introduces important consumer protections and that non-compliance could result in consumer harm. It is reasonable for the Commission to assess whether some family violence rules be added to the list of civil penalty provisions.

Simply Energy would prefer the Australian Energy Regulator to utilise its compliance functions in the first instance and only take enforcement action for repeated non-compliance. However, it may be reasonable for civil penalty provisions to apply to proposed rule 76B (family violence policy), to ensure there are appropriate incentives for all retailers to prepare, publish, and review their family violence policy.

Other comments

Simply Energy agrees with the Commission that a customer affected by family violence should be accepted into a retailer's hardship program. However, it is not clear to us that the language of Red and Lumo's rule change proposal would require that of retailers. The use of the term 'payment difficulty' instead of 'hardship' may imply that these customers would be captured under rule 33(1)(b) of the NERR and would only be required to receive the support set out in rule 72 of the NERR. We would appreciate if the Commission could remove any ambiguity of the proposed rule 76C in its draft determination. For example, we suggest that the proposed rule 76C could be redrafted to state either (changes are in bold):

- A retailer must recognise family violence as a potential cause of **hardship**; or
- A retailer must recognise family violence as a potential cause of **financial** payment difficulty **due to hardship**.

It is also not clear in Red and Lumo's rule change proposal whether retailers will be able to adapt their current Victorian family violence policy to cover all NEM jurisdictions. There may be value in the Commission clarifying in their draft determination whether retailers will be required to have a distinct family violence policy under the NERR and the Victorian Energy Retail Code of Practice, or whether a single combined family violence policy would meet the intent of the rule change.

Concluding remarks

In closing, Simply Energy looks forward to engaging with the Commission throughout this review to ensure that the final framework enables retailers to protect and support their customers affected by family violence.

Simply Energy welcomes further discussion in relation to this submission. To arrange a discussion or if you have any questions please contact Matthew Giampiccolo, Senior Regulatory Adviser, at matthew.giampiccolo@simplyenergy.com.au.

Yours sincerely

A handwritten signature in black ink that reads "James Barton". The signature is written in a cursive style with a large, prominent initial "J".

James Barton
General Manager, Regulation
Simply Energy