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Anna Collyer
Chair
Australian Energy Market Commission

SUBMISSION ON DRAFT DETERMINATION AND DRAFT RULES – PROTECTING CUSTOMERS AFFECTED BY FAMILY VIOLENCE (RRC0042)

Dear Anna,

Thank you for the opportunity to comment on the Australian Energy Market Commission's (AEMC) Draft Rule Determination – National Energy Retail Amendment (Protecting Customers Affected by Family Violence) Rule 2022 (Draft Determination) and Draft National Energy Retail Amendment (Protecting customers affected by family violence) Rule 2022 (Draft Rule).

As you know, Energy Consumers Australia is the national voice of residential and small business energy consumers. We advocate for a modern, flexible, and resilient energy system that meets consumer values, expectations, and needs.

Ensuring the safety and protections of those who are or may be affected by family violence, is the responsibility of us all. We commend the AEMC for strengthening the rule change proposal put forward by Red Energy and Lumo Energy, including but not limited to broadening the scope of protected customers, enhancing requirements to ensure the safety and wellbeing of affected customers, and recommending civil penalties for breaches of the rules.

We appreciate the complexity of the task at hand and are largely supportive of the draft determination as it stands. However, given the serious nature of this rule change for affected customers, we note a few areas where we see further improvement could be made, which we outline below.

SPECIFIC COMMENTS ON THE DRAFT RULE

76B Family violence policy

Given the importance and reliance placed on the policy within this Part, we believe there is merit in strengthening the review process outlined in 76B(d). For example:

76B (d) review its *family violence policy* from time to time as required to reflect changes in circumstances or maintain consistency with leading practice, or no later than every two years, whichever comes first.

We are not wedded to a timeframe of two years; however, this seems adequate in terms of assessing how the current policy has been working and any changes in the external environment, if there has not been a catalyst for review already within that period.

76C Ability of retailer staff to assist affected customers

We welcome that the Draft Rule places an outcome-based obligation on retailer businesses to, on an ongoing basis, ensure that relevant staff are adequately able to assist affected customers. As outlined in the Draft Determination, it is important that retailers actively engage with family violence issues and solutions on an ongoing basis, to build their internal capability and drive cultural change.

While we support this requirement, we urge vigilance in ensuring that customers are experiencing the intended outcomes, given the flexibility that is afforded to retailers. Regarding the Victorian reforms, there is evidence of inconsistency by retailers in meeting their obligations to customers,¹ and we want to ensure that this is not the case for this Draft Rule. As outlined below, we encourage the AEMC to commit to reviewing these protections, given the importance of compliance in protecting customers experiencing family violence.

ADDITIONAL CONSIDERATIONS

Embedding the lived experience

As noted in the Draft Determination, the Essential Services Commission has recently produced guidance on providing better practice responses to those affected by family violence. We emphasise the importance of their learnings, particularly that ensuring consistent better practice responses by essential service providers requires specialist-informed design, delivery, and evaluation of family violence reforms.² Ultimately, the lived experiences of affected customers are the richest source of information about the efficacy of services.³

We encourage the AEMC to consider how these rules could embed the outcome of learning from the lived experiences of affected customers and encourage retailers to authentically engage with survivor advocates where appropriate as they deliver on the new requirements.

Committing to review

We encourage the AEMC to commit to ensuring that the family violence protections remain fit-for-purpose and that affected customers are experiencing the intended outcomes.

A comparable example would be the Essential Service Commission's review of outcomes for customers following the family violence changes to the water customer service codes.⁴ We commend the Essential Services Commission's continuing journey in collaborating with family violence experts to provide safe and flexible assistance to customers affected by family violence.

Staff support

We reiterate the importance of support for staff when engaging with issues of family violence. This could be an Employee Assistance Program (EAP) but note that EAP providers are not always appropriately family violence informed.⁵ Safe and Equal, the peak body for family violence services in Victoria, suggests this could be resolved by supporting the development of a family violence standards checklist for EAP utilised by essential service providers.⁶

¹ Larissa Nicholls and Karl Dahlgren, *Consumer Experiences Following Energy Market Reforms in Victoria – Qualitative Research with Community Support Workers* (Final Report, 22 June 2021) 40.

² Safe and Equal, *The Family Violence Experts by Experience Framework Implementation Plan and Guidelines for the Essential Services Commission and essential service providers* (Project Report, May 2022) 9.

³ Safe and Equal, *The Family Violence Experts by Experience Framework Implementation Plan and Guidelines for the Essential Services Commission and essential service providers* (Project Report, May 2022) 17.

⁴ Wallis Market and Social Research, *Water Code Outcomes Review: Family Violence Changes*. (Report, June 2019).

⁵ Safe and Equal, *The Family Violence Experts by Experience Framework Implementation Plan and Guidelines for the Essential Services Commission and essential service providers* (Project Report, May 2022) 11.

⁶ Safe and Equal, *The Family Violence Experts by Experience Framework Implementation Plan and Guidelines for the Essential Services Commission and essential service providers* (Project Report, May 2022) 12.

Such a requirement would further strengthen the elements of the Draft Rule that aim to drive the culture, skills, and practices that retailers need to properly respond to affected customers.

Waiving credit check requirements

The draft determination states that *'Survivors of family violence can often be disproportionately impacted by bad debts and financial disadvantage as they accrue debt and often a credit history for which they are not responsible. The assistance established by the draft rule is needed so retailers appropriately consider the individual financial circumstances of affected customers.'*

However, we note the drafted rules do not specifically capture customers who are trying to establish an account but may be declined due to their credit score.

We suggest the AEMC stay abreast of this issue, and to consider what guidance or action may be required if the reforms appear insufficient in safeguarding affected customers.

CONCLUSION

We support this rule change in addressing how the National Energy Retail Rules can protect and support affected customers, and recommend further improvement opportunities, including the importance of regulatory review, embedding the lived experience of survivor advocates into the design and evaluation of reform, and staff supports.

We commend the AEMC's important work on this rule change, while also acknowledging it is not a job well done, but rather a job well started. We look forward to continuing to work with industry to enable a trusted and best practice sector in protecting customers affected by family violence.

Should you have any questions about our comments in this submission, or require further detail, please contact Isabella Darin by email isabella.d@energyconsumersaustralia.com.au.

Yours sincerely,



Lynne Gallagher
Chief Executive Officer