

4 August 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) – Draft determination**

Simply Energy welcomes the opportunity to provide feedback on the draft determination 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. Simply Energy is owned by the ENGIE Group, one of the largest independent power producers in the world and a global leader in the transition to a zero-carbon economy. 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 considers that it is critical that all energy retailers protect and support customers that are affected by family violence.

Simply Energy is comfortable with the Australian Energy Market Commission's (Commission) more preferable draft rule, except the proposal to fully apply the proposed protections to all small business customers. Retailers should be able to apply their discretion when considering how they provide family violence protections across their diverse range small business customers.

Simply Energy considers that the approach to largely aligning the draft rule with the current protections in Victoria will simplify implementation for retailers that operate across multiple jurisdictions. This approach also recognises that several retailers, including Simply Energy, already have family violence support available in all States in the absence of a specific regulatory requirement. Simply Energy supports the introduction of new regulatory requirements that do not require us to significantly alter the support we are already providing to our customers in New South Wales, South Australia and Queensland.

In this submission, we provide feedback on aspects of the draft rule and the draft determination.

**We support the proposed implementation time and would support a delay in penalty requirements**

Simply Energy is comfortable with the Commission's proposed implementation date of 1 May 2023, on the basis that the Commission intends to publish its final determination by mid-September 2022. While Simply Energy already makes family violence support available in the relevant jurisdictions, the final determination will likely require us to review and update the processes and systems we currently have in place to provide family violence support.

We note that the draft rule introduces important consumer protections, and we agree with the Commission that non-compliance has the risk of resulting in significant consumer harm. Simply Energy is comfortable with the Commission's assessment of the civil penalty classifications for the draft family violence provisions.

As noted in our submission to the consultation paper, Simply Energy would prefer the Australian Energy Regulator (AER) to utilise its compliance functions in the first instance rather than relying on civil penalty provisions. On that point, Simply Energy proposes that the Commission consider recommending a delay in the application of any civil penalties to the final rule for a period of 12 months. Recognising that there are notable differences between the Victorian rules and the draft rule, this additional time would provide retailers with comfort that their updated processes will be compliant before any Tier 1 civil penalty requirements commence. During the 12 month period, Simply Energy would expect the AER to work proactively and cooperatively with retailers to ensure that there is a high-level of compliance across the industry prior to any civil penalty provisions taking effect.

### **We agree that family violence rules should take priority over other obligations**

Simply Energy is pleased that the Commission has enabled the family violence rules to take precedence over compliance with the retail contract and other rules in the National Energy Retail Rules (NERR). The safety of the customer is the paramount priority when dealing with a customer affected by family violence. The draft rule would ensure that we can confidently assist customers affected by family violence and withhold communications from a perpetrator, without concern about the implications of not strictly complying with the NERR. We consider this is a critical aspect of the rule change proposal.

### **Small business customers should only be covered by prescribed rules in some circumstances**

Simply Energy is not supportive of the draft rule prescribing that all small business customers should be captured by the formal family violence protections. In our submission to the consultation paper, we urged the Commission to allow retailers to apply their discretion when considering how they will provide family violence protections to their small business customers. This approach would recognise that small business customers are not homogenous, and support that is relevant for a family business or partnership may not be relevant for other businesses with more complex ownership structures. It is more challenging for retailers to consider the nuance between customers when facing the prospect of breaching Tier 1 civil penalty provisions for not meeting the requirements of the prescribed rules.

If the Commission decided to specifically include all small business customers in the family violence protection framework, we would propose that there be some differentiation between the support prescribed for residential and small business customers. We provide an example of a potential differentiation in the following section, in relation to documentary evidence.

### **Requiring documentary evidence from some small business customers may be reasonable**

Simply Energy agrees that customers affected by family violence may not be able to easily obtain and provide documentary evidence and may find that these requests traumatic. We understand the Commission's reasoning for not requiring customers to provide documentary evidence to receive family violence protections. In our submission to the consultation paper, we supported retailers being able to request documentary evidence, where appropriate, to assist in assessments of whether to proceed with disconnection processes.

While we understand that not requiring documentary evidence in any situation has become leading practice, we consider there remains a case to allow retailers to seek documentary evidence of

family violence when considering debt management actions and disconnections of small business customers. Such an approach would enable retailers to apply their discretion (as set out in their family violence policy) on the circumstances where they may seek documentary evidence from their small business customers.

Allowing documentary evidence to be sought from small business customers in limited circumstances would recognise the difference between residential and small business customers, particularly in relation to the variety of business types and complex ownership structures that exist. Obtaining documentary evidence from a small business customer in certain circumstances would enable retailers to make informed decisions about the potential impact of potential debt management actions (including disconnection) on the small business customer.

### **An outcomes-based obligation on staff training is appropriate**

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.

Simply Energy supports the Commission's proposal for an outcomes-based obligation that does not prescribe the specific training requirements for customer-facing staff relating to family violence. In our submission to the consultation paper, we supported retailers being required to ensure customer-facing staff are appropriately trained to support customers affected by family violence. We proposed an approach that would give retailers the discretion to tailor their training to the needs of their staff and enable this training to be updated over time as family violence support and protections evolve. Simply Energy considers that the AEMC's draft rule 76 provides sufficient guidance on retailers' obligations to provide appropriate training to their staff.

### **We support the clarification in hardship requirements for affected customers**

Simply Energy is pleased that the Commission has clarified in its draft rule that family violence must be recognised as a potential cause of hardship for residential customers. As we noted in our submission to the consultation paper, the language in the rule change request was unclear as to whether a customer affected by family violence should be accepted into a retailer's hardship program under Part 3 of the NERR.

### **The introduction of family violence reporting indicators would not provide meaningful information**

Simply Energy understands that the Commission is also seeking feedback on whether the final rule should enable the AER to report on some family violence indicators. It is not clear to Simply Energy that data on the number of customers affected by family violence would provide valuable insights on the performance of a retailer. That is, information on the number of affected customers does not provide insights as to whether a retailer has an effective or ineffective family violence policy. This differs to indicators related to the number of customers in financial hardship, where this data can be assessed alongside other financial indicators (such as, indicators related to arrears).

As Simply Energy, and other retailers, already provide significant volumes of highly detailed information to the AER on a regular basis, we would urge the Commission to not propose that we provide additional information unless the AER can demonstrate a clear use-case that would provide meaningful insights on an individual retailer's performance. We would instead urge the AER to work proactively and cooperatively with each retailer to ensure high levels of ongoing compliance with their family violence policy.

Although family violence reporting indicators would not allow for useful comparisons across retailers, these indicators may provide interesting information at a macro-level about how many

energy customers across the NERR-regulated jurisdictions are affected by family violence. However, Simply Energy considers that statistics on the prevalence of family violence across Australia are more appropriately available through other sources.

### Other comments

Simply Energy provides some additional comments on aspects of the draft rule:

- Simply Energy supports the reliance on the South Australian definition of domestic abuse, which provides a broader view of abuse than the definition relied on in the Victorian Energy Retail Code of Practice.
- Simply Energy supports the proposed obligation that a retailer must prioritise an affected customer's safety and circumstances in any dealing with the customer. As this is proposed to be a Tier 1 penalty provision, it would be helpful if the Commission could encourage the AER to issue guidance on how it would assess retailers' compliance with this rule. We are keen to ensure that our customer-facing staff are prioritising customer safety and are meeting the expectations of the regulator.
- Simply Energy would appreciate guidance from the Commission as to whether it expects retailers to create a distinct family violence policy for customers covered by the NERR, or whether it would be suitable for retailers to adapt their current Victorian family violence policies to apply to all NEM jurisdictions.

### Concluding remarks

In closing, Simply Energy is comfortable with the approach that the Commission has taken in its draft determination, and we are keen to ensure that the final framework enables retailers to continue to 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](mailto:matthew.giampiccolo@simplyenergy.com.au).

Yours sincerely



**James Barton**  
General Manager, Regulation  
Simply Energy