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RRC0064 Improving Life Support Processes – Draft Determination

EnergyAustralia is one of Australia's largest energy companies with around 2.2 million electricity and gas accounts across eastern Australia. We also own, operate and contract a diversified energy generation portfolio across Australia, including coal, gas, battery storage, demand response, wind and solar assets, with control of over 5,000MW of generation capacity.

We appreciate the opportunity to provide feedback in relation to the AEMC's Draft Determination *Improving Life Support Processes*. EnergyAustralia is broadly supportive of the approach that the AEMC has taken in designing its Life Support protections arrangements. We understand and think it is appropriate that the conceptualisation of the obligation has shifted from the specific equipment to the customers' need and the criticality of that need. This allows for greater flexibility for customers but is likely to have flow on consequences for the maintenance and manageability of the Life Support register. Our comments in relation to the specific issues that may arise from this approach are set out below.

Definitions and equipment list

We presume the life support customers' needs as conceptualized for the purposes of this rule change is to remain on, or be swiftly restored to, energy supply as a priority case. If this is the intention, then the definitions seem appropriate to capture customers' needs even if the customer does not have a specifically listed equipment item.

If retailers and particularly distributors are not provided with information identifying life threatening conditions then there is no rationale for the rule change as this is the key issue that the proponent was originally trying to solve for: that there is no mechanism to prioritize an increasingly large list of customers listed as requiring Life Support. On this basis we consider that the risk of not collecting this information (i.e., no ability to prioritize impacting customer wellbeing in cases of outage and emergency) outweighs any risk of collecting it.

Possibly most relevant to the changes, if the definition is designed to inform the medical practitioner of how to make an assessment. The inclusion of a 'critical need' 'life threatening condition' definition on the registration form is of great importance. We

assume this critical or assistive life support selection on the form is determined using this definition before it reaches the retailer. This information will need to be captured by retailers systems using additional systems fields, and will need to be communicated via B2B transactions to support DNSPs undertaking prioritization in emergencies and outages.

We agree that the equipment list is most relied on to determine which equipment is required for life support by the medical practitioner. We also agree that the equipment list is a guide for consideration by the medical practitioner. Given this, we do not think there is a need for separate lists based on equipment when the definition relates to the user and condition alongside the potential negative consequences of losing power as the defining factor of criticality, not the equipment type.

The AEMC seeks feedback on whether there is a need to define 'registered medical practitioner'. We consider that retailers are not likely to check this detail or reject an application on this basis, because the risk associated with not registering a customer with legitimate need based on administrative errors is too high. However, we note that *registered medical practitioner* is proposed to be defined in Victoria as a person registered to practice as a medical practitioner under the Health Practitioner Regulation National Law. We consider this an appropriate definition if one were to be included, noting that it is likely the interpretation currently taken.

Ongoing re-confirmation requirements

Neither the AEMC nor Victoria plan to adopt a 4-year registration confirmation requirement. Instead, they propose an annual but less onerous re-confirmation approach. We are disappointed in this. We consider the proposal for annual checks is excessive in terms of cost-to-serve, and results in a poor customer experience, alongside being potentially ableist, and may undermine goodwill and customer trust if the customer feels they are being asked to constantly justify the need that they have previously justified through a confirmation form with a four-year validity period.

Additionally, we observe that ongoing, permanent life support registration may undermine the solution to the ever-growing life support register that this rule change proposed to solve. Just because the condition is ongoing, does not mean the resident continues to reside at the site. For instance, they may move to a care facility. We think four years as a timeframe for re-confirmation is reasonable, particularly noting that there is no requirement for a retailer to de-register a customer and therefore the risk to vulnerable customers remains quite low. For this reason, we consider that re-confirmation requirements should apply equally to all life support registrations.

In either approach, the re-confirmation process could include a question regarding the customers back-up plan, however retailers should not be expected to provide advice in relation to the development of a backup plan. This must remain the responsibility of the life support user.

Procedural questions arising from the proposed changes

Maximum number of business days to send reminder notices

Including a maximum number of business days to send a reminder notice introduces unnecessary complexity to the reminder process and increases the risk of technical breach, which is more likely to occur if the retailer offers a flexible and customer centered approach to registration through offering extensions of time to return the form

to customers. Introducing the time limitation may incentivize retailers not to allow extensions of time to mediate that introduced risk, leading to a poor customer experience. This is a particular concern when we know that wait times to see medical practitioners can be longer than the timeframe that has been proposed. We consider that the reminders should be sent at 15 business days with no maximum timeframe as is currently the case, and which allows for flexibility to support the customer who is trying to obtain the required sign off from their medical provider.

One business day to notify the DNSP of a form return

The proposed changes would require retailers to update life support details and share this information with the DNSP within one business day of receiving the returned form. Currently the timings are 'as soon as practicable', which provides some flexibility for retailers, given the flow of received forms is variable, and all are processed manually. We would prefer the current obligation for timeframes of notification be retained, particularly because the new forms will have additional information that must be provided, and these will come with an inbuilt prioritization mechanism.

For instance, in future a retailer could prioritize based on critical need, then based on whether secondary contact details were provided with the form. This would be appropriate because the customer site is flagged with the DNSP at the time they advise they have a requirement, not at the time the forms are returned.

Prioritising in this manner would ensure that the additional protections that are intended for the customer are preserved and that these customers would likely have these extra details updated within the desired timeframe, but the retailer would not be at risk of a technical breach of the one business day timeframe where there is no actual additional detriment to the customer from this delay since the customer site is already flagged.

Option to deregister rather than a requirement

We consider that the option to deregister the customer is not the same as a requirement to deregister the customer. The wording used where the retailer 'may' deregister the customer rather than must introduces regulatory uncertainty and risk that leads to conservative approaches being embedded, which ultimately result in increasing life support volumes and no appetite to remove customers even if it is technically possible.

Responsibility for reminder and validation processes

While DNSPs may still be able to take a registration request, the overall obligation for management of forms, validations and life support register sits with retailers. Because of this, in our view retailers should be responsible for the reminders process to avoid duplication and customer confusion.

Outcomes of standardizing forms

Standardizing the content of the medical confirmation form is likely to ensure that medical practitioners know how to navigate it and make this part of the transaction easier for them and for customers, but the form itself has limited impact on the overall customer experience of registration.

We also seek clarity from the AEMC on the appropriate course of action should the customer form not return a selection (i.e. the critical v assistive determinant is blank). It should be made clear what the default assumption should be. We consider if there is no selection, retailers should be instructed to default to assistive rather than requiring the customer to return the form again, particularly as this introduces an administrative

barrier to an already vulnerable customer cohort and we consider the customer is not likely to do so.

Accepting NSW Life Support Rebate forms under proposed Rules

Presently, in NSW, a customer who receives the Life Support rebate is able to utilize the concessional form for life support registration. While we broadly support harmonisation of rules across jurisdictions, we also consider that regulatory structure should not introduce unnecessary barriers to vulnerable consumers where these can be readily identified.

It is unclear whether this will continue to be the case in the proposed future state. We urge the AEMC to draft its requirements in such a manner that customers in NSW could continue to access the consumer protection using their rebate form. This could be through aligning the form content, but where there are differences in the information collected (such as secondary contact information or information that is used for emergency response triage purposes) an addendum to the existing form could be developed for NSW specifically. We consider this kind of approach would result in a lower barrier to the customer obtaining their consumer protection while also ensuring that the retailer or other provider is able to meet its obligations under the Rules.

Inaccuracy of the life support register due to customer switching

We consider that the current proposal does not consider how to manage registration between the DNSP and Retailers when customers switch providers. This is currently relatively neatly managed. At present, the DNSP alerts the retailer to a life support requirement at the site and provides the evidentiary documentation that supports this. It is unclear under the proposed structure whether they would continue to do this, which reintroduces the problem of reconciliation the rule change in 2017 sought to address.

We consider that when the DNSP is alerted to a change in retailer at the site, then they should send an 'LSR' request through the B2B procedures. Since the retailer just spoke to the customer and went through the life support conversation with the customer at site, then if there is no life support requirement the retailer would return an 'LSN' notification. We consider the DNSP should be required to deregister the site on that basis without needing to follow any further deregistration notice process, since the customer would have just confirmed whether life support was required or not. We consider this approach would assist in retaining the accuracy of the life support register and make it clear for DNSPs that it is appropriate to rely on the retailer's information to deregister at the time the customer switches. We do not think that deregistration by the DNSP under these circumstances should be discretionary.

Secondary contact consent requirements

The AEMC has sought feedback relating to whether secondary contact should receive notifications and information about planned interruptions. In our view, this largely depends on whether that secondary person has consented to communications, what kind of communications they have agreed to receive as the secondary or 'support' person, and how that consent is recorded. We consider that this should be expressly set out in the customers' registration form, and the authorized contact should have to sign that they consent and indicate they have understood what they are consenting to. This is consistent with the approach to any other secondary contact consent that the customer may have authorized at an energy account level.

DNSP notifications via electronic channels

We consider that it would be better if this notification option was additional rather than substitute for current physical notification options, as is the case for retailer-based notifications relating to outage or potential disconnection. Some customers do not have access to or confidence in operating or trusting electronic channels. For this subgroup of customers, clear and trusted notifications are critical. We consider the default option should remain a letter notice by post but that a customer could opt in to receiving their communications via a preferred electronic method, and DNSPs ought to be required to evidence that this was obtained in the same way that retail businesses are required to evidence opt in consent requirements.

Additional personal detail disclosures

The AEMC has sought feedback on whether additional information disclosure should be sought as part of changes to the life support registration form. Our views in relation to these are as follows:

- Indigenous identification is not expressly relevant to the design of the consumer protections, and we should consider the purpose for which the information is gathered. Is it not appropriate to collect this information given the purpose of the information is to provide a protection that does not explicitly change if the customer identifies as Aboriginal or Torres Strait Islander.
- CALD identification is not expressly relevant to the design of life support consumer protections, and we should consider the purpose for which the information is gathered. It is not appropriate to collect this information given the purpose of the information is to provide a protection that does not explicitly change if the customer identifies as CALD. However, we do not think it is unreasonable that the information that relates to the form could be made available in community languages. This would not actively require the customer to identify as CALD but would reduce barriers to access that CALD customers may experience. We assume this would form part of the template to ensure consistency across industry as desired.
- We consider that Disclosure of Family Domestic Violence (FDV) should be an option for the customer rather than a requirement and should sit outside of the life support processes and forms. Where disclosure is an option, it is not inherently a risk. Under current consumer protections structure, FDV is flagged separately, and this allows for additional safeguards to be individualized to customer needs where necessary.

Other issues

Drafting of 124B Ongoing retailer and distributor obligation

124B Ongoing retailer and distributor obligation (1) assigns the retailer obligation to the life support equipment. The section already refers to advising a life-threatening condition, and this information is most relevant to the DNSP in prioritizing life support users in case of outage and emergency.

Given the equipment type is secondary and a guide rather than a definitive list, we consider the obligation should refer to the life support user as more consistent with the intent of the clause and protection.

A centralized priority services register

We consider that this would be useful for other sectors (i.e. emergency services) to be able to access and could ultimately replace the requirement for retailers to have a separate registration process. A customer could centrally register, and that centralized database could notify all relevant participants. As with any data exchange, detailed governance and information sharing issues can only be identified when a proposal for a data exchange is made. Given historic reticence to create such a centralized register, we consider questions relating to design, privacy, data sharing or governance issues are only relevant if this centralized register is to be progressed.

No positive obligation to deregister remains a problem for register accuracy

Retailers originally had full responsibility for registration and deregistration of life support customers. Expanding this to include DNSPs in 2017 (effective 2019) increased the potential for confusion and the expansion of life support registers, particularly because there were no clear rules for deregistration.

We do not consider the current proposal will support a more accurate life support register. There continues to be no clear appropriate time to de-register a customer outside of the customer's express request; a retailer 'may' deregister the customer but is not obliged to. Under these circumstances we consider it unlikely that a retailer would deregister the customer unless expressly asked. For clarity, we would not support a positive requirement to deregister a customer except in circumstances that the customer has expressly requested this, because there are legitimate reasons that the customer should remain registered.

We do, however, consider the drafting of 'life support user' and assistive or critical life support equipment definitions are more appropriate drafting terms given the intention of the rules and may result in more effective identification and management of higher risk customers. This may make the consumer protection more effective in practice.

If you would like to discuss this submission, please contact me on 03 9060 1130 or by email Courtney.Markham@energyaustralia.com.au.

Regards

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