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8 November 2017

Mr John Pierce
Chairman
Australian Energy Market Commission
Level 5, 201 Elizabeth St
Sydney NSW 2000

Submitted electronically

Dear Mr Pierce,

Re: Draft Determination: Strengthening protections for customers requiring life support equipment (RRC0009)

Red Energy (Red) and Lumo Energy (Lumo) welcome the opportunity to respond to the Australian Energy Market Commission's (the Commission) Draft Determination on a rule change proposal by the Australian Energy Regulator (AER) to strengthen protections for customers requiring life support equipment.

Broadly, we support the draft rule to strengthen the existing life support obligations in the post-December 2017 National Energy Retail Rules (NERR). We agree there is insufficient clarity in the current rules about the obligations of relevant participants when registering customers with life support equipment.

The draft rule

The draft rule clearly allocates responsibilities between retailers and distributors by specifying a 'registration process owner'. It also proposes reasonable timeframes for respective parties, including customers, to provide information, issue notices and reminders, and provide supporting documentation.

In most cases, the draft rule strikes an appropriate balance between maintaining continuous electricity supply to consumers requiring specific protections and the cost of industry participants of maintaining life support registers. We also note it will address one of the AER's key reasons for proposing the initial rule change, namely, its concerns about the growth in the life support registers (with customers remaining on registration lists where they have not provided medical confirmation) and increasing numbers of inaccurate and out-of-date registrations.

However, we seek more clarity from the Commission about the requirement for immediate registration when a consumer advises they 'intend to reside' at premises where life support equipment will be required. While we understand that this is intending to cover a move-in scenario, it is conceivable that a consumer who notifies a retailer or distributor well in advance of their intention to reside at premises that they will require life support, could potentially receive reminder notices as part of the proposed registration process prior to moving to those premises. Furthermore, the obligation to register, provide information and issue reminder notices could fall to a retailer even if it is not yet the financially responsible market participant.

We urge the Commission to make it clear in the final rule that where a customer provides their requirement for life support equipment for a premises for which they

intend to reside in, that only when a retailer is the financially responsible for that premises they either must advise the distributor or be advised by the distributor. Prior to the point for which a retailer becomes financially responsible for that site in the market systems will create operational complexities and confusion between all parties, particularly if the customer has advised the distributor.

Furthermore, we are not convinced the proposed rule overcomes all of the problems under the current framework and we continue to hold the view that the final rule should provide for

- mandatory deregistration under prescribed circumstances, and
- registrations applying for a finite period.

Growth in the number of registrations and the increasing inaccuracy of registers are inevitable outcomes of the Commission's reluctance to include these measures as components of the more preferable rule.

Mandatory deregistration

We continue to hold the view put forward in our submission to the Commission's Consultation Paper that the registration process owner should be obligated to remove a consumer from their register if they fail to provide the necessary documentation within the prescribed timeframe (and having received numerous reminders).

The Commission addressed this point in its Draft Determination, stating that it would shift some of the risks of disconnection from retailers or distributors to consumer and that this was inappropriate. The Commission then stated that retailers and distributors have a range of tools for seeking information and managing financial impacts; tools to which consumer typically do not have access.

In our view, the proposed rule provides a reasonable amount of time for consumer to provide the necessary documentation and reflects the concept of a shared responsibility between service providers and consumer. However, we are also mindful that the framework creates some potential for gaming by consumer in order to maintain supply (although we are confident the extent of this will be minimal).

The benefits of an accurate register – from an enforcement and cost perspective – are such that there is merit in mandating deregistration when consumer don't provide the necessary documentation. This obligation would also be entirely consistent with one of the AER's key reasons for proposing the rule change.

Finite registration period

The accuracy of life support registers would be further enhanced if consumers' registrations applied for a finite period, which we previously suggested that two years would be appropriate. The Commission seeks to promote accuracy by proposing its more preferable rule that retailers and distributors could contact their customers to confirm their eligibility in the particular instances where they suspect the requirement for life support no longer applies. Furthermore, we recommend that the draft rule provides discretion in the requesting of additional medical confirmation.

Distributors have limited direct engagement with retail customers, even when they are the registration process owner. This means that without visiting the customer they have very limited ability to identify who may or may not require life support and then challenging this status. Moreover, customers have limited incentive to notify registration process owners in the event they no longer require life support. It is for these reasons that we continue to recommend that registration applies for a finite period.

Furthermore, this is consistent with the shared responsibilities with respect to life support under the framework and the objective for registers to be as accurate as possible. A finite registration period is also consistent with and reinforces the Commission's preference for consumer to be responsible for notifying their new service provider when they switch retailers.

Implementation

We recommend that any start date for the new framework should be no earlier than 6 months from the publication of the final rule. The Commission will be aware that metering contestability is currently the major focus of all industry participants and we are implementing arrangements and processes to ensure a seamless transition and positive customer experience. We recommend the Commission avoid introducing additional obligations during this transitional period.

Finally, we are aware of some suggestions that B2B Procedure changes are necessary to support the rule given it introduces parallel obligations on both retailers and distributors in the sharing of information. As a consequence, we expect that some industry participants will recommend to the Commission that the Information Exchange Committee (IEC) should manage the development and implementation of the new processes and transactions, required to support the rule and allow sufficient time to consult on changes to the B2B Procedures.

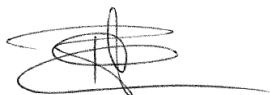
Based on the draft rule, we do not believe that amendments to the B2B procedures are necessary or required to support the rule change. These consultations are typically lengthy and resource intensive processes and should only commence if it has been clearly established that such changes are necessary. Therefore, we oppose any formal instruction from the Commission to the IEC in the final rule. We do, however, support the Commission engaging with the IEC should any substantial changes be made to the draft rule which may create a need to develop more formal mechanisms to transmit information between distributors and retailers. Should the Commission make the final rule clear that only when a retailer is financially responsible does the requirement to exchange information, there should be no need to amend the B2B Procedures at all.

About Red and Lumo

Red and Lumo are 100% Australian owned subsidiaries of Snowy Hydro Limited. Collectively, we retail gas and electricity in Victoria and New South Wales and electricity in South Australia and Queensland to approximately 1 million customers.

Red and Lumo thank the Commission for the opportunity to respond to this consultation. Should you have any further enquiries regarding this submission, please call Geoff Hargreaves, Regulatory Manager on 0438 671 750.

Yours sincerely

A handwritten signature in black ink, appearing to read "Ramy Soussou". The signature is fluid and cursive, with a long horizontal line extending to the right.

Ramy Soussou

General Manager Regulatory Affairs & Stakeholder Relations

Red Energy Pty Ltd

Lumo Energy Australia Pty Ltd