



Australian Energy Market Commission

CONSULTATION PAPER

NATIONAL ENERGY RETAIL AMENDMENT (MAINTAINING LIFE SUPPORT CUSTOMER REGISTRATION WHEN SWITCHING) RULE

PROPONENT

Energy and Water Ombudsman of New South Wales (EWON)

6 AUGUST 2020

RULE

INQUIRIES

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ABOUT THE AEMC

The AEMC reports to the Council of Australian Governments (COAG) through the COAG Energy Council. We have two functions. We make and amend the national electricity, gas and energy retail rules and conduct independent reviews for the COAG Energy Council.

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1 INTRODUCTION

1.1 Summary

On 11 June 2020, the Energy and Water Ombudsman of New South Wales (EWON) submitted a rule change request to the Australian Energy Market Commission (Commission) that sought changes to the National Energy Retail Rules (NERR) to maintain life support registration when a customer changes premises or retailer.

Under the current rules, in some situations retailers and distribution network service providers (DNSPs) may require the re-submission of medical confirmation of life support following a change of premises or retailer for customers already registered as life support customers. EWON considers that the resubmission of medical confirmation creates barriers for life support customers from fully participating in the retail energy market.

The rule proposal sought to enable the transfer of medical information between outgoing and incoming life support registration process owners (RPO),¹ following a customer change of premises or retailer. EWON considered that the proposed changes would benefit life support customers by facilitating customers to engage with the retail market while also minimising costs imposed on them to secure medical confirmation.

This consultation paper has been prepared to facilitate public consultation on the rule change request and to seek stakeholder submissions.

This paper:

- sets out a summary of, and a background to, the rule change request
- sets out a proposed assessment framework the Commission may use to consider the issue
- identifies a number of questions and issues to facilitate the consultation on this rule change request
- outlines the process for making submissions.

1.2 Key dates

This rule change process will be carried out under a "standard" timeframe. Information on the Commission's rule change process can be found on the following link:

<https://www.aemc.gov.au/our-work/changing-energy-rules>.

The Commission proposes to follow the timeframe outlined in Table 1.1 for this rule change process.

Table 1.1: Proposed timeframe

MILESTONE	PROPOSED DATE
Publication of the consultation paper	6 August 2020

¹ RPO is defined and discussed in section 2.1.2.

MILESTONE	PROPOSED DATE
Submissions on consultation paper are due	3 September 2020
Publication of the draft determination and rule	5 November 2020
Submissions on draft determination are due	14 January 2021
Publication of the final determination and rule	25 February 2021

Note: The proposed dates are subject to change

2 BACKGROUND

This section outlines:

- Current life support arrangements
- Switching-related arrangements for life support customers
- Medical confirmation roles and responsibilities.

2.1 Overview of current life support customer arrangements

Life support requirements are designed to provide additional customer protections and require retailers and DNSPs to register premises that have a person using life support equipment (such as an oxygen concentrator or kidney dialysis machine) that relies on electricity to operate. The requirements facilitate the provision of information to parties that need to be aware of life support equipment at a premises, and impose obligations on retailers and DNSPs to provide additional safeguards around de-energisation for customers using life support equipment that relies on electricity to operate.

For example, rule 124B(1)(c) of the NERR states that a retailer must not arrange for the de-energisation of premises at which life support equipment is required, except in the case of a retailer planned interruption under rule 59C. Similarly, rule 124B(2)(a)(iii) of the NERR states that a distributor must not de-energise premises at which life support equipment is required, except in the case of an interruption, including under Division 6 of Part 4. Premises at which life support equipment is required cannot be disconnected for non-payment.

Part 7 of the NERR sets out rules for energy businesses and customers with respect to life support protections. In summary, Part 7 of the NERR contains three major types of obligations that are relevant for this rule change request, including:

- customer obligations,
- retailer and DNSP obligations, and
- requirements for medical confirmation.

Part 7 of the NERR was revised in December 2017, when the Commission made a final rule to strengthen protections for life support customers (the *Strengthening protections for customers requiring life support equipment* rule change).² The rule came into effect on 1 February 2019. Further information is provided in Box 1 below.

² AEMC, *Strengthening protections for customers requiring life support equipment*, Final rule determination, 19 December 2017. Available at: <https://www.aemc.gov.au/rule-changes/strengthening-protections-for-customers-requiring>.

BOX 1: STRENGTHENING PROTECTIONS FOR CUSTOMERS REQUIRING LIFE SUPPORT EQUIPMENT RULE CHANGE

On 19 December 2017, the Commission published a final rule determination on a rule change request from the Australian Energy Regulator (AER) to strengthen protections for customers that have a person requiring life support equipment residing at their premises.

The AER's rule change request was motivated by concerns over the accuracy of life support registers, difficulties in enforcement and lack of customer awareness of the need to provide medical confirmation.

Key features of the final rule:

- Customers receive the protections of the life support rules from the time they inform their retailer or distributor
- The registration process owner (RPO, retailer or DNSP contacted by the customer) is required to:
 - notify customers of their rights and obligations under the life support rules
 - follow a prescribed process for obtaining medical confirmation
 - follow a prescribed process if the registration process owner chooses to remove a customer from the register where medical confirmation is not provided
- Non-registration process owner can deregister the premises where medical confirmation is not provided and the registration process owner has deregistered the customer.

Source: AEMC, Strengthening protections for customers requiring life support equipment, Final rule determination, 19 December 2017.

2.1.1

Customer obligations

Customers have certain important obligations under the life support rules. These obligations primarily relate to keeping the businesses that provides them with energy services aware of the need for additional life support protections in line with changing circumstances they may face.

Under the NERR, customers are expected to:

- notify their retailer or DNSP of the need of someone residing at the premises for life support protections³
- provide their retailer or DNSP with medical confirmation within 50 days of an initial request by the DNSP or retailer, although extensions can be requested by the customer⁴
- inform their retailer or DNSP of any changes to their circumstances, including when they switch retailers or move premises.⁵

³ NERR, 124(1) and 124(3).

⁴ NERR, 124A(1).

⁵ NERR, 125(9).

2.1.2 Retailer and DNSP obligations

Retailer and DNSP obligations under Part 7 of the NERR are largely the same due to the need for customer protections to be identical regardless of whether a customer first contacts, and is registered with, a retailer or a DNSP.

The retailer or DNSP that first registers the customer is known as the "registration process owner" (RPO).⁶ The RPO is responsible for initially registering the customer, requiring and recording medical confirmation and updating the customer registration in line with changes in the customer's circumstances. In this paper, the Commission will utilise the term RPO to refer to the energy business that holds the customer's medical confirmation.

Retailers and DNSPs both need to be aware of a customer's life support equipment requirements for a number of reasons. For example, retailers must be aware of a customer's status in order to avoid retailer-planned interruption or premises for non-payment. DNSPs play a critical role with respect to the de-energisation of a customer's premise when network repairs occur. Despite differing practical roles, both retailers and DNSPs have significant and nearly identical legal obligations as RPOs.

Under Part 7 of the NERR, a retailer or distributor must:

- register a life support customer when notified by them of the need of a person residing or intending to reside at the premises for life support equipment.⁷
- obtain medical confirmation from customers within a prescribed time frame (in practice many businesses require a customer to complete a Medical Confirmation Form (MCF), failure to provide the MCF could result in deregistration of the customer.⁸
- notify their counterpart business (i.e. the relevant retailer or DNSP which is not the RPO) about the newly registered customer's life support requirements and the date from which the life support equipment is required.⁹
- provide life support customers with information on unplanned interruptions and on how to develop a plan for when there are outages.¹⁰
- take reasonable steps to contact the life support customer prior to deregistration of the customer as requiring life support protections.¹¹
- establish policies, systems and procedures for registration of life support customers (for example, maintain a register of life support customers).¹²

2.1.3 Medical confirmation

Medical confirmation is a critical component of Part 7 of the NERR. Medical confirmation is a requirement imposed on customers under the rules to obtain information about the life

6 This term is not defined in the NERR but is widely used, for instance see, AER, Life support registration guide, 2019.

7 NERR, 124(1)(a), and 124(4)(a).

8 NERR, 124(1)(b)(i), 124(4)(b)(i), 125(4).

9 NERR, 124(1)(c), and 124(4)(c).

10 NERR, 124(1)(b)(iv)-(v), and 124(4)(b)(iv)-(v).

11 NERR, 125(4), (5), (9), (10) and (14).

12 NERR, 126(a).

support requirements at premises. Medical confirmation enables life support protections to be extended to those customers who have a person residing at their premises that requires life support equipment.

Section 123A of the NERR defines medical confirmation as:

certification from a registered medical practitioner that a person residing or intending to reside at a customer's premises requires life support equipment

The rules also prescribe that the RPO must send life support customers a medical confirmation form when the customer informs it that someone at the premises requires life support equipment. Among other things the form must:¹³

- include a statement that completion and return of the form to the energy business will satisfy the requirement to provide medical confirmation under the NERR
- include the customer's address
- include medical confirmation, as defined in rule 123A
- specify the types of equipment that fall within the definition of life support equipment;
- advise the customer that they can request an extension of time to complete and return the form
- the date from which the customer requires supply of energy at the premises for the purposes of the life support equipment.

Where medical confirmation is not provided, section 125(4) of the NERR allows an RPO to deregister a customer as a life support customer, providing it follows a prescribed process.

2.1.4 Enforcement of the rules

The Commission understands that given the potential consequences for customer health as a result of breaches of certain provisions of Part 7 of the NERR, both energy businesses and the AER are particularly proactive in ensuring compliance to the rules. The AER has outlined that its 2019-20 financial year enforcement priorities included "ensuring that customers using life support equipment are protected, with a focus on the new life support rules."¹⁴ In line with these priorities, the AER has taken action against both a retailer and a distributor related to life support rules over the 2019-20 financial year.¹⁵

2.2 Requirements when switching retailers or moving premises

Under Part 7 of the NERR, if a life support customer moves house or changes energy providers, they may be required to resubmit medical confirmation in some, but not all, scenarios.

¹³ NERR, 124(6).

¹⁴ <https://www.aer.gov.au/about-us/our-role/compliance-enforcement>

¹⁵ <https://www.aer.gov.au/retail-markets/compliance/enforcement-matters/energyaustralia-life-support-obligations;https://www.aer.gov.au/retail-markets/compliance/enforcement-matters/tasnetworks-breaches-of-life-support-obligations#:~:text=TasNetworks%2C%20an%20electricity%20distribution%20business,days%20written%20notification%20of%20the>

The rules contain two explicit references to customers switching retailers:

- Under rule 124B(2)(b), where a DNSP is the RPO and becomes aware that a customer has switched to a new retailer (at the same premise), life support registration will likely be maintained without the customer being required to resubmit medical confirmation.
- Under rule 125(14), where a retailer is the RPO and the customer switches to a new retailer and does not inform their new retailer that life support equipment is required at their premises, the DNSP may deregister that premise as requiring life support protections, provided it follows a prescribed process for notifying the customer.

In practice, under the current rules, an existing life support customer may be required by a retailer or DNSP to resubmit medical confirmation where the customer:

- moves to a new premise and changes retailer (retailer or DNSP is RPO)
- moves to a new premise within the same distribution zone and remains with current retailer (DNSP is RPO)
- moves to a new premise in a different distribution zone and remains with current retailer (DNSP is RPO)
- remains at the same premise but switches retailers (retailer is RPO).

As part of its 2017 *Strengthening protections for customers requiring life support equipment* rule change, the Commission made a decision with respect to the appropriate allocation of responsibility for the submission of medical confirmation where life support customers change premises or retailer. The Commission's final determination noted that:

it is appropriate to require customers to inform their new retailer or distributor of life support requirements. Under the final rule, where the customer initiates a change in their circumstances, such as changing retailers or moving house, the customer will need to inform their new retailer or distributor of their need for life support.

The Commission acknowledges that this requirement may deter some customers from switching retailers. However, given that information sharing processes between retailers are not likely to be completely accurate, requiring retailers to share customers' life support details between themselves could also increase the risk that someone will erroneously be left off the register. As such, the Commission considers that the lower-risk option is for customers initiating a change in their circumstances to inform their new providers they need life support...the registration process is not particularly onerous for the customer, especially if they already have certification from a registered medical practitioner.

The 2017 decision prioritised the accuracy of life support registers as a way of protecting life support customers. This objective was underpinned by allocating customers with the responsibility of notifying and providing relevant medical confirmation when switching retailer or moving premises. The Commission considered that this approach best reduced risk of errors in allocating life support protections.

3 EWON'S RULE CHANGE REQUEST

This section outlines:

- The main issue identified in EWON's rule change request
- The solution proposed by EWON
- The expected costs and benefits of the rule change

Copies of the rule change request may be found on the Commission's website, www.aemc.gov.au.

3.1 Issue

On 11 June 2020, EWON submitted a rule change request to the Commission seeking changes to the NERR to enable the transfer of medical information between the outgoing and incoming life support registration process owners in order to maintain a customer's registration as a life support customer following a change of premises or retailer.

EWON considered changes should be made to the NERR as:¹⁶

- costs associated with the resubmission of medical confirmation deter life support customers from switching retailers
- current arrangements regarding resubmission of medical confirmation impose barriers on life support customers that are not faced by other types of customers.

As outlined in section 2.2, the NERR enables retailers and DNSPs to require a re-submission of medical confirmation in various situations. Resubmitting medical confirmation can lead to costs to life support customers that are not faced by other types of customers.¹⁷ These include:

- cost of medical appointment and travel
- time and inconvenience related to the medical appointment, particularly for customers which have mobility challenges.

3.2 Proposed solution

EWON's request proposed that changes be made to the NERR to enable the transfer of medical information between outgoing and incoming life support RPO, following a customer change of premises or retailer. These changes would reduce the need for an incoming RPO to require customers to resubmit medical confirmation, thus lowering imposts on life support customers who engage with the retail market.

In the event a customer changes premises or retailers, EWON proposed that the incoming and outgoing RPO transfer the following information:¹⁸

- medical confirmation form completed by the customer and filed with the outgoing RPO

¹⁶ EWON, Rule change request, p. 2.

¹⁷ Ibid.

¹⁸ EWON, rule change request, p. 3.

- medical certificate or confirmation filed with the outgoing RPO
 - a 'communication flag' noting the customer requires continued life support protections
- The rule change request does not include a proposed rule.

3.3 Expected costs and benefits

EWON suggested that the proposed rule change may deliver the following benefits:¹⁹

- reduced costs faced by life support customers who change premises or retailer
- provision for greater life support customer choice with respect to switching retailers
- provision for a more standardised treatment of different types of life support customers where the customer changes premises or retailer.

In its rule change request, EWON also noted that the proposed rule is consistent with the application of customer protections for life support customers.

Costs identified by EWON in its request included that the proposed rule change may lead to increased costs to businesses if a rule requires changes to a business' systems and processes, and that AEMO or the AER may face costs depending on the nature of the solution adopted.²⁰

¹⁹ EWON, rule change request, pp. 2, 4.

²⁰ EWON, rule change request, p. 4.

4 ASSESSMENT FRAMEWORK

This section outlines:

- The relevant aspects of the national energy retail objective (NERO) to this rule change
- The Commission's powers to make a more preferable rule where that rule is likely to better contribute to the achievement of the NERO
- the proposed framework that the Commission will use to assess the rule change request

4.1 Achieving the NERO

The Commission may only make a rule if it is satisfied that the rule will, or is likely to, contribute to the achievement of the national energy retail objective (NERO).²¹ This is the decision making framework that the Commission must apply.

The NERO is:²²

to promote efficient investment in, and efficient operation and use of, energy services for the long term interests of consumers of energy with respect to price, quality, safety, reliability and security of supply of energy.

The Commission must also, where relevant, satisfy itself that the rule is "compatible with the development and application of consumer protections for small customers, including (but not limited to) protections relating to hardship customers" (the "consumer protections test").²³

Where the consumer protections test is relevant in the making of a rule, the Commission must be satisfied that both the NERO test and the consumer protections test have been met.²⁴ If the Commission is satisfied that one test, but not the other, has been met, the rule cannot be made.

There may be some overlap in the application of the two tests. For example, a rule that provides a new protection for small customers may also, but will not necessarily, promote the NERO.

4.2 Making a more preferable rule

Under s. 244 of NERL, the Commission may make a rule that is different (including materially different) to a proposed rule (a more preferable rule) if it is satisfied that, having regard to the issue or issues raised in the rule change request, the more preferable rule will or is likely to better contribute to the achievement of the NERO.

21 Section 236(1) of the NERL.

22 Section 13 of the NERL.

23 Section 236(2)(b) of the NERL.

24 That is, the legal tests set out in s. 236(1) and (2)(b) of the NERL.

4.3 Proposed assessment framework

The Commission will assess the rule change request against an assessment framework focused on a consideration of customers and the promotion of their interests in the long-term.

The Commission is seeking stakeholder views on its proposed assessment framework, which includes criteria to assess whether the proposed rule is likely to promote the NERO. The proposed assessment criteria includes whether the rule change:

- improves access to retail market competition, by reducing barriers to switching and supporting life support customer choice.
- improves transparency and certainty on the requirements on parties regarding the switching or moving process of life support customers.
- allocates risk and costs between life support customers, retailers and DNSPs appropriately, and avoids unnecessary regulatory and administrative burdens and costs.

The Commission will also assess the rule change request to understand whether a change would be compatible with the development and application of consumer protections, particularly protections for life support customers.

These principles are discussed below in more detail.

QUESTION 1: ASSESSMENT FRAMEWORK

(a) Do you agree with the assessment framework outlined by the Commission? Are there other factors that should be taken into consideration?

4.3.1 Competition and customer choice

Where feasible, providing for customer choice in the provision of services generally leads to more efficient outcomes. Unnecessary or excessive barriers to choice may lead to less efficient outcomes, with customers being exposed to higher prices than in a market with effective competition.

The proposed solution will be assessed by the Commission to understand whether it may facilitate greater customer choice in service provision through competitive markets.

4.3.2 Transparency and certainty

Protections and obligations relating to the registration and deregistration processes for confirming the need for life support equipment should be clear and understandable for all customers and participants. This minimises the risk of negative health outcomes for customers and inadvertent breaches of the rules for energy providers. Transparency and certainty around obligations can also lead to reduced costs for customers and energy providers.

The Commission will assess how the proposed rule will improve clarity for customers and businesses regarding their protections and obligations.

4.3.3

Risk allocation

Generally, the Commission considers that risks should rest with those parties best placed to manage them. Placing inappropriate risks on customers (or specific customer groups), who may not be best placed to manage these risks, is likely to result in higher prices if these risks cannot be managed and reduced over time. Conversely, placing risk with market participants (who may be better placed to manage them) will lead to costs associated with risks being passed on to customers in terms of higher prices where competition permits.

In this rule change request, the primary risk allocation issue is whether current arrangements requiring the resubmission of medical confirmation in various customer switching or moving scenarios are an appropriate and efficient arrangement. The Commission will seek to understand the level of risk that customers and businesses should bear when they change premises or retailer. The Commission will also consider costs that may be incurred by energy providers to update their life support registration policies and systems (including training of front-line staff) under the proposed solution.

5 ISSUES FOR CONSULTATION

Taking into consideration the assessment framework, a number of issues have been identified for initial consultation. Stakeholders are encouraged to comment on these issues as well as any other aspect of the rule change request or this paper, including the proposed assessment framework.

This chapter outlines issues and poses questions related to:

- the definition of the policy problem identified by EWON
- the materiality of the issue
- the proposed solution
- implementation of the proposed solution

5.1 Issue identified by EWON

EWON considers that current rules under the NERR which may require a customer to re-submit medical confirmation to be a barrier for changing premises or retailer for customers with life support equipment being used at the premises. Retail electricity prices set through competitive market processes will generally deliver the best value to customers.²⁵ Therefore, to the extent that life support customers face higher barriers to access retail competition, they may be exposed to higher energy prices.

As outlined in section 2.2, the Commission has identified several scenarios where life support customers may be required by businesses to re-submit medical confirmation when switching retailers or moving premises. The Commission is interested in stakeholder views on whether the requirement for resubmission of medical confirmation deters switching activity by life support customers. An understanding of any barriers, including costs, will provide the Commission with a better understanding of the issue and how it can be addressed.

Further, the Commission is seeking to understand stakeholder views about the appropriate allocation of responsibility between businesses and life support customers within the context of this rule change, as outlined in section 2.2. Current arrangements prioritise the safety of customers by minimising the risk of erroneous deregistration of life support customers. The Commission is interested in stakeholder views on the benefits and risks of the current arrangements.

The Commission also wishes to understand how retailers and DNSPs record, share, use and maintain life support information in practice, including via B2B procedures. This includes understanding the other uses of life support information, for example, for jurisdictional life support concessions and rebates.

Finally, when analysing the issues relating to the life support customers switching retailers or moving premises, the Commission is interested in stakeholders views on the deregistration process. As identified (in section 2.2), under rule 125(14) of the NERR, a DNSP may initiate a

²⁵ AEMC, Updating the regulatory frameworks for embedded networks, Final report, 20 June 2019, p. 103.

deregistration process for life support customers that have switched retailers, but have not moved premises and have otherwise not indicated a change in circumstances where the retailer is the RPO. DNSPs may initiate the deregistration process, and are required to contact the life support customer multiple times prior to deregistration. The Commission wishes to understand stakeholder views on the costs and benefits of this deregistration process and the likelihood that the customer would no longer require life support protections.

QUESTION 2: ISSUES RELATING TO LIFE SUPPORT OBLIGATIONS AND SWITCHING

1. Do stakeholders agree that requirements for medical confirmation to be resubmitted deter life support customers from changing premises or retailer? If so, what are the main barriers or costs that may deter switching activity by life support customers?
2. What is the appropriate allocation of responsibility between life support customers and businesses with respect to the resubmission of medical confirmation?
3. How do retailers and DNSPs record, share, use and maintain life support information in practice?
4. Are there any other obligations imposed on retailers, DNSPs or customers relating to life support outside of the NERR (for example under jurisdictional concession schemes)? If so, what are those obligations and how do they interact with the obligations under the NERR?
5. Do stakeholders agree with the Commission's description of scenarios where life support customers may be required to resubmit medical confirmation? Should additional scenarios be contemplated?
6. What are the costs and benefits of rule 125(14) relating to life support deregistration? Are there risks that life support customers will be deregistered inadvertently?

5.2 Issue materiality

The materiality of short and long term impacts of the current life support switching arrangements on life support customers is unclear. For example, a short term impact of this barrier may be that a customer does not have access to a better valued market offer, however, the materiality of this barrier and the long term impact is uncertain. Other non-financial impacts may also exist for customers.

The ease or difficulty of securing medical confirmation by customers may also differ between life support customers. The Commission understands that certain life support customers with medical conditions requiring life support equipment regularly visit and have easy access to their medical practitioner for the purposes of medical confirmation. In some jurisdictions customers may also be required to re-seek medical confirmation to access concessions or rebates on a regular basis. However, other customers may not have regular access to their medical practitioner for a variety of reasons.

The Commission encourages stakeholders to share their views on the materiality of this issue identified by EWON, along with any quantitative or qualitative evidence with respect to barriers faced by life support customers who desire to switch. Data from stakeholders will enable the Commission to better understand the materiality of the issue.

Further, the incorrect deregistration of life support customers when switching retailers or moving premises could have a material impact on life support customers as life support customer protections would be removed. The Commission is interested in stakeholder views on the risks of life support customers being deregistered on switching, the processes that are in place to mitigate these risks as well as any examples where this may have occurred.

QUESTION 3: MATERIALITY

1. What are the short and long term impacts (financial and other) on life support customers of higher barriers for engagement in the retail market?
2. What are stakeholder views with respect to the difficulty and costs of customers securing medical confirmation when they change premises or retailer?
3. What quantitative or qualitative evidence do stakeholders have with respect to the issue raised by EWON that may clarify its materiality?
4. Do stakeholders think there are any risks that customers may be incorrectly deregistered with switching or moving? What processes are in place to reduce any risks?

5.3 Proposed solutions

In its rule change request EWON proposed enabling the transfer of medical information between outgoing and incoming life support RPO, following a customer change of premises or retailer. EWON also noted that there may be other solutions which could address the underlying issues, namely:

- A solution may be developed by industry participants and customer representatives to facilitate sharing of information regarding life support customers.
- Participants may consider the possibility of a universal medical confirmation form which is accepted by all businesses and that can be re-utilised without it being necessary to visit a medical practitioner.

The appropriateness of the solution including the impact on customers, retailers, DNSPs and market bodies is a key consideration of the rule change and is reflected in the assessment criteria.

Key issues for consideration include:

- Whether the proposed solution comprehensively addresses the issues faced by life support customers when switching retailers or moving premises
- What the costs and benefits are of the proposed solution
- The allocation of risks and costs between customers, retailers and DNSPs

- What information is required to be shared under the proposed solution, and how that information can be most efficiently shared while complying with privacy legislation
- Whether there are alternative solutions to the issues raised.

QUESTION 4: SOLUTIONS

1. What are stakeholder views on sharing of medical confirmation forms between businesses as proposed by EWON? Would this solution address the issue raised by EWON?
2. What are the costs and benefits of the solution proposed by EWON?
3. What life support information should be shared between businesses as part of EWON's solution? How could this information be most efficiently shared?
4. What are stakeholder views on the two alternative pathways proposed by EWON? Would these address the issue raised by EWON?
5. Are there additional solutions that the Commission should consider to in order to address the issue?

5.4 Implementation

In the rule change request, EWON proposed enabling the transfer of medical information, and suggested this medical information could include:²⁶

- transferring the medical confirmation form as currently defined in Part 7 of the NERR.
- the transfer of a medical certificate to meet the requirements of medical confirmation for life support registration.
- a communication or 'flag' noting the customer requires life support registration (potentially a B2B communication) passed between the outgoing and incoming life support registration process owner. This would be triggered by a customer informing their new life support registration process owner of their continued need for life support.

Implementation of the proposed solution may take a number of forms, in part because the differences in medical information to be shared as proposed by EWON and noted above. Consideration will be given to the appropriate channels for medical information to be transferred as well as the appropriate role played by outgoing and incoming RPOs and customers. A number of implementation issues are discussed below.

The Commission understands that retailers and DNSPs currently communicate life support information through a B2B platform, in accordance with the B2B procedures.²⁷ In discussions with the Commission, AEMO has noted that this platform currently does not have the ability to attach documentation.

Retailers and DNSPs generally have their own medical confirmation form which is sent to a customer when the retailer or DNSP is notified that a person who resides at the premises

²⁶ EWON, rule change request, p. 3.

²⁷ Information Exchange Committee, B2B procedure: customer and site notification process, 23 July 2018.

requires life support. The retailer or DNSP would then store any returned medical confirmation forms or medical certificates within its own systems in accordance with any requirements in the NERR and privacy legislation.

The Commission is interested in feedback on the compatibility of forms currently used by industry participants. Given EWON's solution entails the sharing of MCFs, it would be important for such forms to be mutually acceptable to businesses. A related issue is the validity of a form that is reused by a customer — should customers be required to resubmit medical confirmation that has been provided within a specific period to ensure its relevance?

A solution to enable the transfer of medical information, if it is found to be required, should appropriately allocate costs and administrative and regulatory burdens between customers, retailers and DNSPs. It should also improve transparency and clarity of responsibilities. The Commission will look at the system and policy changes (and their associated costs), when assessing any potential solutions.

Privacy laws are also an important consideration for any potential solution. Medical information, including information contained in a medical confirmation form or medical certificate is considered sensitive personal information, something which may place additional compliance requirements on businesses. Businesses may be required to specifically request customer consent to share relevant information in the event a life support customer switches retailers or moves premises. The Commission requests feedback from stakeholders on concerns that may arise with sharing life support customer information with respect to privacy laws.

QUESTION 5: IMPLEMENTATION

1. What are the system and policy changes required for each of EWON's proposed solutions to be implemented? What are the potential costs and benefits of these changes?
2. What are the potential privacy issues related to EWON's proposed solution? How could those privacy issues be overcome?
3. What are stakeholder views on the compatibility of forms currently used by retailers and distributors between other retailers and distributors? Would these forms be mutually acceptable to businesses?
4. Are there any other issues the Commission should consider in relation to sharing life support information?
5. Should medical confirmation provided to the RPO "expire" after a certain period? What are the costs and benefits of this approach, particularly if new medical confirmation was not required when a customer changes premise or retailer?

6 LODGING A SUBMISSION

Written submissions on the rule change request must be lodged with Commission by **3 September 2020**, online via the Commission's website, www.aemc.gov.au, using the "lodge a submission" function and selecting the project reference code RRC0038.

The submission must be on letterhead (if submitted on behalf of an organisation), signed and dated.

Where practicable, submissions should be prepared in accordance with the Commission's guidelines for making written submissions on rule change requests.²⁸ The Commission publishes all submissions on its website, subject to a claim of confidentiality.

All enquiries on this project should be addressed to Conrad Guimaraes at conrad.guimaraes@aemc.gov.au.

²⁸ This guideline is available on the Commission's website www.aemc.gov.au.

ABBREVIATIONS

AEMC	Australian Energy Market Commission
AEMO	Australian Energy Market Operator
AER	Australian Energy Regulator
Commission	See AEMC
DNSP	Distribution network service provider
EWON	Energy and Water Ombudsman of New South Wales
MCF	Medical confirmation form
NEL	National Electricity Law
NEO	National electricity objective
NERL	National Energy Retail Law
NERO	National energy retail objective
RPO	Registration process owner