

4 September 2020

Mr Benn Barr  
Chief Executive  
Australian Energy Market Commission  
PO Box A2449  
Sydney South NSW 1235



Dear Mr Barr,

### **Submission to Consultation Paper Maintaining Life Support Customer Registration when Switching**

The Public Interest Advocacy Centre (PIAC) is an independent, non-profit legal centre based in New South Wales. Established in 1982, PIAC tackles systemic issues that have a significant impact upon people who are marginalised and facing disadvantage. We ensure basic rights are enjoyed across the community through litigation, public policy development, communication and training. The Energy + Water Consumers' Advocacy Program represents the interests of low-income and other residential consumers, developing policy and advocating in energy and water markets.

PIAC welcomes the opportunity to respond to the Australian Energy Market Commission's (AEMC) consultation paper, *Maintaining Life Support Customer Registration when Switching*. PIAC supports the intent of the rule change proposal to remove barriers for consumers on the Life Support Register to make it easier for them to switch retailers and/or move house.

PIAC considers the current arrangement requiring consumers (or their carers/guardians) to inform their retailer of their need to be on the Life Support Register, and to complete a new medical confirmation form, each time they switch retailers or move house, unnecessarily onerous.

The current process is also a safety risk. The consequences of inappropriately or inadvertently being removed from the Life Support Register could be catastrophic. Energy businesses with systems and resources are much better placed than vulnerable people requiring life support equipment (or their carers/guardians) to manage this risk. Premises where someone requires life support equipment should remain safely on the Life Support Register until a person from that residence confirms with a retailer/distributor that they no longer need to be on the Life Support Register (and that the proper process to confirm this is followed).

As outlined in our response to the consultation questions, PIAC supports the first solution put forward by EWON over the second solution, but we also propose an alternative solution which makes the process safer and easier for consumers.

### **Continued engagement**

PIAC would welcome the opportunity to meet with the AEMC and other stakeholders to discuss these issues in more depth.

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Yours sincerely,

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## ATTACHMENT 1

### STAKEHOLDER FEEDBACK TEMPLATE

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The template below has been developed to enable stakeholders to provide their feedback on the questions posed in this paper and any other issues that they would like to provide feedback on. The AEMC encourages stakeholders to use this template to assist it to consider the views expressed by stakeholders on each issue. Stakeholders should not feel obliged to answer each question, but rather address those issues of particular interest or concern. Further context for the questions can be found in the consultation paper. Stakeholders are also encouraged to provide evidence to support claims where possible.

#### SUBMITTER DETAILS

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## Stakeholder feedback

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### CHAPTER 5 – SECTION 5.1 – ISSUE IDENTIFIED BY EWON

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?	<p>Given the expense and complications of moving house, it seems unlikely that requiring the resubmission of medical confirmation would create a barrier to moving house. However, it is an additional burden on vulnerable consumers at a time when their lives are particularly busy.</p> <p>Requiring medical confirmation be resubmitted does create a barrier for consumers to switch retailers. This barrier is practical and possibly financial in attending a doctor's appointment and completing and submitting paperwork. For some people it might also be an emotional barrier with a consumer being concerned their new retailer will not maintain their life support status.</p>
2. What is the appropriate allocation of responsibility between life support customers and businesses with respect to the resubmission of medical confirmation?	<p>The process of registration and resubmission of medical confirmation should be cautious given the magnitude of potential consequences of process failure. It is reasonable to expect a business which manages services, properties and/or consumers would be well placed to manage the life support process for consumers. It is unreasonable to expect that a vulnerable person requiring life support equipment (or their carer/guardian) can easily manage and keep track of paperwork (or complete new paperwork) to resubmit it.</p>
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?	<p>As noted in EWON's Rule Change Request, recipients of the NSW Life Support Rebate are required to visit their medical practitioner every two years to reapply for the rebate.</p> <p>In our response to question 5 in chapter 5, we explain why it is not appropriate to have a requirement to renew the medical confirmation.</p>
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?	<p>We agree with the description of scenarios.</p>

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<p>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?</p>	<p>Switching retailers is not an indication that life support equipment is no longer needed. There is no reason why a distributor should deregister a consumer's premises from the Life Support Register upon learning a customer has switched retailers. Every time a consumer has to resubmit information, risk is introduced that the information is not updated correctly. This section of the NERR is unnecessary and dangerous and may result in premises being inappropriately removed from the Register.</p>
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**CHAPTER 5 – SECTION 5.2. – ISSUE 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?	Having onerous barriers to switching retailers means consumers requiring life support equipment are less likely than other consumers to be on the best deal available for their circumstances. Given consumers requiring life support are likely to be vulnerable (with less capacity to work) and have higher than average energy usage (from the use of the life saving equipment and possibly additional heating and cooling requirements often associated with life threatening illnesses), being on a higher tariff than they could be is an unfair and unjust, but avoidable, financial burden.
2. What are stakeholder views with respect to the difficulty and costs of customers securing medical confirmation when they change premises or retailer?	People requiring life support equipment might have complicated health and mobility needs which could make additional visits to medical practitioners difficult. There may be transportation costs involved in getting to medical practitioners, as well as costs to be seen by medical practitioners. People requiring life support equipment are likely to have reduced capacity to earn, and so any additional costs could be hard to manage.
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?	Every time a consumer has to resubmit information, there is a chance the information is not updated correctly. Anecdotally, PIAC understands only half of the retailers ask whether a consumer requires the use of life support equipment at home as part of their signing up process. PIAC would strongly support that this rule change process addresses this issue and makes it a mandatory requirement for retailers to ask whether a consumer requires life support equipment at the time of signing up.

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### CHAPTER 5 – SECTION 5.3 – PROPOSED 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?	Protecting privacy is important, but it should be secondary to safety. PIAC agrees with EWON's suggestion that consent to share medical confirmation can be provided and recorded at the time of signing up with a new retailer.
2. What are the costs and benefits of the solution proposed by EWON?	EWON's second proposed option might be cheaper, as the sharing process is more automated, but the first option better protects privacy and is therefore preferable.
3. What life support information should be shared between businesses as part of EWON's solution? How could this information be most efficiently shared?	The information shared should be the minimal amount required to ensure the consumer is successfully registered on the Life Support Register. Collecting unnecessary information is a breach of the consumer's privacy.
4. What are stakeholder views on the two alternative pathways proposed by EWON? Would these address the issue raised by EWON?	The first option is preferred as it provides more privacy protection for consumers.
5. Are there additional solutions that the Commission should consider in order to address the issue?	PIAC proposes an alternative model where the process owner is always the distributor, regardless of whether the consumer contacts the retailer or the distributor first to inform them of the need for life support equipment.  As noted, PIAC does not consider it appropriate that, where a distributor is the process owner, it may deregister the consumer's premises upon learning a consumer has switched retailers (125(14) of the NERR). It is not clear why switching retailers should result in a premise being deregistered as switching is not an indicator that life support equipment is no longer needed. PIAC recommends removing this section from the NERR to ensure a consumer's status on the Life Support Register does not change and no new medical confirmation is needed when they switch.  As requests for de-energisation come through the distributor, it is safest for the distributor to hold this information. Any requirements for the Life Support Rebate could be confirmed by the distributor to the retailer.

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The Life Support Register process needs to be robust, err on the side of caution, and ensure people do not slip off the Register if a new retailer does not ask the consumer if they require life support equipment, if a customer forgets to inform their new retailer, or if there is a data entry/process error.

Concerns with distributors having access to information about who lives in a premise are less important than managing the risk of loss of life.



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**CHAPTER 5 – SECTION 5.4 – 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?	Referred to above.
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?	<p>The requirement for life support equipment can last for decades. It is important to be aware that some people requiring life support equipment might have complicated care arrangements. The needs and best interests of the people requiring the use of life support equipment are not always self-met or met appropriately by carers or guardians. Because of these issues and because the inappropriate removal from the Life Support Register could have catastrophic consequences, removal from the Register should be done with extreme care.</p> <p>PIAC does not propose that an RPO 'expire' after a certain period, but that a retailer or distributor can confirm the ongoing requirement for the life support equipment, for example at the time that a consumer initiates contact with a retailer to change or update details, or switch retailers. If the consumer indicates that life support equipment is no longer required then the retailer can initiate Register removal procedures as set out in 125(9) of the NERR.</p>