

3rd September 2020

Ms Merryn York
Acting Chair
Australian Energy Market Commission
AEMC, PO Box A2449
Sydney South
NSW 1235

Submission via AEMC website portal

Dear Ms York,

Consultation on National Energy Retail Amendment (Maintaining Life Support Customer Registration When Switching) Rule

Simply Energy welcomes the opportunity to provide feedback for 'Maintaining Life Support Customer Registration When Switching' as a part of Australian Energy Market Commission's (AEMC) consultation paper.

Simply Energy is a leading energy retailer with over 725,000 customer accounts across Victoria, New South Wales, South Australia, Queensland and Western Australia. As a consumer-centric retailer, Simply Energy supports improvements in protections for life support customers across all jurisdictions. The National Energy Retail Rules (NERR) were changed in February 2019 to ensure customers receive adequate life support protections. However, the implementation uncovered several issues that are set out in this submission, and Simply Energy would like to take this opportunity to readdress concerns related to customer detriment that are not limited to the transfer of life support medical information.

Simply Energy supports the intent, however, does not support the approach proposed and urges the AEMC to consider the gaps that exist in the NERR on an end-to-end basis, to avoid implementing 'band-aid' solutions that can further convolute the processes with no customer benefits. This perspective informs Simply Energy's responses to the questions raised by the AEMC in the following areas:

- Challenges in implementing the life support obligations
- Requirement for customers to provide medical confirmation
- Distributor initiated de-registration of life support customers
- Responses to stakeholder questions

Challenges in implementing the life support obligations

Simply Energy has experienced a number of challenges in implementing the NERR requirements, particularly in the following categories:

- Registration Process Owner (RPO) related processes:

The introduction of the RPO has been onerous, adding complexity for no increase in customer protection. Each participant is required to manage the accuracy of life support registrations,

creating the risk of duplication, leading to confusion and inefficiency. For example, if a customer advises a retailer about a life support requirement at the point of sale, and also informs the distributor (which happens in some cases), the retailer and the distributor have separate RPO roles (unless one party can provide evidence to the other about the time of customer contact). In such a case the customer receives communications from the retailer and the distributor, and if the customer has returned paperwork to one of the parties, the other party may initiate reminder notices as part of the de-registration process, which in turn, increases the inconsistencies in the life support register. This causes confusion and unsatisfactory outcomes and often results in customer complaints.

Simply Energy considers that end customers should be oblivious to how life support registration accuracy is maintained and that the process to enable customer protections should be seamless, making it easy for customers, which is in line with the intent of the consultation paper. Regardless of whether the customer contacts the retailer or the distributor, one party should be responsible for life support registration and Simply Energy suggests that the retailer should be this party, as was the case prior to February 2019. Simply Energy is not aware of any evidence that indicates that the Distributor RPO processes has added any benefit to the customer (note that distributors are RPO for very few life support registrations, certainly less than 5% of the total).

- De-registration Process:

Since the NERR were changed in February 2019 to ensure customers receive adequate life support protections, a number of interpretational concerns have been raised in various industry forums (including Business-to-Business (B2B) workshops attended by Simply Energy). To comply with the Rules participant processes were implemented with slight variances, however one rule that has caused significant confusion across the industry is Rule 125 sub rule 9 of the NERR. This rule is unambiguous but has worked against the principle of the previous rule change and in some cases has caused customer detriment.

Deregistration where there is a change in the customer's circumstances

(9) Where a customer whose premises have been **registered by a retailer** under subrule 124(1)(a) or 124(3) advises the retailer that the person for whom the life support equipment is required **has vacated the premises** or no longer requires the life support equipment, the retailer may deregister the customer's premises on the date specified in accordance with subrule(9)(a)(ii) if:

- (a) the **retailer has provided written notification** to the customer advising:
 - (i) that the customer's premises will be deregistered on the basis that the customer has advised the retailer that the person for whom the life support equipment is required has vacated the premises or no longer requires the life support equipment;
 - (ii) the date on which the customer's premises will be deregistered, which must be **at least 15 business days from the date of that written notification**;

The red coloured text above is directly related to customers vacating their current premises (move-outs). The NERR requires a site to remain flagged for life support for at least 15 business

days after the customer has received a letter from its retailer. (We note that in most move-outs this letter is sent to a vacant house because customer has already moved out). While the 15 business days rule might hold some value for a change in customer circumstance where the customer is still residing in the same property, it has negative impacts on move-outs. In most cases a new customer moves in to the premises that was previously flagged as life support and there is no flexibility provided in the NERR to de-register the site before 15 business days from the notice sent to previous customer, despite the new customer not requiring life support at the site. The inability to de-register the site creates inaccuracies in the life support register and the resulting confusion between retailers and distributors.

Currently in Victoria, there is no similar requirement (in the Victoria's Essential Services Commission's Energy Retail Code, Electricity Distribution Code and Gas Distribution Code) and the process works seamlessly when a customer moves out. To organise a move-out on a life support registered site, de-energisation is prohibited, which provides the protection required. Once the account is finalised and the customer move-out date is confirmed, the life support flag can be removed from the site, which is appropriate because it is either a vacant property or there is a new customer in residence. If the new customer requires life support this will have been captured at the point of sale, which will override any planned life support de-registration for the site.

Since implementing the 15-business day rule for all its life support customers, Simply Energy has received a complaint from a life support customer in relation to a planned demolition of their house, which was at risk of being delayed by the application of the rule, at significant cost to the customer. Simply Energy was able to work with the distributor to waive the 15-business day requirement in this case as this was a Victorian site – if these circumstances had applied in states regulated under the NERR this would not have been possible.

Simply Energy considers that Rule 125 sub rule 10, the equivalent of the rule 125 sub rule 9 but applying to distributors, should also be amended for the reasons set out above.

To take account of these types of situations and make the process more responsive to customer instructions, Simply Energy has discussed this issue with Australian Energy Council (AEC) and B2B Working Group members and believes that this amendment will be unanimously agreed by industry participants.

- Issues with the distributor initiated de-registration process

Details of this issue is provided in the section headed "Distributor initiated de-registration of life support customers" following the next section of this document.

Requirement for customer to provide medical confirmation

While Simply Energy agrees that retailers or distributors should register the premises as life support as soon as the customer provides verbal confirmation, subsequently the customer must provide medical confirmation in order to fulfil the life support protection requirements. Any change to this NERR process, where a participant would be required to send this information to another participant, will add cost and risk to systems and processes, especially if this information is being shared amongst competitive entities, i.e. retailer-to-retailer.

Distributor initiated de-registration of life support customers

Simply Energy does not support the flexibility provided in the NERR that allows distributors to deregister sites for life support when they are not the RPO. The NERR includes a 'special' provision for distributors in rule 125 sub rule 14 "Deregistration where there is a change in the customer's retailer" (set out below), where de-registration process can be initiated by a

distributor at any time where a change of retailer has occurred, regardless of whether the distributor or the retailer was the original RPO, which contradicts the RPO principle and purpose.

“Where a distributor has registered a customer’s premises pursuant to subrule 124(5) and the distributor becomes aware (including by way of notification in accordance with the Market Settlement and Transfer Solution Procedures) that the customer has subsequently transferred to another retailer at that premises, the distributor may deregister the customer’s premises on the date specified in accordance with subrule (14)(a)(ii) if:

(a) the distributor has provided written notification to the customer advising:

- (i) that the customer’s premises will be deregistered;*
- (ii) the date on which the customer’s premises will be deregistered, which must be at least 15 business days from the date of that written notification;*
- (iii) that the customer will no longer receive the protections under this Part when the premises is deregistered; and*
- (iv) that the customer must contact the distributor prior to the date specified in accordance with subrule (14)(a)(ii) if a person residing at the customer’s premises requires life support equipment; and*

(b) the customer has not contacted the distributor prior to the date specified in accordance with subrule (14)(a)(ii) to advise that a person residing at the customer’s premises requires life support equipment.”

As a result of the above rule, most distributors have automated their processes to trigger the de-registration process (also known as the follow-up process), which results in miscommunication to the customer in cases where life support is still required. Based on the customer’s instructions, the new retailer may have initiated the process to register the site for life support, while at the same time the distributor has begun communicating with the customer in relation to its intent to de-register the site, leading to customer confusion, complaints, and escalations.

Simply Energy suggests that there should only be one source of truth to register and deregister sites. Since the retail contract is managed by the retailer, the most logical party to have this ownership (RPO) should be the retailer and this can mitigate some of the issues highlighted in the consultation paper.

Response to stakeholder questions

Please see below for Simply Energy’s responses to the questions for stakeholders:

Q. 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?

Simply Energy’s response:

As mentioned previously, retailers or distributors register the premises as life support as soon as the customer provides verbal confirmation, and subsequently the customer provides medical confirmation in order to fulfil the life support protection requirements. As such, Simply Energy does not consider ‘life support medical confirmation submission or resubmissions’ to be a barrier to customers switching energy retailers because the rules do not require customers to send medical forms at the time of switching retailers, but allows adequate time for this to be done at a later stage.

Q. What is the appropriate allocation of responsibility between life support customers and businesses with respect to the resubmission of medical confirmation?

Simply Energy's response:

Simply Energy does not require 'resubmission' of medical confirmation if it has already been received or where the distributor is the RPO. Where a customer has been acquired by Simply Energy, and where Simply Energy is the RPO, but no medical information is received, Simply Energy requires medical confirmation in order to maintain valid registration and a series of reminder notices are issued in accordance with the NERR.

There are two different life support scenarios relevant to the rule change proposal.

- A move-in transfer, which can be a new premise within the same distribution network area, or to a different distribution network area; or
- an in-situ transfer, where the life support customer does not move premises but decides to switch their retailer.

Simply Energy understands that move-in transfer scenario will always require the life support customer to provide a new signed medical confirmation form because the form, and the associated life support protection, is associated with the customer's premises which, in this scenario, has changed.

However where the life support customer provided the signed medical confirmation form to their previous retailer, the new retailer is not afforded a similar right to clause 124B(2) of the NERR, and is instead obligated to request a new (or a copy of the existing) signed medical confirmation form. This scenario was considered in the 2017 '*Strengthening protections for customers requiring life support equipment rule change*' and the AEMC decided on allocating customers with the responsibility of notifying and providing relevant medical confirmation when switching retailers.

It is important to also note that the existing B2B transactions contains information relating to medical confirmation, and in practice, this communication, as opposed to sharing the signed medical confirmation form, is sufficient for the purpose of clause 124B(2)(b) of the NERR.

Q. How do retailers and DNSPs record, share, use and maintain life support information in practice?

Simply Energy's response:

Simply Energy follows Information Exchange Committee (IEC) procedures in addition to the Rules for Electricity and Gas to fulfil its obligations to record, share, use and maintain life support information. Any exchange of life support related information for electricity is in accordance with the B2B Procedure: Customer and Site Details Notification Process, governed by the IEC.

Q. 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?

Simply Energy's response:

Sharing sensitive customer information exposes privacy risks and we strongly urge against any solution that requires retailer-to-retailer direct communication of such information. Energy retailers seek consent from customers and persons residing at the premises (as applicable)

before collecting and disclosing information about life support equipment to other energy businesses. Simply Energy considers the current process is appropriately covered by privacy laws, and that any amendments to the current 'life support information sharing' provisions may go against privacy requirements, and as a result should not be pursued.

Q. 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?

Simply Energy's response:

Simply Energy believes that 'expiration' of medical confirmations should reflect any expiration date for the life support provided by the medical practitioner in the medical confirmation form. Managing life support 'expirations' should not be a responsibility of energy providers because the 'expiration' of life support protections should be based on medical evidence. However, in the absence of an end date provided by the medical practitioner, energy providers are required to keep the protection in place indefinitely, which adds to the overall cost of maintaining the infrastructure, as in some cases, customer's circumstances might have changed and they might not require life support at the site anymore, but their registration remains active.

Q. What are stakeholder views on the two alternative pathways proposed by EWON? Would these address the issue raised by EWON? Are there additional solutions that the Commission should consider to in order to address the issue?

Simply Energy's response:

Simply Energy considers that the distributor maintains a fixed association with the site and should disseminate this information to prospective retailers, including the medical confirmation. Simply Energy suggests expanding rule 124B(2)(b) to include the following (highlighted in yellow):

In addition to the obligations specified in subrule (2)(a), where a distributor is required to register a customer's premises under subrule 124(4)(a) or 124(5), if the distributor becomes aware (including by way of notification in accordance with the Market Settlement and Transfer Solution Procedures) that the customer has subsequently transferred to another retailer (a new retailer) at that premises, the distributor must notify the new retailer that a person residing at the customer's premises requires life support equipment.

Simply Energy believes that this addition, in line with Rule 124B(2)(a), will be highly beneficial to mitigate the issues described in the consultation paper.

To explain this further, if a distributor has been notified by a retailer (for first time registration) and if the medical confirmation/flag has been provided by the retailer (via B2B transaction, as per the current process), the distributor should send this information to any new retailer at the site as they have full visibility of the retail transfer life-cycle. Unfortunately, this requirement is currently limited to the very small number of sites where the distributor is the RPO. Distributors have already implemented the relevant functionality, and this can be expanded where they are not the RPO, to resolve a number of issues raised in the consultation paper. Moreover, this change would not require any B2B schema changes in market systems. Image below:

5.5. LifeSupportNotification Data

Table 9: Data Requirements for LifeSupportNotification

Field	Format	Use	Definition/Comments
<i>NMI</i>	CHAR(10)	M	<i>NMI</i> .
<i>NMI Checksum</i>	CHAR(1)	O	<i>NMI</i> Checksum.
<i>SiteAddress</i>	ADDRESS	O	Site Address. Refer to B2B Procedure:Technical Delivery Specification.
<i>Reason</i>	VARCHAR (14)	M	<u>Allowable Values:</u> <ul style="list-style-type: none"> Update Reconciliation
RegistrationOwner	YESNO	M/N	Value of YES must be used, where the Initiator of the <u>LifeSupportNotification</u> is the Life Support registration process owner. Not required where <i>LifeSupportStatus</i> is None.

Reference: B2B Procedure: Customer and Site Details Notification Process

Q. Are there any other issues the Commission should consider in relation to sharing life support information?

Simply Energy's response:

In addition to the points made above, Simply Energy considers that initial registration should always be via a retailer and when life support medical confirmation is provided to the distributor, any subsequent 'medical confirmation' related information should be disseminated via B2B transaction, that can be sent by distributors (as per current functionality) where they have prior knowledge of a medical form (from the initial retailer's life support confirmation) as they can provide this information to the new retailer whether or not they are the RPO.

The improvements aimed from this consultation need to ensure the 'medical confirmation information' reaches the 'nucleus' or a 'central location' and in saying that, the distributor is the only entity with a fixed relationship to the site in an in-situ customer transfer scenario and is well placed to perform the role of 'nucleus', and once it receives the medical confirmation from the current retailer (not necessarily the form itself), it can share this information with other prospective retailers if the customer switches retailer in future.

In summary, distributors should be given additional responsibilities to disseminate the information, as they have:

- end-to-end visibility of change in retailers (that retailers do not have, due to competition protocols);
- up to date life support registration records, whether they are the RPO or not;
- transactions and processes in place to notify retailers where they are the RPO that can be extended to cases where they are not the RPO, without any market schema change

Proposed next steps

Simply Energy considers that there is a strong need for industry-wide collaboration and cooperation to achieve the best outcomes for life support customers.

In view of this, Simply Energy supports consistency across the NEM while acknowledging the gaps that exist in the NERR and sees this as a perfect opportunity to resolve these gaps to meet the longer-term objectives of this reform.

In closing, Simply Energy would welcome the opportunity to engage with the AEMC, as well as other key stakeholders such as AEMO, the Information Exchange Committee and Network Providers to further explore any gaps in the current process that can be identified and hence worked on.

Simply Energy looks forward to engaging with you on these matters. If you have any questions or would like to engage in discussions with Simply Energy, please contact Aakash Sembey, Manager, Retail Regulation, on (03) 8807 1132 or Aakash.Sembey@simplyenergy.com.au.

Yours sincerely

A handwritten signature in black ink, appearing to read 'James Barton', with a horizontal line underneath.

James Barton
General Manager, Regulation
Simply Energy