



Essential Services Commission Victoria
Submitted online via: compliance.reporting@esc.vic.gov.au

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Compliance and Performance Reporting Guideline (CPRG)

AGL welcomes the opportunity to comment on the Essential Service Commission Victoria’s (ESC) proposed amendments to the Compliance and Performance Reporting Guideline (CPRG).

The ESC’s Charter of Consultation updated in 2018 provides detail on how ESC processes will be managed to promote transparency and be accountable by publishing information and keeping stakeholders informed.¹ In particular, the ESC commits to publishing draft decisions and calling for submissions to test the feasibility of ideas.²

The ESC has published the high-level presentation slides presented to stakeholders during a workshop hosted on 9 December 2020. The ESC has not published the proposed changes or an explanation as to how the proposed changes are consistent with the objectives of the CPRG and to ensure that Type 1 allocation is consistent with the CPRG matrix (e.g. that each proposed type 1 is considered both highly time sensitive and significant in terms of customer harm).

		Time sensitivity		
		High	Medium	Low
Customer harm	Significant	Type 1		
	Moderate		Type 2	
	Minor			Type 3

This type of assessment and detail is important to allow all stakeholders (not just retailers) the ability to consider, test and potentially provide alternatives to ESC proposals in order to ‘test the feasibility’ of decisions as suggested under the Charter of Consultation.

While we acknowledge that many of the new Type 1 requirements relate to life support are likely fall into the High/Significant quadrant, without undertaking this due process it is difficult to say with

¹ Essential Services Commission Victoria [Charter of Consultation 2018](#), see for example principle 1
² Ibid, p.2



certainty. We do note, however, that there appears to be some inconsistency in the ESC's approach, for example:

- RB0063 (64F) is currently a Type 2 reportable breach but is being replaced by a similar obligation as a Type 1. The ESC has not provided any reason for the need to upgrade this obligation.
- RB1370 (EPFS requirement) is a Type 2 and is being removed but the new fact sheet requirements (e.g. under 70Y) are being introduced as Type 1s.

Finally, in the absence of any policy or intent paper being provided by the ESC, it is difficult to understand how the inclusion of sections 3.2 and 3.3 of the URGS guideline, and 60D and 60E of the ERC will be practically applied. For example, with the URGS guideline, there is no set time period for providing the 'reasonable assistance to the customer' who do not want to complete the application over the phone.

For 60D and 60E, this type of conduct is not appropriate for self-reporting as it is different to a reportable breach that is a clear YES or NO response (e.g. did a retailer send a welcome pack within 2 business days). Retailers are not currently required to self-report to the ACCC and under the ACL, if the ACCC forms a view that a company had done something misleading or false, the ACCC would investigate and then, with sufficient information, may take appropriate enforcement action such as commencing court proceedings.

Finally, it is unclear whether provisions currently proposed to be Type 1 non-compliances, but where any harm or detriment can be easily ameliorated by the retailer in favour of the customer warrant classification for as immediately reportable breach. It is also unclear how the harm and detriment resulting from non-compliances relating to tariff changes and billing disputes fall into the High/Significant category, where a retailer's remediation strategy can restore the customer to their original standing. Based on the CPRG matrix it is likely appropriate that provisions relating to Tariff Changes Clause 36 and 37, as well Clauses 29(1), (2), (3), (5)(a), (6)(b), (7) - Billing disputes, are categorised as Type 2 breaches.

If you have any questions, please contact Kat Burela at kburela@agl.com.au.

Regards

A handwritten signature in blue ink, appearing to read 'Patrick Whish-Wilson'.

Patrick Whish-Wilson

A/g General Manager Policy & Markets Regulation