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Essential Services Commission

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Distribution Code Review – Customer Service Standards

AGL Energy (**AGL**) would like to take this opportunity to respond to the Essential Services Commission's (**ESC**) Electricity Distribution Code (**EDC**) review – Customer Service Standards Draft Decision (draft decision).

AGL generally supports the ESC's draft decision and agrees that the proposed changes will assist distributors and retailers have clear obligations that assist customers being communicated in their preferred way.

The Energy Retail Code (**ERC**) has strong, inbuilt protections for consumers in relation to information provision and includes additional obligations in relation to records keeping and reporting and compliance obligations. As the role of the distributor is evolving, and they seek greater connection to the customer, including the curtailment of behind the meter devices and the provision of data services¹, it is essential that the same consumer centric principles are applied. We also encourage any proposed obligations for retailers be included in amendments to the ERC rather than the EDC to ensure consistency and streamline retailer obligations.

Further, we believe there are opportunities for the ESC to regulate for more positive outcomes under timely payments of Guaranteed Service Level (**GSL**) payments by amending the distributor/retailer time allocation for processing payments as well as aligning these with current processes already undertaken by both parties.

We provide more detailed comments on the above points in the attached submission.

If you have any queries or would like to discuss our response further, please contact Kat Burela at kburela@agl.com.au

Yours sincerely

Elizabeth Molyneux

General Manager Energy Markets Regulation

¹ See [AER revenue proposals](#) from CitiPower, United Energy, PowerCor and Ausnet, 2021-26.



Commencement date – draft decision 20

Not supported

Given the number of proposed changes, we encourage the ESC to consider times that are fair and equitable for both parties to achieve proper implementation. We recommend that retailer implementation be set to 1 January 2021 and we provide reasons for this in the following submission.

Provision of information obligations - draft decisions 1-4

Supported with amendments

We recognise that important messages, such as planned outages, should be delivered to consumers in a way that suits their preference and their lifestyle. Overall, better communication will help customers be informed and empowered, but as distributors seek to establish a greater relationship with the customer (e.g. through data apps² and demand response trials) so too should their customer-related obligations.

Consumer protections and empowerment are integral to the ongoing operation of the energy market, and it is therefore important that with increased communication and direct communication with customers, distributors should subject to the same consumer protections requirements that are established in the Energy Retail Code (**ERC**).

The ERC protections are an important regulatory mechanism to ensure energy consumers receive the right information in a clear way that meets their lifestyle. While the ERC should be reviewed as to whether it remains fit for purpose in a more digitally enabled world, it does not mean any market participant, be it a retailer, distributor or new market entrant should not be required to adhere to the current communication and EIC obligations. This is imperative to build and maintain consumer trust and therefore engagement.

While we support the intention of these draft decisions, we believe improvements can be made with the following recommendations:

Utilise existing industry procedure

We recommend the ESC adopt the B2B Procedure Customer and Site Details Notification (**CDN**) Process for sharing of customer information between retailers and distributors.³ These documents set industry standards for notifying of customer details between the FRMP and distributor and are already utilised by industry today. This process also includes the relevant email provisions and covers information the ESC has identified in the draft EDC amendments.

² See vic db proposal

³ https://www.aemo.com.au/-/media/Files/Stakeholder_Consultation/Consultations/Electricity_Consultations/2018/B2B-Final/B2B-Procedure-Customer-and-Site-Details-Notification-Process-v32-clean.pdf



We also note that distributors have established customer management portals and collect information from customer service orders.

Explicit Informed Consent

Explicit Informed Consent (**EIC**) is a hallmark of consumer protections in the energy market. It is an obligation on retailers to ensure that what the consumer wants is what they are agreeing to, and there are record keeping and reporting obligations that are attached to this. Countless reviews into the retail market has determined that EIC is not only integral to consumer empowerment but must be strengthened (including through information provision requirements).

Distributors are expanding their historic relationship with the customer into new areas that have more direct, one-on-one contact with the individual customer. In fact, this was a key theme in the Victorian distributor revenue proposals.⁴ It is therefore reasonable to expect that EIC obligations (including record keeping) should also fall on to distributors. It is not appropriate to seek to place an obligation of EIC on to the retailer for a distributor process / gain. EIC must be captured and recorded by the market participant who is seeking consumer consent, this is a fundamental principle of EIC in building consumer trust. Further, the reasons a retailer obtains EIC is for retailer related ERC obligations. Distributors are best placed to capture and store EIC for methods of communications for distributor related services.

Clear communications

We encourage the ESC to place clear limitations on the distributors use of customer contact information. This could be achieved by stating that customer EIC and contact by the distributor should be limited to those reasons outlined in the Code (e.g. specific / mandatory notification obligations covering planned work, fault and emergency works). Any communication related to marketing should be excluded.

Clause 82 of the ERC (written information) should be reflected in the EDC to ensure consumer communications provided by distributors are clear, eligible and accessible.

There should also be information for consumers about recurring outages (e.g. for major / ongoing projects) to help consumers be informed and prepare for those situations. Ongoing outages can cause considerable impacts for consumers and prior notification can help them understand what is occurring and plan accordingly.

Purposeful communications

Distributor communications should be limited to those necessary under the EDC (e.g. not to allow marketing). If, however, the ESC considers that it is not necessary to limit the distributors activities to those required under the EDC, we recommend inserting a clause reflective of 65 of the ERC (Energy marketing activities – no contact list) and also make distributors subject to the Marketing Code of Conduct obligations

⁴ See for example [United Energy 2021-26 Regulatory Reset Proposal Overview](#), page 12 – customer experience which shows increased information access for consumers, [or CitiPower 2021-26 Regulatory Reset Proposal Overview](#), page 12.



and any related performance and compliance reporting obligations,⁵ given they can have direct contact with customers and can offer services (such).

We also encourage the ESC to ensure that distributors ringfenced entities are explicitly excluded from access to any customer information through these obligations.

GSL payments in timely manner - Draft decision 13

Support principle – major amendments

We agree that customers should receive Guaranteed Service Level (**GSL**) payments in a timely manner and welcome the increase in frequency from the current annual review and support the progressive accumulation payments. In the spirit of facilitating positive and timely outcomes for consumers, distributor and retailer timeframes under draft decision 13 should be set at the same timeframe. There is no discernible difference between distributor and retailer processes for applying payments once it is determined that one must be made and no detail on why this would be the case within the ESC’s draft decision or previous stakeholder comments.

Two business days will be operationally difficult and burdensome for retailers to achieve. GSL application is currently a manual process, and while automation is an aim – there should still be a grace period for retailers. We therefore consider the equitable approach for the ESC to take is to align both retailer and distributor time frames. A balancing of the time required for both distributors and retailers will result in better outcomes for all participants and consumers. We provide further commentary below on how the ESC can still meet its objective of more timely payments but also share evenly the time allocated to market participants to meet this objective.

Distributor to provide retailer with reason for GSL payment

When retailers apply GSL payments to customers bill, customers can be confused about the purpose of these payments and can call retailers seeking answers. Without being provided the relevant reason for the GSL payment, retailers are unable to answer these customer queries, or require the customer to contact the distributor directly. We encourage the ESC to consider a “no wrong door” approach, where distributors provide the reason for the GSL payment to both the customer (if payments made directly) and the retailer, so that this information can be passed on should the customer make enquiries. This is far more customer friendly outcome.

Distributors ensuring the customer is still with the retailer

⁵ See for example 2.11 of the Code of Conduct for Marketing Retail Energy relating to communication with customers, <https://www.esc.vic.gov.au/electricity-and-gas/codes-guidelines-policies-and-manuals/code-conduct-marketing-retail-energy> .



The ESC should also consider implementing a formal process within the EDC that ensures obligations on managing GSL's are fair. To this end, it would be appropriate for the retailer to apply the GSL where the retailer is responsible for the customer. Where the customer has left the retailer, the EDC should explicitly state that the retailer can reject the GSL payment request and send it back to the distributor. This is most problematic regarding obligations associated with "final bill" processes and other obligations associated with refunds. The purpose of the GSL is that the customer is appropriately compensated if a distributor fails to meet a certain service standard. By returning the GSL of a non-customer to the distributor, the distributor can then check MSATS to determine the existing FRMP and forward the GSL to the FRMP to promptly pay the customer.

Bounce back of payments is already the process undertaken by AGL, but it is important to ensure that the EDC is explicit on this point to avoid any ambiguity. Further, as the distributor will be receiving customer information from the FRMP within 1 business day, this is a process that they can easily implement.

Recommendations

An equitable and positive result for all participants could be where:

- The period of payments should be consistent between distributors and retailers with at least a 10-business day processing period.
- The GSL payment is to be applied to the next bill - this principle would apply to both distributors (under the Monthly Network Bill provided to retailers), and to retailers (to the customer's bill).⁶
- There should be a grace period (e.g. data and validation period), to allow for the processing of information. This principle should be set at no less than 10 business days- where the payment is to be applied to the next bill, unless the next billing period is within 10 business days – then it will carry over.
- The EDC should make explicit the obligation for the distributor to confirm that the customer is a current customer of the retailer receiving the GSL and allow for retailers to bounce-back payments for customers that have since churned (in line with current processes).
- Distributors should provide a reason for the GSL payment to both customers (directly) and retailers, so that consumers can feel empowered and have a 'no wrong door' approach in contacting their retailer for information about a payment added to their account.

Other factors for ESC consideration

- **AEMO faster switching changes** – under AEMO changes there will be a window in which the customer may be lost and the FRMP is not aware of it; this would need to be considered in retailer timeframes for applying the payment to allow for any rejection/bounce back to distributor where customer churned in that time.
- **Applying payment to customer account** – it is important that retailers are not required to reissue a bill or provide a special bill to customers with GSL payments as this is unnecessarily burdensome

⁶ This could align with existing overcharging obligations in clause 31 of the ERC.

and costly for retailers to undertake. A reissue process in this scenario is fundamentally unfair to place on retailers as this payment is the result of a distributor failure. Our recommendation above regarding 'next bill' would address this. As an alternative, the obligation for retailers should be to ensure that it is applied to the customer account and therefore present in the next bill.⁷

- **Final bill** – the final changes should ensure that retailers do not receive unnecessary and/or costly obligations to apply the GSL for the customer. It is important that a prompt, efficient and fair application of GSL to the customer is undertaken. In this case, the distributor can use MSATS to see who the new FRMP is and send the GSL to the appropriate retailer, rather than require the losing retailer to attempt to contact that customer. The customer may not be interested in engaging with the losing retailer, which can create further issues for the losing retailer in paying out the GSL.

Other recommendations

Reporting obligations

We also encourage the ESC to impose the same performance reporting obligations on distributors for written communications and record keeping obligations that retailers are currently subject to under the Performance and Compliance Reporting Guideline. The ESC has recognised the importance of reporting obligations to ensure accountability and transparency and noted last year “we also acknowledge that record keeping obligations are important for ensuring compliance with the framework generally. A failure to comply with record keeping obligations impacts more customers the longer it occurs”.⁸

Distributor guidance

We also believe it is appropriate for the ESC to develop a guideline or lexicon for distributors to draw on to help ensure the language used is appropriate and consistent. This would help customers receive consistent information should they move homes / distribution zones etc). This would not need to be an exhaustive list, but distributors could work with the ESC to understand the main reasons for cancelled or rescheduled outages and ensure the language is accessible for all consumers.

The ESC could consider building on principles established in the Final Decision for Building Trust Through New Customer Entitlements⁹, which imposed requirements on retailer mandatory notices, including the type of information they should contain, and how these are presented. The purpose of planned outage communication is to ensure the consumer is informed, empowered and understand their entitlements, therefore making sure these notices are both timely and accessible is paramount.

⁷ With an appropriate grace-period applied. Should the ESC reconsider the proposed distributor period of 60 business days, the time could be more equitably distributed between retailer/distributor to ensure that the customer will receive the payment within or earlier, than the current ESC proposal.

⁸ Essential Services Commission Victoria, [Compliance and Performance Reporting Guideline review 2019](#)

⁹ Essential Services Commission Victoria, [Building trust through new customer entitlements](#) 2018