

14 January 2021

Conrad Guimaraes
Adviser
Australian Energy Market Commission

Submitted online

Dear Mr. Guimaraes,

**Maintaining life support customer registration when switching rule (RRC0038)
– Response to AEMC draft rule determination**

Energy Networks Australia appreciates the opportunity to provide feedback on the Australian Energy Market Commission's (the Commission) draft rule determination in response to the life support rule change request from the Energy and Water Ombudsman of New South Wales (EWON).¹

Energy Networks Australia (ENA) is the national industry body representing Australia's electricity transmission and distribution and gas distribution networks. Our members provide more than 16 million electricity and gas connections to almost every home and business across Australia.

Life support provisions are included in the rules to support some of the most vulnerable members of society, and network providers recognise the fundamental importance of these additional customer protections. In recognition of the fundamental importance of the additional protections for life support customers, ENA strongly supports a regulatory framework that provides that targeted assistance.

Customer privacy and verification concerns

EWON submitted a rule change request to the Commission proposing changes to the National Energy Retail Rules (NERR) that aim to facilitate the transfer of life support customers' medical information. ENA made a submission² to the Commission's Consultation Paper highlighting the need to prioritise the protection of genuine life support customers, and to ensure that the final rule takes into consideration any additional risks and complexities associated with increased data flows between parties, and relevant privacy laws.

The Commission has recommended a more preferable draft rule that proposes a simplified alternative solution that has been designed to meet EWON's objective of reducing barriers to switching. However, existing Australian privacy legislation will

¹ AEMC, Maintaining life support customer registration when switching, Draft rule determination, 5 November 2020.

² ENA, Maintaining life support customer registration when switching rule (RRC0038), Submission, 3 September 2020.

limit distribution network service providers' (DNSPs) ability to implement the proposed amendments.

In particular, a DNSPs' ability to correctly verify the life support customer's personal information before returning the medical confirmation form (MCF) and/or medical confirmation document, which is a requirement of existing privacy obligations. The Commission's proposed use of medical certificates as medical confirmation may result in further implementation complications as less personal information will be available to the outgoing registration process owner (RPO) for identity verification.

ENA acknowledges that the rule as currently drafted include a 'subject to any applicable privacy laws' provision, and considers this necessary and appropriate. However, we highlight that this legislation may limit a DNSPs ability to implement the proposed rule in practice.

Additional modifications are required

In addition to consideration of the customer privacy and verification concerns outlined above, additional modifications are required to the proposed rule.

The more preferable draft rule allows life support customers to re-utilise the confirmation document, from their outgoing RPO for the purpose of providing medical confirmation to the incoming RPO, provided it is dated less than 4 years ago and is legible. As currently drafted, the rule obligates DNSPs to keep the records for as long as the customer stays connected to the network (as opposed to as long as they are registered for life support, or as long as the MCF and/or medical confirmation document is valid).

ENA therefore recommends amending the rule so that the MCF and/or medical confirmation be kept 110 business days after the person has ceased to be a customer, or 4 years from the date on the MCF and/or medical confirmation if they remain a customer, whichever is earlier.

In addition, the draft rule includes a requirement for the outgoing RPO to, subject to applicable privacy laws, return the MCF and/or medical confirmation documents to the customer within 10 business days of the customer's request. There may be circumstances in which DNSPs are unable to meet the 10 business day requirement, particularly if hard copies were received via mail from the customer some time ago. ENA therefore recommends that the rule require DNSPs to use best or reasonable endeavours to meet the 10 business day timeframe. The rule should also clarify that the 10 business day timeframe to return the MCF and/or medical confirmation is considered a deemed delivery.

Life support provisions required to support vulnerable members of society

ENA welcomes the Commission's acknowledgment of the range of life support framework issues raised by stakeholders in submissions to the Consultation Paper. In recognition of the fundamental importance of the additional protections for life

support customers, ENA strongly supports a regulatory framework that provides that targeted assistance.

Life support registers with up-to-date information that more accurately reflect the needs of customers will enable network providers to prioritise genuine life support customers when managing network outages. Ensuring protections are limited to those customers with genuine needs will ensure those customers get better service and costs are kept down for all customers.

ENA therefore considers further work is needed beyond this rule change to address the issues raised and pursue improvements in the life support customer experience. Regulatory solutions beyond the industry-led initiatives outlined by the Commission will need to be considered as part of this broader piece of work.

If you wish to discuss any of these matters raised in the letter further, please contact Lucy Moon, Head of Regulation, at lmooon@energynetworks.com.au.

Yours sincerely,

A handwritten signature in blue ink, appearing to read "A. Dillon".

Andrew Dillon
Chief Executive Officer