



**EnergyAustralia**

LIGHT THE WAY

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Submitted electronically: <https://engage.vic.gov.au/remaking-energy-retail-code-code-practise>

Dear Commissioners

### ESC Remaking the Energy Retail Code as a Code of Practise

EnergyAustralia is one of Australia's largest energy companies with around 2.4 million electricity and gas accounts in NSW, Victoria, Queensland, South Australia, and the Australian Capital Territory, of which around 22k customers are supported under our hardship program (EnergyAssist). EnergyAustralia owns, contracts, and operates a diversified energy generation portfolio that includes coal, gas, battery storage, demand response, solar, and wind assets. Combined, these assets comprise 4,500MW of generation capacity.

EnergyAustralia welcomes the opportunity to comment on the ESC's consultation, remaking the Energy Retail Code of Practise (the Code of Practise). The requirement to review the Energy Retail Code to align with and enable the enforcement obligations set out in the *Essential Services Commission (Compliance and Enforcement Powers) Amendment Bill 2021* is clear, and the objective of ensuring the transition to a Code of Practise is administrative in nature is the appropriate approach.

EnergyAustralia appreciates the ESC has provided a thorough review of the changes and has done so to ensure the changes are solely administrative; however, we are concerned that the scale of the change, the limited capacity for review, and a restrictive implementation timeframe unreasonably increase the risk for unintended negative consequences. EnergyAustralia believes these inherent risks can be addressed by:

1. If any material changes are identified through this consultation, provide an extended timeframe for implementation e.g., updating compliance and reporting systems;
2. Establish a compliance grace period (3-6 months) in which industry can identify and rectify any unintended changes/issues, without the risk of enforcement action being taken for actions that were not clearly identified in this consultation process; and,
3. Following this grace period, complete a final review of the regulation and impacts to ensure the changes have not revisited policy intent or otherwise alter in any substantive way the obligations that licensees and exempt persons are currently required to follow.

## Drafting concerns

- Life support - The *Energy Legislation Amendment (Energy Fairness) Bill 2021* introduced the following definitions for life support customers:

### Definitions:

**life support customer** means— 10 (a) a relevant customer who is a life support resident; or (b) a relevant customer at whose premises a life support resident (who is not the relevant customer) 15 resides or intends to reside.

**life support customer details**, in relation to a relevant customer, means— (a) information that evidences that the relevant customer is a life support 20 customer; and (b) the personal details of each life support resident residing or intending to reside at the premises of the life support customer; and 25 (c) the date from which life support equipment is required at the premises of the life support customer by each life support resident.

**life support resident** means a person who requires life support equipment.

The Code of Practise proposes to replicate the definition above. The sections underlined were raised with the DELWP and the ESC by industry as potential concerns, as the inclusion of recording the specific life support resident is a substantiative change from the requirement in *rule 125(1) of the Energy Retail Code*. The DELWP and the ESC advised industry that this definition was not intended to create additional obligations; however, as this is will now be the only existing definition, the risk that interpretation changes in the future is clear.

EnergyAustralia requests the ESC to consider how it can formally communicate, either in the Code of Practise or confirmed in the draft determination, that the interpretation for life support has not altered from the Energy Retail Code requirement; specifically, that there is no obligation for retailers to record the details of the specific resident that requires life support equipment, and the requirement remains with needing to record the retail customer's details.

- 'Intention to disconnection notice' requires the notice to '*state the date on which the intention to disconnect period ends*', this exceeds the current Energy Retail Code requirements; only a *reminder notice* and *disconnection warning notice* are required communication, and for *de-energisation for non-notification by move-in or carry-over customers* the reminder notice does not include an *intent to disconnect period* - Clause 115 (2)(a) requires the retailer or exempt person has given the customer a notice of its intention to do so;

The requirement to include an *intent to disconnect period* will require changes to customer communications, internal processes, and does not align with the ESC's aim for the Code of Practise changes to be purely administrative.

- 'Supply and sale contract' is not in the definitions section, not used in the Code of Practise or referred to the relevant provisions in the *Energy Fairness* bill. The definition from the *Energy Fairness* bill should be included in the Code of Practise:

### Definitions:

**Supply and sale contract** means a contract for the sale or supply of electricity, whether oral or in writing, or partly oral and partly in writing.

If you would like to discuss this submission, please contact me on [REDACTED] or [REDACTED].

Regards

[REDACTED]

[REDACTED]