

INTERIM COMPLIANCE AND PERFORMANCE REPORTING GUIDELINE FOR ENERGY DISTRIBUTION LICENCE HOLDERS

Final Decision

June 2017

An appropriate citation for this paper is:

Essential Services Commission 2017, *Interim Compliance and Performance Reporting Guideline for Energy Distribution Licence Holders, Final Decision*, June 2017

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1 INTRODUCTION

The Essential Services Commission (the Commission) is the independent regulator of energy businesses in Victoria. The Commission licenses businesses that generate, distribute, supply and sell energy, and establishes codes and guidelines that set standards of conduct for these businesses.

1.1 PURPOSE OF THIS PAPER

The purpose of this paper is to set out our Final Decision on amendments to the *Interim Compliance and Performance Reporting Guideline* (interim CPRG) to incorporate compliance reporting obligations of energy distribution and transmission businesses. This Final Decision outlines our response to the key issues raised by stakeholders in submissions to our Draft Decision on energy distributor reporting obligations as set out in April 2017.

The *Interim Compliance and Performance Reporting Guideline, June 2017* (Version 3 Guideline) that accompanies this paper and will apply from 1 July 2017. This Guideline replaces the *Interim Compliance and Performance Reporting Guideline, November 2016* (Version 2 Guideline).

The Version 3 Guideline is an interim measure, pending an update of further compliance and performance reporting obligations in 2017-18. This will include for retailer obligations arising out of the Payment Difficulty Framework work program, and for possible alignment with existing reporting guidelines by the Australian Energy Regulator (AER).

1.2 BACKGROUND TO THE CHANGES

In 2016, the Commission requested distributors to report to the Commission breaches of obligations that are subject to an energy industry penalty notice in accordance with the *Essential Services Commission (Energy Industry Penalty Regime) Regulations 2016*. These obligations have been formalised in the form of the *Interim Compliance and Performance Reporting Guideline, June 2017 (Version 3 Guideline)*.

1.3 CONSULTATION

On 7 April 2017, energy distribution businesses were informed of the Commission's approach to incorporating reporting obligations into the interim CPRG and on 27 April 2017, we published a Draft Decision on changes to the interim CPRG to include reporting requirements for energy distributors.

Submissions to the Draft Decision closed on 19 May 2017. We received four submissions on these draft reporting requirements from AusNet Services, CitiPower and Powercor, Jemena, and United Energy and Multinet Gas.

1.4 STRUCTURE OF PAPER

Chapter 2 sets out the Commission's response to the key issues raised by stakeholders in response to the Draft Decision.

Chapter 3 lists the details of the amendments made to the reporting obligations and outlines the obligations included in the final Version 3 Guideline.

Chapter 4 describes the Commission's next steps in regard to energy licensee reporting obligations.

This paper should be read in conjunction with the Version 3 Guideline.

2 KEY ISSUES

The Commission received three submissions to the Draft Guideline. The stakeholders that made submissions agreed on the approach to formalise the reporting obligations of distribution businesses on breaches to the Commission. Stakeholders also raised three key issues relating to breach classifications, reporting timeframes, and appropriate levels of sign-off for reporting breaches. Our responses to these issues are outlined in this chapter.

2.1 BREACH CLASSIFICATIONS

Distributors submitted that not all reporting breaches should be classified as Type 1 breaches. In particular, distributors were largely in agreement that only life support related breaches should be classified as Type 1 breaches. For example, Jemena stated in its submission:

“Jemena considers obligations related to access to interpreters or translators, guaranteed service levels, and interruptions to energy supply should not be classified as type 1 obligations.”¹

Stakeholders suggested that these breaches be reclassified as they have lower financial penalties compared to those related to life support.

¹ Jemena, *Submission to the Interim Compliance and Reporting Guideline for Energy Distribution licence Holders – Draft Decision*, 19 May 2017

OUR RESPONSE

The breaches described in the Draft Decision relate to the issues of life support disconnections, payments to customers for interrupted electricity supply, and equitable access to customer service (such as access to interpreters). Failing to deliver on these obligations may result in enforcement action by the Commission under clause 10AA of the *Essential Services Commission Act 2001*.

While we recognise that different breaches have different levels of financial penalty, each breach remains subject to enforcement action. Financial penalties are at least \$10,000 per breach and can reach up to \$20,000 for the disconnection of life support customers. Because the Commission must consider the need for enforcement action, it is also important for us to be notified of breaches from distributors in a timely manner.

Our Final Decision therefore continues to classify all reportable breaches by energy distributors as Type 1 breaches. This is consistent with similar breach reporting obligations on energy retailers, such as having access to interpreters or translators.²

2.2 REPORTING TIMEFRAMES

Following stakeholders suggestions to re-classify reporting breaches in section 2.1, it was also suggested that the timeframes associated with reporting these breaches should also change. For example, CitiPower and Powercor suggested that where breaches were reclassified:

“The classification of a regulatory obligation determines the frequency with which the licensed business must report non-compliance with the regulatory obligation.”³

² Clause 9.1.12 of the Electricity Distribution Code, and Clause 55 of the Energy Retail Code

³ CitiPower and Powercor, *Submission to the Interim Compliance and Reporting Guideline for Energy Distribution licence Holders – Draft Decision*, 19 May 2017

Some stakeholders suggested that certain breaches be reported either bi-annually or annually. In particular, it was suggested that breaches relating to clause 5.5.1 of the Electricity Distribution Code (related to planned interruptions) should be reported less frequently given the high compliance levels achieved by some distributors. All stakeholders agreed that life support breaches should be reported immediately to Commission (within two days of identification).

OUR RESPONSE

The Commission requires timely information from energy businesses to undertake its compliance and monitoring functions. Because Type 1 breaches are subject to enforcement action and carry financial penalties, we require information immediately to issue penalty notices swiftly and within the timeframes required for such notices. Timely reporting also allows the Commission to assess the materiality of a breach and whether further enforcement action is necessary. Our Final Decision is for distribution businesses to continue reporting breaches of Type 1 obligations immediately.

However, the Commission agrees that breaches relating to clause 5.5.1 of the Electricity Distribution Code can be reported on a monthly basis, based on the recent performance of distributors.

The Commission also requires quarterly reports from energy distributors summarising all Type 1 breaches (including those related to clause 5.5.1 of the Electricity Distribution Code) occurring within a quarter. This is consistent with retailer reporting obligations in the CPRG.

2.3 APPROPRIATE LEVELS OF SIGN-OFF

AusNet Services sought clarification of the appropriate level of sign-off for distributors reporting breaches to the Commission. It was suggested that the appropriate sign-off levels may be dependent on the type of breach reporting.

OUR RESPONSE

The Commission recognises the concerns raised by AusNet Services and has clarified the required level of sign-offs for reporting breaches. We have taken a consistent approach to sign-off level as per energy retailer reporting obligations in the CPRG.

All immediate and monthly reports of Type 1 breaches must be made by a compliance manager or similar employee of the business. These reports should be made to the CEO (or delegated officer) of the Commission.

Quarterly reports (summarising breaches occurring within a quarter) must be signed by the licenced business' CEO or equivalent and the Chair of the Board. These reports may be signed by a delegate or other duly authorised officer.

3 CHANGES TO REPORTING OBLIGATIONS FOR ENERGY DISTRIBUTORS

The following tables describe the changes made to the reporting obligations in the Version 3 Guideline compared to those described in the Draft Decision.

Changes to obligations regarding reporting timeframes are provided in table 1.1. As shown in tables 1.2 to 1.5, no changes were made to the wording of obligations as per the Draft Decision and have been included in the Version 3 Guideline.

TABLE 1.1 REPORTING TIMEFRAMES

Reporting obligation	Draft Decision		Final Decision (Version 3 Guideline)
	Frequency	Timing	
Type 1 compliance breaches			To provide quarterly reports summarising all Type 1 breaches occurring in that quarter
Electricity Distribution Code clause 5.5.1	Initial notification	Within two business days of identification	Initial notification (immediate report) not required
	Summary report	Last business day of the month	No change – monthly reporting required
All other type 1	Initial notification	Within two business days of identification	No change – initial notification (immediate report) required

TABLE 1.2 LIFE SUPPORT CUSTOMERS

Instrument	Clause	Obligation as per Draft Decision	Changes in Final Decision
Electricity Distribution Code	5.6.1	<p>A customer or retailer may provide a distributor with confirmation from a medical practitioner/hospital that a person living in a home that they distribute power to requires life support equipment. In these cases, the distributor must:</p> <ul style="list-style-type: none"> - register the address as a life support address. - not disconnect the energy supply to the life support address. - provide the customer with written notice prior to a planned interruption. This written notice must either be: <ul style="list-style-type: none"> o four days prior to the planned interruption; or o longer than four days prior to the planned interruption if a longer period is requested by the customer, it is reasonably necessary and can be accommodated by the distributor. - advise the customer to prepare a plan of action in case of an unplanned interruption. - provide the customer with an emergency telephone contact number. 	Included in Version 3 Guideline, no changes made

TABLE 1.3 ACCESS TO INTERPRETERS OR TRANSLATORS

Instrument	Clause	Obligation as per Draft Decision	Changes in Final Decision
Electricity Distribution Code	9.1.12	A distributor must provide access to multi-lingual services to meet the reasonable needs of its customers.	Included in Version 3 Guideline, no changes made

TABLE 1.4 GUARANTEED SERVICE LEVELS AND INTERRUPTIONS TO ENERGY SUPPLY

Instrument	Clause	Obligation as per Draft Decision	Changes in Final Decision
Electricity Distribution Code	5.5.1	In the case of a planned interruption, the distributor must provide each affected customer with at least 4 business days written notice of the interruption. The notice must: (a) specify the expected date, time and duration of the interruption; and (b) include a 24 hour telephone number for enquiries.	Included in Version 3 Guideline, no changes made
Electricity Distribution Code	6.2	Where a distributor does not supply electricity to a customer's supply address on the day agreed with the customer, the distributor must pay to the customer \$70 for each day that it is late, up to a maximum of \$350.	Included in Version 3 Guideline, no changes made
Electricity Distribution Code	6.3.1	A distributor must make a supply restoration payment to a customer of: (a) \$120 where the customer experiences more than 20 hours of unplanned sustained interruptions per year; or (b) \$180 where the customer experiences more than 30 hours of unplanned sustained interruptions per year; or (c) \$360 where the customer experiences more than 60 hours of unplanned sustained interruptions per year; or (d) \$80 where the customer is supplied by a CBD feeder or an urban feeder and experiences an unplanned sustained interruption of more than 12 hours, and 20 hours or less of unplanned sustained interruptions in that year; or (e) \$80 where the customer is supplied by a short rural feeder or a long rural feeder and experiences an unplanned sustained interruption of more than 18 hours, and 20 hours or less of unplanned sustained interruptions in that year. For the purposes of calculating the periods above, an event to which clause 6.3.3 or 6.3.4 applies is not included. See clause 6.3.3 and 6.3.4 for further details.	Included in Version 3 Guideline, no changes made
Electricity Distribution Code	6.3.2	A distributor must make a low reliability payment to a customer of: (a) \$120 where the customer experiences more than 8 unplanned sustained interruptions per year; or (b) \$180 where the customer experiences more than 12 unplanned sustained interruptions per year; or (c) \$360 where the customer experiences more than 24 unplanned sustained	Included in Version 3 Guideline, no changes made

Instrument	Clause	Obligation as per Draft Decision	Changes in Final Decision
		<p>interruptions per year; and (d) \$30 where the customer experiences more than 24 momentary interruptions per year; or (e) \$40 where the customer experiences more than 36 momentary interruptions per year.</p> <p>For the purposes of calculating the periods above, an event to which clause 6.3.3 or 6.3.4 applies is not included. See clause 6.3.3 and 6.3.4 for further details.</p>	
Electricity Distribution Code	6.4	<p>Any payments required to be made by the distributor to a customer under this clause 6 must be paid by the distributor as soon as practicable after the obligation arises under clauses 6.1 or 6.2 and as soon as practicable following the end of the year in which the obligation arises under clause 6.3.</p> <p>According to 6.1.1, if the distributor makes an appointment with a customer and is more than 15 minutes late for the appointment, the distributor must pay the customer \$30. According to 6.2, if a distributor does not supply electricity to a customer's supply address on the day agreed with the customer, the distributor must pay to the customer \$70 for each day that it is late, up to a maximum of \$350.</p>	Included in Version 3 Guideline, no changes made
Gas Distribution System Code	2.2(b)	<p>Where a distributor does not meet a Guaranteed Service Level in relation to a particular tariff V customer, the distributor shall ensure that tariff V customer is paid the applicable GSL payment as soon as practicable.</p> <p>According to the glossary of the Gas Distribution System Code, Guaranteed Service Levels (GSL) are defined as the levels of service in connection with the distribution of gas to customers set out in Schedule 1, Part E to the Distribution System Code.</p>	Included in Version 3 Guideline, no changes made

TABLE 1.5 INTERVAL METERING DATA

Instrument	Clause	Obligation as per Draft Decision	Changes in Final Decision
AMI Tariffs Order11(3)(a)		The distributor or retailer must provide interval metering data for at least 12 complete calendar months prior to the date of the request, where available.	Included in Version 3 Guideline, no changes made
AMI Tariffs Order11(3)(b)		The distributor or retailer must use its best endeavours to provide data either within 10 business days of the date of the request or by another date agreed by the customer and retailer or customer and distributor.	Included in Version 3 Guideline, no changes made
AMI Tariffs Order11(4)		If at least 12 complete calendar months of interval metering data is not available, the distributor or retailer must provide as much interval metering data as the distributor or retailer is able to provide.	Included in Version 3 Guideline, no changes made
AMI Tariffs Order11(5)		The distributor or retailer may impose a charge for provision of interval metering data but only if: (a) the small customer has made another request for this data within the last year; or (b) the data requested is older than two years.	Included in Version 3 Guideline, no changes made

4 NEXT STEPS

This Final Decision is part of an ongoing process to update and revise the compliance and performance reporting obligations for energy licensees. For this reason, we refer to the Version 3 Guideline as an Interim Guideline, understanding that it will be updated within twelve months. Further compliance and performance reporting obligations will be considered for 2017-18, in particular retailer obligations arising out of the Payment Difficulty Framework work program. The Guideline will also be reviewed for possible alignment with existing reporting guidelines by the Australian Energy Regulator (AER).