

INTERIM COMPLIANCE AND PERFORMANCE REPORTING GUIDELINE FOR ENERGY DISTRIBUTION LICENCE HOLDERS

Draft Decision

April 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 BACKGROUND

In 2016, the *Essential Services Commission Act 2001* was amended to give the Commission a new statutory function to monitor and report on energy business compliance, and to introduce a new statutory compliance, performance and enforcement reporting regime.

At the same time, the *Electricity Industry Act 2000* and *Gas Industry Act 2001* (Industry Acts) were amended to create a statutory licence condition that requires energy licensees to give the Commission the information it requires to fulfil its new statutory reporting obligations. The Commission must also prepare and issue guidelines that set out the specific information that must be provided by energy retailers and distributors.

To satisfy this guideline obligation, the Commission published its *Interim Compliance and Performance Reporting Guideline* (interim CPRG) in July 2016 (an updated version was published in November 2016¹). The interim CPRG included reporting requirements for energy retailers, but not energy distributors.

¹ *Interim Compliance and Performance Reporting Guideline – Version 2*

1.2 DISTRIBUTION REPORTING

Economic regulation of licensed distributors transitioned from the Commission to the Australian Energy Regulator in January 2009, this included such powers as approving network access arrangements and price determinations. The Commission's distributor reporting framework was amended to reflect this transition. As per a condition of their licence, distributors were required to continue reporting material breaches of the *AMI Tariffs Order*², *Electricity Distribution Code* and *Gas Distribution System Code* to the Commission.

Last year, 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*. The Commission also communicated to industry that distributor compliance reporting obligations would be re-introduced to the interim CPRG during 2017.

1.3 PURPOSE

The purpose of this draft decision is to set out proposed amendments to the interim CPRG to incorporate proposed compliance reporting obligations of energy distribution businesses.

This document proposes the following items to be included in the interim CPRG:

- Reporting obligations
- Template fields, and
- Reporting timeframes.

² *Advanced Metering Infrastructure (AMI Tariffs) Amendment Order, 2016*

2 REPORTING OBLIGATIONS

Energy distributors are required to report material breaches of the *AMI Tariffs Order*, *Electricity Distribution Code* and *Gas Distribution System Code* to the Commission as a condition of their distribution licence. These obligations are identified by the *Essential Services Commission (Energy Industry Penalty Regime) Regulations*, introduced in January 2016, and are reproduced in section 2.1.

DRAFT DECISION

This draft decision proposes that the interim CPRG is amended to require energy distributors to report any contravention of these obligations.

2.1 TYPE 1 BREACHES

Type 1 regulatory obligations are considered to be those where non-compliance would have a critical impact on customers and where the impact of non-compliance increases over time if it is not rectified quickly.

Currently, distributors are only required to report type 1 breaches to the Commission.

2.1.1 LIFE SUPPORT CUSTOMERS

Instrument	Clause	Obligation
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">○ four days prior to the planned interruption; or○ 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.

2.1.2 ACCESS TO INTERPRETERS OR TRANSLATORS

Instrument	Clause	Obligation
Electricity Distribution Code	9.1.12	A distributor must provide access to multi-lingual services to meet the reasonable needs of its customers.

2.1.3 GUARANTEED SERVICE LEVELS AND INTERRUPTIONS TO ENERGY SUPPLY

Instrument	Clause	Obligation
Electricity Distribution Code	5.5.1	<p>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:</p> <ul style="list-style-type: none">(a) specify the expected date, time and duration of the interruption;and(b) include a 24 hour telephone number for enquiries.
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.
Electricity Distribution Code	6.3.1	<p>A distributor must make a supply restoration payment to a customer of:</p> <ul style="list-style-type: none">(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.

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 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.

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.

Electricity
Distribution
Code

6.4 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.

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.

Gas Distribution System Code	2.2(b)	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.
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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.

2.1.4 INTERVAL METERING DATA

Instrument	Clause	Obligation
AMI Tariffs Order	11(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.
AMI Tariffs Order	11(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.
AMI Tariffs Order	11(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.
AMI Tariffs Order	11(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.

3 REPORTING TEMPLATE AND TIMEFRAMES

In July 2016, the Commission introduced its new Energy Compliance and Enforcement Policy. This policy sets out specific factors to be considered by the Commission when considering a reported breach.

The Commission requires energy businesses to provide information regarding breaches in a timely manner. When undertaking preliminary assessment of a reported breach, the Commission uses this information to assess the nature of the conduct having regard to the compliance and enforcement factors set out in the new policy.

3.1 REPORTING TIMEFRAMES

The Commission currently expects energy distributors to report all type 1 breaches on an immediate basis (within two business days of identification).

DRAFT DECISION

This draft decision proposes amending the interim CPRG to set out the expected timeframes for reporting breaches of the obligations set out in 2.1 of this draft decision.

- It is proposed that energy distributors continue to report all type 1 breaches on an immediate basis (within two business days of identification).
- For type 1 breaches relating to clause 5.5.1 of the *Electricity Distribution Code*, a monthly summary report of these breaches must also be submitted by a distributor. We note that the appropriate reporting frequency of these breaches is currently under consideration and we invite feedback from stakeholders on this matter.

Table 1 – Reporting frequency

Reporting obligation	Frequency	Timing
Type 1 compliance breaches Electricity Distribution Code clause 5.5.1	Initial notification	Within two business days of identification
	Summary report	Last business day of the month
All other type 1	Initial notification	Within two business days of identification

3.2 ADDITIONAL TEMPLATE REPORTING FIELDS

The interim CPRG contains a reporting template, which is used by energy businesses when reporting non-compliance to the Commission. However, the current template doesn't include all the necessary fields to enable the Commission to automatically assess breaches having regard to the compliance and enforcement factors set out in the new Energy Compliance and Enforcement Policy.

DRAFT DECISION

This draft decision proposes to incorporate the categories set out in table 2 of this draft decision into the reporting template for distributors contained in the interim CPRG.

Table 2 – Reporting fields for distributors

Category	Information required
Identification and cause	How was the breach identified? What caused the breach?
Nature and impact	Location Number of customers affected Times for disconnection and reconnection Dollar value
Customer engagement	Did any affected customers complain or contact the licensee? How and in what timeframe were customer complaints/enquiries handled? Have customers been informed of the breach? Have customers offered any remedy?
Remediation	Has the root cause been investigated and determined? What remediation has been taken? What remediation is planned? What processes are in place to review remediation progress? On what date is remediation expected to be complete?
Evidence	List of evidence attached to the breach report, demonstrating completed remediation steps.

4 CONSULTATION

We invite written submissions from regulated businesses and other interested stakeholders on this draft decision. Submissions will inform the development of the final decision.

Submissions should be made by close of business on 19 May 2017 in either of the following forms, noting our preference that submissions are made in electronic form:

By email: energy.submissions@esc.vic.gov.au

By post: Essential Services Commission
Level 37, 2 Lonsdale Street
Melbourne VIC 3000

Our general approach is that submissions will be published on our website, except for any information that is commercially sensitive or confidential. Submissions should clearly identify which information is sensitive or confidential.

For any questions regarding this consultation, please contact us on (03) 9032 1300.

Our approach to consultation is set out in our Charter of Consultation and Regulatory Practice (2012).

We plan to publish our final decision by the end of June 2017.