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25 May 2016

David Young
Director, Energy
Victoria, Essential Services Commission
Level 37, 2 Lonsdale Street
Melbourne, VIC 3000

Dear David,

Powershop Submission – Energy Compliance and Enforcement Policy

Powershop thanks the ESC for the opportunity to provide further comments in response to the ESC's draft Energy Compliance and Enforcement Policy (the *Draft Policy*). Set out below is Powershop's comments and feedback regarding the Draft Policy.

3.2.1 How we identify potential breaches

Powershop believes that this section should be split into two separate sections and the language refined to better reflect the different points and method of identification.

Powershop agrees that points (a) and (b) are correctly worded as being potential breaches. The method of identification for (a) and (b) are self-identified as potential breaches by the retailer and identified as a potential breach during a compliance audit, therefore consistent with the wording.

Powershop believe that points (c) and (d) should be separated from the aforementioned points, as the method of identification is via an allegation from an external party. Powershop believes using language such as 'potential breach', instead of 'allegation':

1. is premature - as an externally reported issue is only an allegation, and not a potential breach; and
2. implies a wrongdoing has occurred immediately upon receipt of an allegation.

Powershop believes that the language and tone used in this document should accurately and fairly represent the situation that the particular section is referring to, in this case, a self-reported potential breach versus an allegation of wrongdoing.

3.2.2 How we deal with potential breaches

Similarly to the aforementioned feedback, Powershop would encourage the ESC to amend the wording in the whole section, specifically replacing 'potential' with 'alleged'. In this way, a premature assessment of alleged misconduct will be avoided and will provide retailers with the opportunity to respond before the ESC labels an alleged issue as a potential breach.



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In respect of section 3.2.2 (a), Powershop encourages the ESC to re-word this sub-paragraph, as the current wording implies that the ESC has decided a breach has occurred without consultation with the retailer. Powershop does not believe that it is the ESC's intention to imply wrongdoing before due process, and hence Powershop recommends a review of this section.

3.2.4(k) Investigation and consideration of further action

Although this issue was raised by Powershop at the ESC's Consultation Workshop on Friday 20th May, and the feedback was rebutted, Powershop believes that it is important feedback worth noting in this submission.

Powershop believes in order to truly limit uncertainty for retailers; the ESC should avoid using 'catch-all's' as a step for considering further action. Rather, to limit uncertainty Powershop encourage the ESC to list all the relevant matters that might aide the ESC in its decision making process when considering whether to take further action. In the very least, Powershop would encourage the ESC to provide examples of what they consider would constitute 'relevant matters', in order to limit uncertainty.

Notwithstanding the aforementioned feedback, Powershop thanks the ESC for providing such a comprehensive list of situations that the ESC would consider when deciding on enforcement action.

Powershop again thanks the ESC for the opportunity to participate in this process and look forward to the ongoing workshops and final policy.

Yours sincerely

Scott Begg
Powershop, Head of Retail Operations