

19 May 2017



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

Jemena Electricity  
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By email:

Dear Mr Young

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### **Interim compliance and reporting guideline for energy distribution licence holders – Draft decision, April 2017**

The Essential Services Commission (**ESC**) has invited submissions from regulated businesses and other interested stakeholders on the above noted draft decision. Jemena Electricity Networks (Vic) Ltd (**JEN**) welcomes this opportunity to respond.

#### **ESC consultation**

The draft decision proposes that the interim *Compliance and Performance Reporting Guideline* (**CPRG**) that was published in July November 2016 is amended to require energy distributors to report any contravention of specified obligations.<sup>1</sup> Noteworthy, since the CPRG is titled *Interim Compliance and Performance Reporting Guideline for **Energy Retail Licence Holders*** (*emphasis added*), JEN did not participate in the consultation process.

JEN considers the ESC's approach to amend the CPRG, which is expressly designed for energy retail licence holders, to include distribution obligations does not meet the best practice consultation principles<sup>2</sup> of the ESC's *Charter of Consultation and Regulatory Practice* as it does not give distribution businesses the proper opportunity to consider and comment on the appropriate sign-off of non-compliance reports.

#### **Classification of type1 obligations**

In section 2 of the draft decision, the ESC describes Type 1 regulatory obligations as follows:

*"...those regulatory obligations where non-compliance would have a critical impact on customers and where the impact of that non-compliance increases over time if it is not rectified quickly."*

and lists a number of Type 1 obligations for the purposes of reporting compliance breaches:

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<sup>1</sup> Interim compliance and reporting guideline for energy distribution licence holders – Draft decision, April 2017, p 3.

<sup>2</sup> Essential Services Commission of Victoria, *Charter of consultation and Regulatory Practice* Our consultation principles, p 24.

- a) Life support customers – clause 5.6.2 of the Electricity Distribution Code.
- b) Access to interpreters or translators – clause 9.1.12 of the Electricity Distribution Code.
- c) Guaranteed service levels (GSL) and interruptions to energy supply – clauses 5.5.1, 6.2, 6.3.1, 6.3.2 and 6.4 of the Electricity Distribution Code.
- d) Interval metering data – clauses 11(3)(a), 11(3)(b), 11(4), 11(5) of the AMI Tariffs Order.

The description of Type 1 obligation is exactly the same as the description in the ESC's Compliance Reporting Manual (Energy Distribution and Retail Businesses), published in May 2009. Section 3.1 of the manual describes the approach taken to classify the regulatory obligations into type 1, 2 and 3 categories having regard to the impact on customers for the purpose of reporting breaches of the obligations. Under the classification criteria, the ESC has classified obligations related to life support customers as type 1 obligation. Obligations related to access to interpreters or translators, guaranteed service levels, and interruptions to energy supply were classified as type 3.

The draft decision does not explain why the obligations previously determined to be type 3 have been now classified to type 1. Reclassification of type 3 obligations to type 1 does not meet the ESC's classification criteria. JEN understands that the criteria requires assessment on whether non-compliance would have a critical impact on customers and where the impact of that non-compliance increases over time if it is not rectified.

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. To illustrate this point we note two hypothetical examples of non-compliances:

1. Supply interrupted to a customer with life support equipment without a minimum of four days notification.
2. Customer provided with energy consumption data after 10 business days from date of request, when the obligation requires the distributor to use its best endeavours to provide the data within 10 business days and there is no other agreed date to provide the data.

The customer impacts resulting from the two examples of non-compliances are vastly different. The consequences of breach for a life support customer have the potential for harm and is more severe when compared to the breach for not providing timely energy consumption data to a customer.

The ESC has taken an approach to classify all penalty obligations as type 1 obligations disproportionate to the severity of impact on customers when non-compliances occur.

Jemena recommends that breaches relating to the provision of metering data should be categorised as type 3 obligations.

## **Timeframes for reporting breaches of the obligations**

In Section 2.1 the draft decision proposes timeframes for reporting breaches of the obligations. JEN suggests the reporting of breaches should be commensurate with the customer impact.

JEN supports immediate reporting (within 2 business days of identification) of non-compliances of obligations related to life support customer obligation (clause 5.6.2 of the Electricity Distribution Code) with a follow up report signed by the CEO or their delegate.

In contrast, for breaches relating to the obligation to provide at least 4 business days written notification (clause 5.5.1 of the Electricity Distribution Code), a six monthly report in an excel spreadsheet format is appropriate and the report be signed by a person at a General Manager level or higher.

Further, for breaches relating to the remainder the obligations set out in 2.1 of this draft decision, an annual report be submitted to the ESC.

This annual report would also include all reported breaches. JEN considers a requirement for a Chief Executive Officer / Managing Director sign off of annual reports is sufficient.

If you have questions in relation to this submission, please contact Siva Moorthy

Yours sincerely



Usman Saadat  
**General Manager Regulation**