



17 September 2019

Ms Sarah McDowell  
Director, Energy  
Essential Services Commission  
Level 37, 2 Lonsdale Street  
Melbourne, Victoria 3000

Online: <https://engage.vic.gov.au>

Dear Ms McDowell,

**RE: Strengthening protections for life support customers Draft Decision**

Origin Energy appreciates the opportunity to provide a submission in response to the Essential Services Commission's (ESC) life support review draft decision.

Origin endorses the ESC's approach to use the National Energy Retail Rules to guide amendments and strengthen protections for Victorian life support customers. We strongly support measures which maintain harmonisation with national processes. We consider that this ensures that life support customers, whether existing or new, are validly registered, that these registers are maintained appropriately, and that customers with life support requirements are afforded the required level of protection.

Additionally, the ESC proposes that the updated life support protections should apply to gas customers. This presents difficulty as there are no B2B market processes to support gas life support transactions. If the ESC does decide to include Gas, then we consider the timeframe for implementation for this fuel should be substantially longer to provide participants with sufficient time to upgrade systems and processes.

The ESC has proposed for the new obligations to take effect from 1 January 2020, with some transitional arrangements for legacy life support customers to come into effect from 1 December 2019. While we acknowledge that the majority of the ESC's proposed changes already apply in other states, a retailer's systems do not always translate across jurisdictions because of the need to partition systems and processes to accommodate various state derogations. These differences need to be accounted for when making updates in order to ensure compliance. For these reasons we believe that the effective date ought to be extended to 1 July 2020.

Origin's responses to specific questions raised in the ESC's draft decision are set out below.

**Question 1: Could each distributor, retailer and exempt person advise how many customer premises are currently registered as requiring life support equipment in Victoria?**

As at August 2019, Origin had 4,460 electricity and 205 gas customers registered in our systems as requiring life support. This does not differentiate between those who have provided medical confirmation and those where this remains outstanding.

As identified by the ESC, there is no process for de-registration in the current rules. As a result, this figure is likely to marginally overstate validly registered life support customers.

**Question 2: Seeking stakeholder views on challenges in implementing the national life support rules in other jurisdictions**

Origin supports the ESC's approach to national alignment of life support protections. We consider that these provide better customer outcomes and a more consistent customer experience. However, since the revised process was adopted nationally, we have identified areas in which the processes could be improved.

*Deregistration*

Where a customer requests deregistration there is a requirement for retailers to advise the customer in writing of the requested deregistration under NERR 125 (9). The deregistration must not occur less than 15 business days after this notification has been sent. This has led to complaints, as in many cases the customer has vacated the property and the new occupant wishes to undertake works, such as site abolishment or a solar installation. They are unable to undertake these until the life support flag is removed.

The ESC proposes that distribution businesses be permitted to obtain the customer's Explicit Informed Consent (EIC) to de-energise a site in shorter timeframes. Origin proposes that this arrangement should also extend to retailers to allow the removal of the registration at an agreed date. The 15-business day delay caused by the requirement to follow the de-registration notification process could be avoided while also ensuring that there was no detriment to either the life support customer or the new occupant at the site.

Further, it would provide a better customer experience, and a more sensitive approach when the reason for the deregistration is the death of the person that previously required life support equipment. In such cases, retailers are usually informed by a recently bereaved family member that the person requiring life support has passed away. If this is the account holder, the retailer is required to write to the deceased person to advise them that the life support flag will be removed due to advice it is no longer required. Meeting this requirement has resulted in complaints from customers who find this letter insensitive at a difficult time. We consider that the de-registration process should not apply in these instances, instead obtaining consent from the relevant authority to remove the registration at an agreed date.

*No market to support gas transactions*

Current B2B market transactions for life support exist for electricity, as life support notification is an existing requirement between parties. The development of transactions to support life support for gas customers will take much longer to make operational because such transactions do not exist for gas.

The Life Support Rules outlined in the NERR do not apply to the supply of LPG. The ESC's Draft Decision is unclear that the life support obligation is not intended to apply to customers supplied by LPG. The Victorian LPG code protects the interests of all domestic customers by prescribing minimum standard service levels that LPG retailers must meet. We do not consider that the life support obligation should extend to LPG customers because the retailer is not in direct control of providing continuous supply. In the LPG code, the fact that the LPG retailer is not entirely in control of supply security for any given customer is balanced by minimum expectations on the retailer to ensure that LPG supply is consistent to the best of their ability. These are not compatible with the life support protections which

prohibit retailer disconnection of life support customers, or the associated penalties for the disconnection of a life support customer.

**Question 3: What are the benefits or risks associated with removing the obligation on customers to provide confirmation from a registered medical practitioner that a person residing or intending to reside at premises requires life support equipment (as described in the two alternative approaches above)?**

A stated objective of the ESC's reforms is to improve the accuracy of the life support registers.

The ESC notes that there are currently no requirements for energy businesses to provide customers with a template medical confirmation form or processes to remind customers to provide confirmation from a medical practitioner.

The ESC also notes that the NERR requires that the registration process owner to forward to the customer a medical confirmation form and if necessary, confirmation reminder notices.

The ESC proposes three options for registering a life support customer:

1. no requirement to validate a medical need for life support registration;
2. a medical confirmation could be either a Medical Confirmation Form, consistent with the NERR; or
3. a medical certificate from a medical practitioner that states the customer requires continued supply of electricity or gas or both.

We support the adoption of a medical confirmation form.

We do not support no requirement to validate the medical need for life support. The ESC's paper outlines that current practices which do not enforce the validation process have led to large and inaccurate life support registers. As a result, we believe these registers are larger than what they otherwise should be. This imposes increased pressure on retailers and networks to fulfil their life support obligations to customers who may not need this support and may be putting at risk services being delivered to genuine life support customers.

No requirement to provide validation also undermines the de-registration process as set out in the NERR.

We also do not support that a medical certificate from a registered medical practitioner should be accepted as fulfilment of the medical confirmation requirement. This is because there is no requirement on the information to be supplied by the medical practitioner. Furthermore, because the medical practitioner may not be aware of the life support eligibility criteria, this may also result in inconsistency across practitioners regarding how they determine whether a customer is eligible or not.

We support the use of a medical confirmation form. This contains the required information that a Registration Process Owner requires in order to meet its life support obligations. It also remains consistent with the process established in the NERR for the valid registration and subsequent valid de-registration if the customer does not return the Medical Confirmation form.

The ESC considers that taking customers at their word that they require life support equipment may be consistent with the fair and reasonable conduct retailers are expected to show customers experiencing payment difficulties or family violence. Considering the retailer will be initially taking the customers word and registering the site as requiring life support, and is reliant on the completion of an extensive de-registration process if the customer does not return the form, we disagree that being required to take the customers word alone is fair and reasonable.

We support taking the customers word to facilitate consumer protections while they complete the process for valid registration. However, the removal of the registration process would create poor

alignment of process between the NERR and the Energy Retail Code, as well as an ad-hoc process for registering sites. Additionally, it would make the resulting life support register un-auditable. We also consider that this approach would result in the number of life support customers being larger than what it otherwise should be.

**Question 4: If Victoria does not adopt the medical confirmation process, are there any circumstances in which a retailer, distributor or exempt person should be able to require a customer to provide medical confirmation?**

As medical practitioners are unlikely to be familiar with the life support requirements as they relate to energy, the use of a standardised form that a customer can provide to their medical practitioner is likely to be more efficient and effective. It would ensure the customer can obtain the required information from their medical practitioner and simultaneously ensure that the information gathered is consistent with the requirements of the register. This would also allow the medical practitioner to discuss whether the customer is reliant on electricity or gas, or both, when completing the form.

For these reasons we endorse the use of a Medical Confirmation Form as intended under the NERR.

**Question 5: Seeking stakeholder views on privacy requirements in our codes**

Under the NERR arrangements, the customer who requires life support advises the Registration Process Owner. The Registration Process Owner is then required to notify the other party of the life support requirement. In addition, any sharing of information between businesses (for example the life support transactions) is done with the minimum detail to provide the customer with consumer protections. There are no current provisions requiring the sharing of the completed confirmation between parties, and if this were the case, the consent obtained from the customer would need to be updated accordingly.

There are existing legislative requirements which impose obligations on medical practitioners in relation to the disclosure of patient information. Information can only be disclosed if the patient consents to the release of the information. One of the benefits of the use of a medical confirmation is that the medical practitioner could not approve a form for a third party (unless that third party was authorised to obtain such information), which maintains individual privacy.

For these reasons, we do not consider that there is a need for additional privacy requirements specific to life support customers.

**Question 6: Seeking views on whether or not retailer interruption obligations are needed for embedded networks**

Origin supports the application of life support requirements to embedded networks. We consider that the draft decision to require the exempt seller to always be the registration process owner provides the best safeguard for life support customers. In addition, we believe that the adoption of planned supply interruption procedures is an appropriate measure to ensure that life support customers residing in an embedded network are provided opportunity to make alternative arrangements when an outage is scheduled. We consider that the process for planned interruption notices in Embedded Networks should be aligned with the National Energy Retail Rules, which requires that the retailer give the customer notice, or, obtaining the life support customers explicit informed consent to the interruption occurring on a specified date.<sup>1</sup> This would afford these customers the same protections as those who reside outside of embedded networks.

**Question 7: Seeking stakeholder views on whether distributors should be able to de-register some life support customers**

We do not believe it is appropriate for a distributor, when it is not the Registration Process Owner, to be able to de-register a site from life support.

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<sup>1</sup> National Energy Retail Rules Version 17, 59C(1)(c)

Where there is a discrepancy between a new retailer's information and information that the distributor has about a customer at that site, then the distributor should notify the new retailer of this discrepancy for the retailer to ensure that there has been no error and follow up with the customer.

We support the ESC's proposal to require retailers to ask new customers about life support equipment at the time of renewing or first entering into an electricity or gas contract. This could negate the need for distributors to de-register customers when they become aware that the customer has changed retailers and in turn have not notified the new retailer that they are a life support customer.

**Question 8: Can stakeholders envisage any issues with requiring the registration process owner to notify the other party within one business day after being notified by the customer? If so, please provide reasons why this would be challenging to implement, and**

**Question 9: Can stakeholders envisage any issues with requiring retailers, distributors and exempt persons to update their registers within one business day of becoming aware that the customer is a life support customer?**

The ESC has identified that there are no time-bound obligations in the NERR that require the Registration Process Owner to notify the other party about the customer who requires life support equipment. While it is implied that the notification should be as soon as practicable after the retailer receives notification from the customer, the NERR does not include a specific timeframe.

The B2B Procedures do not allow for a party who is not the current Financially Responsible Market Participant (FRMP) to provide a prospective life support notification into the market. Instead, the site can be validly registered only once the retailer becomes the FRMP. This is unlikely to occur within 24 hours in the case of electricity, because retailers may submit a change request to the market prospectively, but the change will not occur until the expiry of the customers' cooling off period.

The timeframe that a gas retailer may not be able to send a notification into the market is significantly longer. Not only is the retailer required to wait for the customers' cooling off period to expire, gas meters are manually read every two months. Unless the customer or retailer request a special read, it could be up to two months before the retailer is able to send the life support notification into the market. A retailer can only make the notification as soon as practicable and in accordance with the transactions available.

For these reasons we do not consider that there should be a defined timeframe for the notification of other parties.

**Question 10: We are seeking stakeholder views on our approach of requiring the exempt seller to always be the registration process owner.**

Origin considers that there should be a clear distinction between on-market and off-market customers.

For off-market embedded network customers, we believe the exempt seller should be the Registration Process Owner. If the life support status is active with an off-market customer, passing this information through to the prospective licensed retailer requesting a child NMI allocation should be the responsibility of the exempt seller.

For on-market embedded network customers, we believe that both the exempt seller and licensed retailer should be the Registration Process Owner. If the life support status is required prior to the creation of an on-market NMI, then the exempt seller should be the process owner in order to ensure the customer is protected. The retailer cannot physically raise the life support status at this time. However, once the site has an on-market NMI the licenced retailer should be the process owner.

Consistent with the retailer requirement to ask if a customer requires life support, it should be the obligation of both the exempt seller and the licensed retailer to update the customer's life support status during the sales process. This is particularly important to ensure that the requirement is captured if the

life support flag does not exist at the time of creating the child NMI. If there is a life support requirement, this information should then be communicated to the exempt seller.

**Question 11: We are also interested to know from embedded network operators, the number of residential customers who have left their embedded network and are sold electricity by a licensed retailer? Does the commission need to account for these on-market embedded network customers in the design of the new life support obligations?**

The ESC should consider the management of on-market embedded network customers in the design of the new life support obligations. Origin obtained four residential customers in the last year who left their embedded network and are now supplied electricity by Origin.

In addition, the Victorian Government intends to ban embedded networks. Depending on the approach taken this could result in an increased volume of on-market customers. We consider that it would be prudent to ensure that these customers are provided with the same consumer protections proactively.

**Question 12: Is there merit in the commission considering the alternative approach outlined in section 6.2?**

Origin does not agree with the position expressed in draft Decision 23. We consider that both the exempt seller and licensed retailer should be the Registration Process Owner for life support customers, as described in response to question 10. We support the additional provisions that would cover on-market embedded network customers and providing the ability for a licensed retailer or distributor to notify an exempt seller (but not de-register the customer) when the customer no longer requires life support equipment. The exempt seller should then follow the required de-registration process.

We consider that a life support customer inside an embedded network should be protected against disconnection in the event that the licensed retailer at the gate meter needs to disconnect the exempt seller. The life support status should extend to the gate meter to ensure protection of the life support customer.

With respect to planned outages, we believe that the distributor should notify the gate meter customer as well as the exempt seller; then it would be the responsibility of the exempt seller to notify customers inside the embedded network. This is consistent with current practice.

*Closing*

Origin supports the alignment of National Energy Retail Rules when considering amendments to strengthen protections for Victorian life support customers. We consider that the timeframe for implementation should be longer to provide participants with sufficient time to upgrade systems and processes.

We consider that a harmonised approach will ensure that life support customers are validly registered, and that these registers are maintained appropriately. We consider that this is an effective way to ensure that customers with life support requirements are afforded the required level of protection.

If you have any questions regarding this submission, please contact Courtney Markham in the first instance on 03 9821 8086 and or [Courtney.Markham@originenergy.com.au](mailto:Courtney.Markham@originenergy.com.au).

Yours sincerely



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