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31 March 2020

Ms Kate Symons
Chairperson
Essential Services Commission
Level 37, 2 Lonsdale St
Melbourne VIC 3000

Submitted electronically

Dear Ms Symons,

Re: Draft decision - Changing the back-billing rules for retail energy customers

Red Energy and Lumo Energy (Red and Lumo) welcome the opportunity to respond to the Essential Services Commission's (the Commission) draft decision on changing the back-billing rules for retail energy customers.

Consistent with our previous submission to the Commission, Red and Lumo support the policy intent to reduce the allowable back-billing period. We acknowledge that it is unfair and unreasonable for consumers to bear the cost where retailers have clearly made an error in calculating their bills. Tighter controls around back-billing will incentivise retailers to develop and maintain accurate and compliant billing systems. However, we remain concerned that retailers are likely to face costs that they cannot recover, particularly if there is some doubt about why a bill needs to be adjusted some time after it was first issued.

Therefore, we are pleased that the Commission acknowledges the potential risk for retailers and we strongly support its draft decision to limit gas and electricity network businesses' ability to recover costs from retailers when retailers cannot then recover those costs from consumers. As the Commission is aware, this restriction currently applies under the National Electricity Rules and National Gas Rules. It creates an incentive for these businesses to improve their own processes and to work more productively with retailers to avoid, and quickly rectify, any issues that can cause billing inaccuracies. As we mentioned in our previous submission, an example of such an issue is crossed metering, i.e. where a network installs a meter but assigns an incorrect address, customer details, NMI or MIRN.

We urge the Commission to reconsider its draft decision to leave the current provisions relating to back-billing unchanged. As we previously argued, the Energy Retail Code (ERC) focuses on

acts or omissions of the customer as a basis for billing for periods beyond the prescribed timeframe. Given the breadth of reasons that undercharging can occur that fall outside retailers' control, our preference is for further amendments to the ERC. Such amendments must clearly articulate that retailers are unable to recover undercharged amounts for the 4 month period before the customer is notified where the undercharging occurs as a result of an act or omission of the retailer. We therefore propose inserting before clause 30(2)(a) the following:

(aa) limit the amount to be recovered to the amount undercharged in the 4 months before the date the customer is notified of the undercharging, if the amount was undercharged as a result of the retailer's fault or omission; and

and further amending clause 30(2)(a) as follows:

(a) unless the amount was undercharged as a result of subclause (aa) or the small customer's fault or unlawful act or omission, limit the amount to be recovered to the amount undercharged in the 9 months before the date the customer is notified of the undercharging; and

These amendments would remove any doubt about retailers' and networks' ability to recover reasonable costs (in the case of cross meters, retrospective transfers, or where there is a dispute about access to a meter, for example). It would also reinforce existing provisions in the gas and electricity distribution codes that place a responsibility on consumers to ensure they provide reasonable access to meters.

Implementation timeframe

Red and Lumo welcome the Commission's pragmatic decision to delay commencement of the new provisions. A delay is important as it gives retailers sufficient time to make the necessary changes to systems and processes. This might involve additional attempts to contact unknown consumers within the four month period and reassessment of the situations where we might withhold a bill. This means we have more time to reduce our exposure to additional costs and other unintended consequences, and our customers will receive accurate bills in a timely manner.

However, given current circumstances with the COVID-19 pandemic, we strongly recommend the Commission consider a further delay of at least another 6 months but ideally for another 12 months (i.e. 1 January 2022). There are significant areas of uncertainty across the entire sector that mean it isn't feasible to proceed with a significant regulatory change in the short term.



For example, networks across the NEM are reviewing their processes and deprioritising some core activities. For example, some networks are choosing not to action service orders or even to conduct meter reads due to concerns about their employees' health and safety. The scale of these responses could increase substantially in the near future and they may be in place for some time. As a result, we are anticipating a large volume of estimated reads over the next 12 months at least, that will require adjustment at some point. More generally, the impact of these disruptions on customer billing may not become fully apparent for some time.

Another example is where retailers choose, or be instructed to, offer additional assistance measures to their customers over the next 12 months. Should this include bill suspensions for some period of time and we will then need to adjust future bills once we resume our normal activities.

A further issue is retailers' and networks capacity to implement major changes to processes and systems over the next 12 months when our priority is to ensure we can support our customers during a challenging time. The Commission will be aware of the restrictions on staff movements and we are aware of disruptions to some of the networks' back office functions. The practical effect of restrictions and interruptions to normal operating practices over the next few months will become apparent over time so a further delay is prudent in this highly uncertain environment.

About Red and Lumo

We are 100% Australian owned subsidiaries of Snowy Hydro Limited. Collectively, we retail gas and electricity in South Australia, Victoria, New South Wales, Queensland and the ACT to over 1 million customers.

Red and Lumo thank the Commission for the opportunity to respond to its draft decision. Should you wish to discuss aspects or have any further enquiries regarding this submission, please call

[REDACTED] Regulatory Manager on [REDACTED]

Yours sincerely

[REDACTED]

[REDACTED]

General Manager Regulatory Affairs & Stakeholder Relations
Red Energy Pty Ltd
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