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Mr Gerard Brody
Chairperson
Essential Services Commission
Level 8, 570 Bourke Street
Melbourne VIC 3000

Submitted electronically: energyreform@esc.vic.gov.au

Dear Mr Brody,

Re: Regulatory Impact Statement - Energy Consumer Reforms

Red Energy and Lumo Energy (Red and Lumo) welcome the opportunity to make this submission to the Essential Services Commission's (the Commission's) Regulatory Impact Statement on potential amendments to the Energy Retail Code of Practice (ERCoP).

We agree that more can be done to support vulnerable consumers and to ensure those experiencing payment difficulties are paying less for their energy and are fully supported through such a journey. Competitive retail markets can be challenging for some consumers and we acknowledge that specific measures might be necessary to address some of the obstacles to engagement. These measures should be proportionate and directly target the problems they are seeking to address, avoiding broader market disruption as far as possible.

Our strong view is that consumers experience the best outcome when they engage with their retailer, who can then tailor support to their specific circumstances. We also view engagement as a driver of competition, which delivers better outcomes in terms of pricing and other elements of retail offerings. This includes non price benefits, advice on energy efficiency, potential investments in distributed resources and products that help them to better manage risk and maximise their investments in emerging technologies.

As a general point, we have some concerns that the proposed measures could discourage effective engagement between retailers and some of their customers. In particular, some of the proposed measures are inconsistent with some existing consumer protections, such as Explicit Informed Consent (EIC). This has been a core element of the competitive market since its inception.

EIC ensures there are detailed discussions and that consumers fully understand the terms and conditions of any product they are considering and the implications of switching. Every conversation about offers is also another opportunity for a retailer to learn more about their customers' needs and preferences and potentially, whether they require support with

payment difficulties. However, the Commission is applying a more selective approach to its application, creating some uncertainty about how important and in what context it remains a core consumer protection.

We also strongly encourage the Commission to carefully consider the market dynamics and potential negative second-round effects of some of its proposals. These include the clustering of retail offers around the regulated benchmark and a withdrawal of some of the more competitive retail offers. This could disadvantage those consumers who are most sensitive to price and those experiencing payment difficulty. A further issue is the divergence between the Commission's proposals and recent rule determinations by the Australian Energy Market Commission.

Finally, the Commission should extend its proposed implementation timeframes to early 2027, particularly given the number and scale of regulatory initiatives that retailers are implementing. Some of the proposed reforms will require significant changes to existing systems, notably, the requirement for retailers to automatically migrate any consumers receiving Tailored Assistance to any new acquisition offers they bring to market. We would welcome the opportunity to provide more information to the Commission on the cost and timeframe necessary for these changes as it finalises its proposals.

Automatic best offer for customers experiencing payment difficulty

Our preference is for the Commission to rely on engagement, rather than a more prescribed approach to switching to the best offer. Encouraging engagement allows for more in-depth, tailored assistance, including the potential for additional assistance such as debt waivers, payment matching and energy efficiency swaps. These are not mandatory under the Payment Difficulty Framework but can be other forms of support that a retailer offers when they engage directly with their customer and understand their individual needs.

As the Commission is aware, retailers must discuss better offers with all consumers accessing tailored assistance. It is at this point that many choose not to accept a best offer as they may see that the non-financial benefits outweigh the potential savings. It is a compliance and enforcement issue, rather than a need for additional obligations, if this is not occurring. As such, we view the Commission's proposal as a second best measure.

On the other hand, we oppose the proposal for automatic switching for all consumers who have debt of \$1,000. There is no strong basis for assuming these consumers are experiencing payment difficulty. Moreover, it will discourage engagement and allow debt to accumulate to a higher level than would otherwise be the case. It will also be difficult to implement as debt levels can fluctuate due to payments (or part payments) and the application of any credits. Therefore, we recommend that the automatic switching of consumers to the best offer only apply to those enrolled within a retailer's hardship program.

We acknowledge the Commission's concerns about the capacity of some specific consumer

segments to participate in the energy market or even to contact their retailer. Our preference would be to target support and other measures to those consumers and directly address any obstacles to their engagement, rather than applying broad measures that may not assist other segments.

Implementing these changes would require significant manual effort. The necessity of constantly switching customers to the best offer requires clarification, as it could present significant operational challenges. The demand on systems to constantly run best offer calculations will be huge and result in unintended additional costs to maintain the processes ongoing, compared to the current best offer process, which creates a calculation at a point in time (rather than daily).

Protection for customers paying higher prices and extending protections for customers on legacy contracts

We do not see a strong basis for the proposed measure, which involves unilaterally switching consumers to a more 'reasonable' offer after four years. The Commission's analysis indicates that this is not a material issue, given the relatively small proportion of consumers who remain on contracts for four years or more, while there are numerous policy measures to encourage consumers to participate in the market. The best offer message on bills is the most notable.

Furthermore, the argument that consumers who remain on legacy contracts face potential bill shock is not compelling as they have been on contracts that involve some degree of risk sharing for an extended period. We assume these consumers are familiar with and happy to accept the terms and conditions of their current contracts. Customers often have reasons for being on existing plans, such as non-financial benefits, and altering or removing these could cause confusion. The number of customers on older contracts is small and declining, and the Commission should prioritise encouraging customer engagement and building trust with retailers over imposing further regulations.

Our primary reason for recommending caution with these proposals are the erosion of EIC (for the reasons mentioned above) and the potential implications for competition and the range of offers available over the longer term. This includes the cheapest offers, which those consumers most sensitive to price will seek to obtain. Our preference is for the Commission to analyse the reasons why some consumers may not switch offers and to target any obstacles to engagement.

The Payment Difficulty Framework ensures that any consumers experiencing payment difficulty receive the support they need, including advice about more appropriate offers. Otherwise, this proposal is a disproportionate response to a relatively minor problem. Implementing processes to identify these consumers and to deliver the prescribed messages at the prescribed frequency will impose significant costs on retailers. The Commission

acknowledges these costs but a more thorough analysis of the broader implications is warranted.

Improving the ability to switch to the best offer

Red and Lumo endorse enhancing consumer access to the best offers available. We believe the switching process should be seamless and in our case, have already implemented systems that facilitate switching through their preferred channels, including telephone, email, our online portal and coming soon to our mobile applications.

More generally, there is a strong incentive for retailers in a competitive market to provide mechanisms for exploring other offers and other important information, such as consumption data, that reflect their customers' evolving needs and expectations.

Improving the application of concessions on bills

Red and Lumo currently ask all customers upon sign-up if they're eligible to receive a concession. We also communicate with customers should their concessions expire or fail to validate. We will then work with them to get their concession reapplied to their account. Should a customer request any form of payment assistance, this is a further trigger to question if the customer is eligible for a concession that may not already be on their account.

We welcome the Commission's provision of some flexibility regarding the timing of concession eligibility requests and also note the commercial incentive for retailers to help their customers obtain any support to pay their energy bills to which they might be entitled.

Increasing debt-disconnection thresholds

There is an intuitive appeal to increasing the minimum disconnection amount, given recent significant price rises. A disconnection threshold acts as an important safeguard within the ERCoP, preventing disconnections for minor arrears and providing a crucial buffer for customers facing temporary financial difficulties or minor billing discrepancies.

However, we encourage the Commission to carefully consider the potential negative consequences of an increase, such as delaying engagement and support, and the accumulation of higher debt. While prices have risen, consumers are increasingly shifting to monthly billing, which decreases the average bill size. Increasing the threshold also pushes back triggers like reminder notices and disconnection warning notices that might be the trigger for some consumers to contact their retailer to discuss their support entitlements.

We note however, that disconnection for non-payment (DNP) should never be viewed as the sole driver of engagement. Rather, the possibility of DNP and the prescribed controls and obligations around it, should work in parallel with other obligations on retailers to proactively identify and support consumers experiencing payment difficulty.

Improving awareness of independent dispute resolution services

The Commission will likely be aware that Red and Lumo include contact details for the Energy and Water Ombudsman Victoria (EWOV) on our bills. This reflects our view about the importance of this information. However, we are constantly assessing whether this is an effective way of increasing awareness of EWOV or of providing other discretionary information.

The primary purpose of a bill is to advise a consumer of how much energy they have used, how much they need to pay and the date by which they should make payment. For many consumers, anything additional to that may be missed. The Commission's rationale is to increase awareness of EWOV but it is not clear this will occur and we question what additional information the Commission might mandate if it does not see evidence of increased awareness.

Furthermore, there is some risk that mandating the inclusion of contact details without further context will increase the volume of complaints to EWOV and it may face challenges managing an increased volume of complaints that ultimately should be discussed between a customer and their retailer as an initial step.

In our experience, distribution networks already receive a number of calls from customers to their faults and emergency numbers that should be handled by retailers, given that it's one of the first contact numbers on retailer bills. We also note that ombudsman schemes in other jurisdictions have seen a rise in complaint numbers and longer resolution times following the Australian Energy Regulator's September 2023 Better Bill Guideline.

There is only so much that additional information about EWOV on bills can achieve. As such, the Commission and EWOV itself should also consider other measures to increase awareness and the precise nature of its remit.

About Red and Lumo

We are 100% Australian owned subsidiaries of Snowy Hydro Limited. Collectively, we retail electricity and gas in New South Wales, Queensland, South Australia, Victoria and the ACT to over 1.5 million customers.

Red and Lumo thank the Commission for the opportunity to comment on the Regulatory Impact Statement. Should you wish to discuss or have any further enquiries regarding this submission, please call Jordan Rigby, Regulatory Manager on [REDACTED]

Yours sincerely



Geoff Hargreaves

Manager - Regulatory Affairs

Red Energy Pty Ltd

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