



Meridian Energy Australia Pty Ltd
Level 15, 357 Collins Street
Melbourne VIC 3000

25 October 2021

Essential Services Commission
Level 37, 2 Lonsdale Street
Melbourne, Victoria 3000

Email: compliance.reporting@esc.vic.gov.au

Compliance & Performance Reporting Guideline – 2021 update: Draft decision

Meridian Energy Australia Pty Ltd and Powershop Australia Pty Ltd (**MEA Group or Powershop**) thanks the Essential Services Commission (**ESC**) for the opportunity to provide comments on the ESC's Compliance & Performance Reporting Guideline – 2021 update: Draft decision paper (the **Paper**).

Background on the MEA Group

The MEA Group is a vertically integrated generator and retailer focused entirely on renewable generation. Through our investment in new generation, we have continued to support Australia's transition to renewable energy.

Powershop is an innovative retailer committed to providing lower prices for customers and recognises the benefits to customers in transitioning to a more distributed and renewable-based energy system. Powershop has introduced numerous new, innovative, and customer-centric initiatives into the market.

Response

Powershop supports the review into the Compliance and Performance Reporting Guideline (**CPRG**) considering the recent legislative changes that have occurred under the Victorian Government's Energy Fairness Plan (**EFP**) program, to ensure that reporting requirements match what the EFP requires. Powershop also supports some of the changes made to reporting requirements and various changes to breach type categorisations to reduce the regulatory burden to administer these requirements.

However, Powershop believes further analysis of other proposed changes are required to ensure that costs and benefits are confirmed and understood and that there is an opportunity to further educate and improve compliance using this review. Powershop is concerned that there are proposals for further indicators in relation to customer arrears performance and best offer indicators without any significant evidence as to any benefits they may provide. Finally, Powershop believes reporting of potential wrongful disconnections can be improved.

Powershop provides the following responses to each draft decision within the Paper.

Draft decision 1: Only time sensitive obligations are type 1 breaches - *Our draft decision is that only time-sensitive obligations will be classified as type 1 to reflect the potential, or actual risk of critical harm to consumers and the need for an immediate response. These are life-support related obligations and family violence obligations where there is a threat to life or safety involved.*

Draft decision 2: The majority of previously reported type 1 breaches are type 2 breaches - *The majority of obligations will be classified as type 2, including many that were previously classified type 1. This is on the basis that a breach of most customer protections is serious, however, the breaches do not necessarily require an immediate (within two business days) response.*

Powershop broadly supports both draft decisions 1 and 2 above to focus on time-sensitive obligations and its focus on serious customer protections.

Draft decision 3: There will no longer be any type 3 breaches, instead significant breaches should be reported as soon as practicable - *We propose to remove the 12 month reporting requirement for type 3 obligations. However, we require a licensee to self-report potential breaches of any other regulatory obligation or licence condition that is not classified as type 1 or 2 but that may give rise to a material adverse impact on consumers or the Victorian energy market as soon as practicable.*

Powershop supports the ESC's endeavour to reduce the regulatory burden with this draft decision. However, to ask the retailer to make an ambiguous judgement on material or adverse impact could be very subjective and exposes the retailer to an alternative view from the ESC. If the ESC is willing to accept a difference in view based upon the topic at hand and that the ESC see any obligations not classified as a Type 1 or Type 2 as negligible in impact, we would encourage the ESC to utilise this change as an education and improvement exercise for industry (i.e. no formal penalties attached).

Draft decision 4: Retailers and distributors must report type 2 breaches within 30 calendar days of detection - *Retailers and distributors must report type 2 breaches within 30 calendar days of being detected.*

Powershop supports this change and that 30 calendar days to report Type 2 breaches is sufficient. Powershop expects that, where a breach has been determined but the issue not yet rectified, the retailer will have the same opportunity to submit follow up reports in a timeframe that is agreed between themselves and the ESC.

Draft decision 5: Retailers and distributors will no longer be required to submit quarterly type 1 summary reports - *We have removed the requirement to submit a quarterly type 1 summary report signed by the CEO or Managing Director. Retailers will still be required to submit an annual summary report signed by the CEO or Managing Director containing all type 1 and type 2 breaches and a summary of other breaches identified throughout the year. They will also need to submit a nil compliance report in instances where the licensee has no breaches to report for a relevant reporting period.*

Powershop supports the proposal to remove quarterly reporting for breaches of any level and to revert to an annual process with appropriate signatories to this report.

Draft decision 6: Retailers must report on new arrears performance indicators - *Retailers must report on three new types of arrears indicators that were reported during coronavirus reporting - missed bills, deferred payments, and other debt where a customer is not engaged in a payment plan. These arrears indicators are not captured by the existing measure of tailored assistance arrears.*

Powershop supported the need for voluntary reporting on these items during the pandemic, based on a letter of advice received initially from the ESC in October 2020¹. However, it is anticipated that this advice should cease and that industry will revert back to its standard measurements prior to the pandemic under the Payment Difficulties Framework (PDF) in 2022.

Powershop would like the ESC to evidence how the use of such data from this point onwards will benefit industry and consumers, particularly once normal billing, collection, and disconnections procedures recommence under the PDF. We believe further consultation is needed before making the reporting of these indicators permanent.

Draft decision 7: Retailers must report on new best offer performance indicators - *Retailers must report on eight new best offer performance indicators on best offer messages for small business and the potential savings for residential and small business consumers.*

Although Powershop understand the need to update new indicators for small business, the ESC needs to provide the industry with evidence as to why reporting on best offer in this way will then improve the performance of the regulatory instrument. Since its inception, best offer is now communicated to all market offer customers with a retailer.

The proposed reporting changes will mean that retailers report on a total of 60 indicators each reporting period for best offer. This is more than double the number of indicators reported relating to disconnection. The changes may mean that retailers are required to invest additional resources into development to provide the data.

¹ Essential Services Commission, Keeping connected, moving forward, 29 October 2020

With the addition of small business, we assume the ESC will use this data to further try to understand why a customer may or may not choose to go with a retailer's best offer. The data should inform the ESC that simply because a best offer may be the cheapest offer, the customer may choose to ignore the message or be on an offer that would be best for them.

Powershop would urge the ESC to consider whether a monetary saving or a percentage saving reference is the more useful, rather than seeking both.

Powershop believes that the CPRG is not the best mechanism to try and improve the performance and customer interactions of the best offer obligations. Based on the above, Powershop believes that instead of seeking more data from retailers, we encourage the ESC to undertake further consumer research to understand the efficacy of the best offer message.

Draft decision 8: The performance indicators template has been updated to reflect administrative updates - *The performance indicators reporting template has been updated to take the form of a flat file, removing the need for manual completion of the existing formatted template. We have also made changes that clarify the intent and method for calculating certain measures.*

Powershop supports this draft decision.

Draft decision 9: The new reporting guidelines will commence in early 2022 - *The new reporting guidelines will commence at the same time as the Energy Retail Code of Practice taking effect, in early 2022. However, we propose transitional arrangements that would mean that limited compliance breach reporting under the new reporting guideline will be accepted by the commission while industry updates its systems. The new performance reporting measures will commence from 1 July 2022.*

Powershop supports a firm implementation date of 1 July 2022 for the new reporting guidelines. If a transitional period is implemented, Powershop would expect the ESC to clearly outline what will be required from retailers during the transition period so that retailers can manage the new obligations compliantly, and the ESC receives consistent data from the industry relating to any potential compliance breaches. The danger with implementing a transitional arrangement is that retailers are required to manage multiple changes to reporting requirements. This concern underpins Powershop's desire for a hard cutover from old requirements to new requirements, but in line with the 1 July timeframe. This provides a cleaner division between the outgoing and incoming financial year reporting.

Changes proposed to wrongful disconnection reporting

Powershop believes that the current wrongful disconnection reporting process is very effective and that there is no sufficient reason to change it. However, if the ESC decides that wrongful disconnections should be reported in the same way as all Type 2 breaches under the new guidelines, Powershop strongly supports measures that remove the need for retailers to submit a separate monthly report that references wrongful disconnection payments (**WDP**). Powershop believes that retailers would have applied the WDP within 30 calendar days of detection. Allowing retailers to report the WDP as part of the Type 2 breach will eliminate duplication of reporting.

Powershop notes the following comment from the Paper; "this includes any disconnections referred to Energy and Water Ombudsman (Victoria) (**EWOV**) or dispute resolution processes referred to the commission, even where the disconnection has not yet been determined as wrongful."² This potential requirement undermines a successful, established reporting process and will only conflate the statistic of an individual disconnection. When a customer has been disconnected and makes a complaint to EWOV, regardless of whether the disconnection is related to the complaint, EWOV will undertake a wrongful disconnection investigation. If EWOV & the retailer are unable to agree on whether the disconnection is wrongful, then EWOV will refer the matter to the ESC.

Powershop suggests that any disconnections that are referred to the ESC should be reported. However, when EWOV complete their investigation and determine that a disconnection was not wrongful, Powershop suggests that retailers should not be required to report these instances to the ESC.

² Essential Services Commission, Compliance and Performance Reporting Guideline – 2021 update, Page 15

If you have any queries or would like to discuss any aspect of this submission, please do not hesitate to contact me.

Yours sincerely,



Powershop Australia Pty Ltd
Meridian Energy Australia