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United Energy and Multinet Gas

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Dear David

## **Interim Compliance and Performance Reporting Guideline (CPRG) for Energy Distribution Licence Holders**

United Energy (UE) and Multinet (MG) (the businesses) welcome the opportunity to respond to the ESC Draft Decision on the Interim Compliance and Performance Reporting Guideline for Energy Distribution Licence Holders.

### **Development of a Distributor Compliance and Performance Reporting Framework**

The businesses note that this is the first ESC consultation on the re-establishment of the compliance framework for distribution since 2009. Staff emails/presentations, whilst providing an interim non-compliance reporting regime, did not debate the customer impacts of non-compliances of those penalty obligations. Distributors were expecting a consultation paper that discussed the impacts of each of the obligations and justifications for the type1, 2, 3 classifications ahead of the draft decision.

The businesses note that the ESC proposes to amend the retailer CPRG and yet has not provided a redrafted CPRG as part of its single distributor consultation process. Distributors have not contributed to the retailer compliance and reporting framework and should have the opportunity to meaningfully contribute to the development of an efficient distributor compliance and performance reporting framework.

Re-introducing a compliance reporting framework is a positive move and in our view warrants a two stage consultation process rather than adding distributor obligations into an interim retail framework. Our proposed two stage consultation would be consistent with the ESC's consultation. It is important to note that reducing regulatory burden and reporting requirements does not imply a lack of compliance culture or compliance. The businesses are also responding to compliance related matters with the AER for their compliance reporting requirements and we are keen not to increase the cost of regulatory impost.

In finalising the interim guideline or the final guideline the ESC must ensure that the guideline is in the long term interests of consumers, that the benefits outweigh the costs of the increased regulatory requirements and must consider consistency of national and state based regulation. This challenges the ESC central proposition that any energy industry penalty provision is a type 1 obligation and subject to immediate reporting.

## Classification of obligations

The interim CPRG provided for this consultation and the ESC Compliance and Enforcement policy do not appear to establish any criteria for type 1, type 2 and type 3 breaches. Rather the ESC approach is to assume that any energy industry penalty provisions are type 1 and are silent on any other categories.

The retailer CPRG suggests that type 2 are regulatory obligations where there is a non-compliance that would seriously impact customers, is new or has not been complied with previously or the impact of non-compliance increases over time and type 3 are the listed remaining obligations. There is no mention of these categories within the Interim Distributor CPRG, nor has a draft of a combined distributor and retailer CPRG been included in the consultation.

### Type 1 regulatory obligations

The Victorian Government improved consumer protections via legislation in late 2015 and established an energy industry penalty regulation in late May 2016. A number of additional provisions were added into the energy industry penalty list for distributors late in the development of the penalty regulation and with limited understanding of the rationale. Some of these clauses are not in the National Energy Customer Framework nor are we aware that they cause a critical, systemic or increasing impact on customers. If they were a significant and increasing impact on customers we feel sure that we would be contacted regarding the issue and would seek to remedy the problem, this is a positive and appropriate compliance culture for a regulated entity.

The ESC has taken the view that any industry penalty clause is a type 1 obligation. This approach is not supported in the National Energy Customer Framework compliance approach managed by the AER, nor does it meet the ESC's definition for type 1 regulatory obligations - those regulatory obligations where a 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. For example, the businesses do not consider the provision of interval metering data to be the same impact as the planned interruption of supply to a life support customer without the appropriate 4 business day's notification.

The ESC is proposing that the following obligations be included in the Type 1 category:

#### Electricity distributor

- Life support
- Access to interpreters
- Guaranteed service level payments
- Provision of interval meter data

#### Gas distributor

- Guaranteed service level payments

The businesses note that the ESC is using the same definition of type 1 obligations as they did in 2009 and in 2009 the only distributor type 1 obligation was electricity life support. The remaining obligations amongst the list of obligations in section 2.1 of the Draft decision were classified as type 3 obligations and subject to annual reporting. It should be noted that in the NECF or NER/NGR frameworks, not all civil penalty related clauses are listed in the AER compliance and reporting framework, they are not subject to immediate reporting, nor are they subject to monthly reporting. Other aspects of a robust compliance framework such as licence audits, accreditation audits, ad-hoc requests for information all contribute to an effective compliance framework.

We recommend that the ESC establish the type 1, 2 and 3 regulatory obligation categories within the distributor CPRG. The only type 1 obligation should be life support and the remaining obligations should be type 3.

## Timeframes for reporting breaches

The ESC proposes immediate initial reporting for all breaches within two business days and a monthly summary report for planned interruption notifications provided on the last business day of the month.

The businesses support immediate notification to the ESC of a life support breach with a follow up report containing the relevant information within five business days signed by the CEO or their delegate.

The businesses support a 6 or 12 monthly report in excel spreadsheet format for electricity planned interruptions. UE receives very few customer complaints regarding planned interruptions without notification. UE's recent IT systems development and real time AMI data have afforded UE a better view of our service performance in this area which exceeds 99%. However, as we have already advised the ESC once metering competition commences we will no longer have access to this data and will again be reliant on customer calls relating to supply interruption.

On this basis, UE recommend that 6 or 12 monthly reporting is more than adequate and adopting 6 monthly reporting would be twice the reporting that the AER requires of interstate distributors or that the ESC required in the past. Reporting in this template format should be provided by the companies delegate, last business day of the following month after the end of the reporting period and not require CEO or GM sign off. The ESC proposed that this template reporting be provided on the last day of the month, this affords no time to collate the last few days of data and gain information from the field and internal staff sign offs. We note that retailers are afforded 1-2 months to collate data after each reporting period in the Interim CPRG for retailers.

As noted earlier in our response, reducing the burden of reporting does not mean that UE will not be seeking more innovative ways to improve service provision in this area while we have the data available. UE has in place processes where CEO and leadership team are immediately made aware of supply interruptions and appropriate actions are taken.

All other obligations identified in the Interim CPRG should be subject to annual reporting within two months of year end and with CEO sign off.

Should you wish to clarify any aspect of the above, please contact me .

Yours sincerely



**Verity Watson**  
**Manager Regulatory Strategy**