

Essential Services Commission
Level 37, 2 Lonsdale St
MELBOURNE VIC 3000

Submitted online.

17 January 2022

Making an Energy Retail Code of Practice

The Australian Energy Council ('AEC') welcomes the opportunity to make a submission to the Essential Services Commission's ('ESC') *Making an Energy Retail Code of Practice* Final Decision.

The Energy Council is the industry body representing 20 electricity and downstream natural gas businesses operating in the competitive wholesale and retail energy markets. These businesses collectively generate the overwhelming majority of electricity in Australia, sell gas and electricity to over ten million homes and businesses, and are major investors in renewable energy generation.

In its submission to the Consultation Paper, the AEC noted that it supports the intent of these administrative amendments to streamline the obligations in the Code of Practice and remove duplications across legal instruments. Since the implementation of the Energy Fairness Plan necessitated a quick transition from the existing Retail Code to this Code of Practice, the AEC recognised that the usual procedural practices before regulatory change (e.g. cost-benefit analysis) were not practical here. This was further justified by the changes being minor and narrow in scope, and clearly outlined in the Consultation Paper.

For these reasons, the AEC has some concerns with the Final Decision implementing changes that were not part of the Consultation Paper. Specifically, provisions 26A, 28A, and 188 are new clauses that have been inserted into the Final Decision without any consultation.¹ These clauses relate to embedded network obligations and have a policy rather than administrative intent, inconsistent with the stated scope of the Consultation Paper.

Given the good faith nature in which the original changes were progressed, the AEC views the inclusion of these new clauses as inappropriate. The AEC believes these proposed clauses should be subject to proper consultation and an appropriate time to do this would be once the Victorian Government has responded to the recommendations in the [Embedded Networks Review](#). This would be a good opportunity for the ESC to reopen the Code of Practice to ensure it meets the Victorian Government's policy objectives.

The AEC has similar concerns in relation to the inclusion of additional content in 'Intention to Disconnect' notices. This again appears to go beyond the administrative scope laid out in the Consultation Paper. The new requirements in Clause 184, in particular the need for a prominent heading of 'Intention to Disconnect', are not administrative in nature and retailers have indicated that changes of this kind will necessitate the redevelopment and redesign of their existing notices and welcome packs to customers. The AEC recommends that the ESC instead replicate the current content requires for Intention to Disconnect notices, consistent with the stated administrative intent of these reforms.

¹ Retailers selling to customers within embedded networks (26A); Licensed retailer's obligations to sell to off-market customers (28A); Extension of Electricity Industry Act disconnection obligations to embedded network customers of licenced retailers (188).

Any questions about this submission should be addressed to [REDACTED] by email to [REDACTED] or by telephone on [REDACTED]

Yours sincerely,

[REDACTED]