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Essential Services Commission
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Dear Essential Services Commission

**Energy Retail Code Changes to Support Family Violence Provisions for Retailers:
Draft Decision, 19 March 2019**

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 Energy Retail Code (the **Code**) Changes to Support Family Violence Provisions for Retailers: Draft Decision, 19 March 2019 (the **Draft Decision**).

The MEA Group is a vertically integrated generator and retailer focused entirely on renewable generation. We opened our portfolio of generation assets with the Mt Mercer and Mt Millar wind farms. Subsequently, in early 2018 we acquired the Hume, Burrinjuck and Keepit hydroelectric power stations, further expanding our modes of generation. We have also supplemented our asset portfolio by entering into a number of power purchase agreements with other renewable generators, and through this investment in new generation we have continued to support Australia's transition to renewable energy. Powershop has also been active in supporting community energy initiatives, including providing operational and market services for the community-owned Hepburn Wind Farm, supporting the Warburton hydro project, and funding a large range of community and social enterprise energy projects through our Your Community Energy program.

Powershop is an innovative retailer committed to providing lower prices for customers and which recognises the benefits to customers in transitioning to a more distributed and renewable-based energy system. Over the last five years, Powershop has introduced numerous new, innovative and customer-centric initiatives into the Victorian market, including the first mobile app that allows customers to monitor their usage, a peer-to-peer solar trading trial and a successful consumer-led demand response program.

The MEA Group believe the proposed changes to the Code achieve the intent of Recommendation 109 of the Royal Commission into Family Violence (**Recommendation 109**) to apply minimum standards, however changes are required to more appropriately reflect those standards.

Recommendation 109 can be summarised as follows:

- List minimum eligibility criteria for access to hardship programs;
- Include family violence as an explicit eligibility criterion in hardship programs;
- Develop industry guidelines to require comprehensive and ongoing training of customer service staff; and
- Publicise the availability of dispute resolution mechanisms for people affected by family violence.

The MEA Group supported codifying minimum standard customer protections into the Code through our submission to the ESC's discussion paper in December 2018. The MEA Group believe the ability to objectively measure retailer performance against the draft clauses would be very difficult owing to the subjective context of family violence. If the ESC aims to assess retailer compliance in respect of each retailer/customer interaction then inconsistent outcomes will occur from retailer to retailer as each affected customer and their personal scenario will be unique. Compliance reporting should focus on ensuring a retailer satisfies the requirements of Recommendation 109.

Testing retailer compliance is not the purpose of the Draft Decision (particularly for retailers who already support these customers through their hardship program above the minimum standards). The purpose of the Draft Decision was to "*improve consumer protections for customers affected by family violence*"¹. We believe that the Draft Decision achieves the purpose in part by requiring retailers to improve at a minimum standard relevant training, debt management, account security, customer service engagement and evidence processes for affected customers.

However for various processes, practices and systems to be utilised by retailers for affected customers, it will be more beneficial to use the proposed Better Practice Guide (the **Guide**) within the ESC's Family Violence framework (Section 3 of the Draft Decision). The Guide will be consistently reviewed and updated by industry to reflect best practice(s) and would be an easy tool for customers to use. The Guide will also ensure retailers perform above the minimum standards and continually improve on providing consumer protections.

We provide our suggested changes to the Draft Decision below.

1. Definition of 'affected customer'

The Draft Decision applies the following definition; "*affected customer means any customer, including a former customer, who is or was a small customer and who may be affected by family violence*".² The definition contradicts the Decision and requires amendment as the words 'may be' do not appear in any of the subsequent proposed draft Code changes.

The MEA Group will always aim to support customers affected by or subject to family violence. However these two words imply an assumption without confirmation of a genuine need for family violence support. Making these assumptions or potentially seeking evidence from a customer is potentially risky as there are many and varied sensitivities and subjective issues to consider before assuming a customer's position. In almost all cases a retailer relies on the customer's advice or triggers and signals to confirm they are suffering from family violence.

We propose the removal of 'and who may be' from this definition. The MEA Group believes customers who 'may be' affected can be more appropriately serviced and addressed in the Guide where strong education and training on triggers and signals will prevail.

2. Draft decision clause amendments

Actions beyond the minimum requirements of Recommendation 109 should be captured in the Guide to help address the stated purpose in Part 3A which is to "promote the protection of customers affected by family violence".³ The Guide will be a more effective tool to promote these protections than the Code. The Draft Decision also proposed affected customers "be entitled to safe, supportive and flexible assistance".⁴ The MEA Group agrees with this entitlement but given the subjective nature of this assistance the MEA Group would prefer to see this requirement captured within the Guide as a tool for industry to utilise rather than mandatory compliance assessments.

Most of the draft clause amendments are clean and concise however set out below are some suggested amendments.

¹ Essential Services Commission Energy Retail Code Changes to Support Family Violence Provisions for Retailers, Page 4.

² Essential Services Commission Energy Retail Code Changes to Support Family Violence Provisions for Retailers, Page 24.

³ Essential Services Commission Energy Retail Code Changes to Support Family Violence Provisions for Retailers, Page 13.

⁴ Essential Services Commission Energy Retail Code Changes to Support Family Violence Provisions for Retailers, Page 13.

Clause 106F – The ESC should delete the current clause 106F and replace it with the following: A *retailer* must ensure that training is provided to any person (including employees, agents and contractors) acting on its behalf who may engage with *affected customers*.

The deleted clauses should be included in the Guide for further development and improvement, particularly referencing management of people, systems and processes. Family violence is defined in the Draft Decision as a form of payment difficulty so it is logical that such training should form part of a retailer’s payment difficulties framework training.

Clause 106H – Sub-clauses (b) and (c) should be addressed within the Guide. Retailers will have various secured processes to deal with identification, engagement and repetition of information. This could be included in the Guide to further develop best practice across the industry.

Clause 106I – The MEA Group notes that the Guide will need to provide clarity for debt management processes captured by the Draft Decision. Clause 106I allows a customer to request cessation of notices (for account security purposes) and this will impact a retailer’s compliance with various requirements of the Code (e.g. clause 89(1)(b), clauses 109-111, and draft clause 106G) for mandatory notices, unless a clear position is provided by the final decision.

Clause 106L – The ESC should summarise this clause by removing sub clause (1) and amending sub-clause (2) with the following (changes underlined): A *retailer* may seek appropriate documentary evidence of *family violence only* when considering debt management and recovery under clause 106I, or restrictions on *de-energisation* in Part 6 and no other clause of the Code.

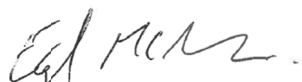
Clause 106M – This clause cannot be effectively tested for compliance so it should be removed. Retailers also need to comply with the Guide to assist affected customers, in addition to the minimum standards.

The MEA Group does not oppose a broad set of clauses to address Recommendation 109 in the Code. The ESC needs to ensure the Code will not create prescribed standards that cannot allow retailers to “*honour an entitlement to safe, supportive assistance in managing personal and financial security*”.⁵ The Code should provide an overarching framework and allow for future learnings and improvements to be captured in the Guide as the industry will continue to receive ongoing best practice advice from professionals in the industry.

The MEA Group aims to adopt a standard higher than the Code requires ensuring affected customers receive the appropriate protections. Our industry including the ESC is still learning about the sensitive and subjective nature of family violence so it is important to use the Guide as an open but effective education and training mechanism, which can also help the ESC and retailers measure performance.

The MEA Group looks forward to proactively continuing to work with the ESC and the wider network of professional family violence experts to ensure we can achieve best practice in assisting affected customers. If you have any queries or would like to discuss any aspect of this submission please do not hesitate to contact me.

Yours sincerely,



Edward McManus
CEO
Powershop Australia Pty Ltd
Meridian Energy Australia

⁵ Dr Ron Ben David, Commissioner Essential Services Commission, ESC Forum, 28 March 2019